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CODE OF ORDINANCES

CITY OF

HALLANDALE BEACH, FLORIDA

Published by Order of the City Commission

Adopted:
Effective:

MUNICIPAL CODE CORPORATION

Tallahassee, Florida 2009

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OFFICIALS

of the

CITY OF

HALLANDALE BEACH, FLORIDA

AT THE TIME OF THIS REPUBLICATION

Joy F. Cooper
Mayor

William "Bill" Julian
Vice Mayor

Keith London
Dorothy "Dotty" Ross
Anthony Sanders
City Commission

D. Mike Good
City Manager

David Jove
City Attorney

E. Dent McGough
City Clerk

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PREFACE

This Code constitutes a republication of the general and permanent ordinances of the City of Hallandale Beach, Florida.

Source materials used in the preparation of the Code were the 1980 Code, as supplemented through June 17, 2003, and ordinances subsequently adopted by the city commission. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1980 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been arranged in the order as directed by the city, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included in the same manner. If the new material is to be included between chapters 12 and 13, it will be designated as chapter 12.5. New chapters may also be included by using one of the reserved chapter numbers.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding

prefixes:

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1
CODE	1:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of W. Eric Grant, Vice President, Regina Sosinski, Editor, and Janet Cramer, Proofreader, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to David Jove, City Attorney, and E. Dent McGough, City Clerk, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the City of Hallandale Beach readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the City of Hallandale Beach, Florida. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the City of Hallandale Beach, Florida.

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ADOPTING ORDINANCE

~~ORDINANCE NO. 2001-13~~

~~AN ORDINANCE OF THE CITY OF HALLANDALE BEACH, FLORIDA, ADOPTING AND ENACTING A NEW CITY CODE; REPEALING CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.~~

~~NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HALLANDALE BEACH:~~

~~*SECTION 1.* The Code entitled "Code of Ordinances, City of Hallandale Beach, Florida," published by Municipal Code Corporation consisting of chapters 1 through 32, each inclusive, is adopted.~~

~~*SECTION 2.* All ordinances of a general and permanent nature enacted on or before March 20, 2001, and not included in the Code or recognized and continued in force by reference therein, are repealed.~~

~~*SECTION 3.* The provisions appearing in this Code, so far as they are the same as those of the Code of Ordinances, City of Hallandale, Florida, 1980, and of ordinances existing at the time of adopting of this Code, shall be considered as a continuation thereof and not as new enactments.~~

~~*SECTION 4.* Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:~~

~~(1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.~~

~~(2) Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issue of any bonds of the city or any evidence of the city's indebtedness or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the city.~~

~~(3) Any administrative policy of the city not in conflict or inconsistent with the Code.~~

~~(4) Any franchise granted by ordinance.~~

~~(5) Any ordinance or resolution, dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the city.~~

~~(6) Any appropriation ordinance.~~

~~(7) Any ordinance levying or imposing taxes, charges, rates or fees.~~

~~(8) Any ordinance prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on loads of vehicles or loading zones.~~

~~(9) Any rezoning ordinance or amendment to the zoning map.~~

~~(10) Any ordinance establishing and prescribing the street grades of any street in the city.~~

~~(11) Any ordinance providing for local improvements and assessing taxes therefore.~~

~~(12) Any ordinance dedicating or accepting any plat or subdivision in the city.~~

~~(13) Any ordinance establishing positions, classifying positions, setting salaries of city officers and employees or any personnel regulations, or any ordinance regarding pension or retirement plans, funds or benefits.~~

~~(14) Any temporary or special ordinance.~~

~~(15) Any ordinance calling elections or prescribing the manner of conducting the election in accordance with state law.~~

~~*SECTION 5.* The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.~~

~~*SECTION 6.* Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not exceeding $500.00 or imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.~~

~~*SECTION 7.* Additions or amendments to the Code when passed in such form as to indicate the intention of the city commission to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.~~

~~*SECTION 8.* Ordinances adopted after March 20, 2001, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.~~

~~*SECTION 9.* This ordinance shall become effective immediately upon adoption.~~

~~PASSED AND ADOPTED on 1st reading on August 21, 2001.~~

~~PASSED AND ADOPTED on 2nd reading on September 4, 2001.~~

~~/s/~~ _____
~~Dorothy Ross, MAYOR-COMMISSIONER~~

~~/s/~~ _____
~~Ann Harper, CITY CLERK~~

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PART I

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***Editor's note—**Printed in this part is the Charter of the City of Hallandale, as adopted by the city commission by Ordinance No. 1057 on January 9, 1976, and by referendum on March 9, 1976. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

The City of Hallandale changed its name to the City of Hallandale Beach by Ord. No. 1999-15, adopted August 17, 1999. See Charter § 1.01.

It should be noted that Ord. No. 2003-28, § 2, adopted November 18, 2003, amended and reorganized the existing Charter to read as herein set out.

State law reference—Municipal Home Rule Powers Act, F.S. ch. 166.

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Sec. 5.03: Authentication, recording and disposition of ordinances, resolutions and Charter amendments

Division 2: Financial Procedures and Audit

Sec. 5.04: Independent audit
Sec. 5.05: Fiscal year
Sec. 5.06: Emergency appropriations
Sec. 5.07: Payment of money by city
Sec. 5.08: Bonds of city officers and employees

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Sec. 5.09: Personnel system

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ARTICLE I. POWERS OF THE CITY

Sec. 1.01: Establishment and powers.

The City of Hallandale Beach is established and shall have all government, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and exercise any power for municipal purposes except as otherwise provided by law.
(Ord. No. 1999-15, § 1, 8-17-1999; Ord. No. 2003-28, § 2, 11-18-2003)

State law reference—Municipal Home Rule Powers Act, F.S. ch. 166.

Sec. 1.02: Intergovernmental relations.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one (1) or more states or civil divisions or agencies thereof, including Florida and its civil divisions and agencies, or the United States or any agency thereof.

State law reference—Intergovernmental programs, F.S. § 163.01 et seq.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 1.03: Extraterritorial powers.

All extraterritorial powers conferred upon the City of Hallandale Beach by general or special act prior to the adoption of this Charter shall remain in full force and effect until repealed by ordinance or by amendment to this Charter.
(Ord. No. 1999-15, § 1, 8-17-1999; Ord. No. 2003-28, § 2, 11-18-2003)

State law references—Extraterritorial jurisdiction, Fla. Const., art. VIII, § 2(c); annexation, F.S. § 171.011 et seq.

Sec. 1.04: Legal construction.

The powers of the city shall be construed liberally in favor of the city, limited only by the constitution, general law and specific limitations contained herein. In construing the city Charter and each and every word, phrase, or part thereof, where the context will permit, the masculine includes the feminine and neuter and vice versa. Special acts of the state legislature pertaining to the jurisdiction and exercise of powers by this city shall be considered amendments to this Charter and pursuant to the provisions adopted for incorporation of other Charter amendments, shall be incorporated as official amendments to this Charter.
(Ord. No. 94-20, § 1, 8-30-1994; Ord. No. 2003-28, § 2, 11-18-2003)

ARTICLE II. CORPORATE LIMITS*

Sec. 2.01: Description of corporate limits.

The following area shall constitute the corporate limits of the city:

THAT PART OF THE SOUTH ONE-HALF (S½) OF SECTION 21 LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF STATE ROAD NUMBER 9;

THE SOUTH ONE-HALF (S½) OF SECTION 22;

THAT PART OF THE SOUTH ONE-HALF (S½) OF SECTION 23 LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF THE INTRACOASTAL WATERWAY;

ALL THAT PART OF SECTION 25 LYING WESTERLY OF THE MEAN LOW WATER LINE OF THE ATLANTIC OCEAN AND LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE: COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST ONE-QUARTER (NE¼) OF THE NORTHEAST ONE-QUARTER (NE¼) OF SECTION 26, ALSO BEING A POINT ON THE WEST LINE OF GOVERNMENT LOT 1 IN SECTION 25; THENCE RUNNING NORTHERLY ALONG EAST LINE OF SAID NORTHEAST ONE-QUARTER (NE¼) OF THE NORTHEAST ONE-QUARTER (NE¼) AND ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1 IN SECTION 25 TO A POINT OF INTERSECTION WITH THE WESTERLY EXTENSION OF THE NORTH LINE OF BLOCK 3 OF "SEMINOLE BEACH AMENDED," AS RECORDED IN PLAT BOOK 1, PAGE 15, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE EASTERLY ALONG SAID EXTENSION TO THE NORTHWEST CORNER OF SAID BLOCK 3; THENCE NORTHERLY ALONG THE SOUTHERLY EXTENSION OF THE WESTERLY LINES OF LOTS 11 AND 12 AND ALONG THE WEST-

*__State law reference—__Annexation, F.S. § 171.011 et seq.

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ERLY LINES OF LOTS 11 AND 12, BLOCK 2, OF SAID "SEMINOLE BEACH AMENDED" TO THE NORTHWEST CORNER OF SAID LOT 11; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 11 AND ITS EXTENSION TO THE MEAN LOW WATER OF THE ATLANTIC OCEAN;

THAT PART OF THE NORTH ONE-QUARTER (N¼) OF SECTION 26 LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF THE INTRACOASTAL WATERWAY LINE;

ALL THAT PART OF THE SOUTH THREE-QUARTERS (S¾) OF SECTION 26 LYING WESTERLY OF THE MEAN LOW WATER LINE OF THE ATLANTIC OCEAN;

ALL OF SECTION 27;

THAT PART OF SECTION 28 LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF STATE ROAD NUMBER 9.

ALL THE FOREGOING DESCRIBED LANDS BEING LOCATED IN TOWNSHIP 51 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA.

TOGETHER WITH A PORTION OF TRACT 2, "REVISED PLAT OF GOLDEN ISLES," ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 34, PAGE 9, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AND A PORTION OF "GOLDEN ISLES ESTATES," ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 94, PAGE 94, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AND A PORTION OF "GOLDEN ISLES ESTATES FIRST ADDITION," ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 103, PAGE 33, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SECTION 35, TOWNSHIP 51 SOUTH, RANGE 42 EAST, DADE COUNTY, FLORIDA; THENCE SOUTHERLY FOLLOWING THE WEST LINE OF SECTION 35, TOWNSHIP 51 SOUTH, RANGE 42 EAST TO THE INTERSECTION WITH A LINE WHICH IS TWO HUNDRED THIRTY (230) FEET SOUTH AND PARALLEL TO THE NORTH LINE OF SECTION 35, TOWNSHIP 51 SOUTH, RANGE 42 EAST; THENCE EASTERLY FOLLOWING THE LINE WHICH IS TWO HUNDRED THIRTY (230) FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SECTION 35, TOWNSHIP 51 SOUTH, RANGE 42 EAST, TO THE INTERSECTION WITH THE WEST BOUNDARY LINE OF THE TOWN OF GOLDEN BEACH; THENCE NORTHERLY FOLLOWING THE WEST BOUNDARY LINE OF THE TOWN OF GOLDEN BEACH TO THE INTERSECTION WITH THE NORTH LINE OF SECTION 35, TOWNSHIP 51 SOUTH, RANGE 42 EAST; THENCE WESTERLY FOLLOWING THE NORTH LINE OF SECTION 35, TOWNSHIP 51 SOUTH, RANGE 42 EAST TO THE POINT OF BEGINNING.

(Ord. No. 79-33, § 1, 8-21-1979; Ord. No. 1999-15, § 1, 8-17-1999; Ord. No. 2003-28, § 2, 11-18-2003; Ord. No. 2003-29, § 2, 11-18-2003)

ARTICLE III. CITY COMMISSION

DIVISION 1: ELECTION AND QUALIFICATIONS

Sec. 3.01: Qualifications for candidates for mayor-commissioner and commissioners.

Only electors in the City who have resided continuously within the City for at least one (1) year preceding the date of the election shall be eligible to run for the offices of Mayor-Commissioner or Commissioner.

(Ord. No. 2003-28, § 2, 11-18-2003; Ord. No. 2006-04, § 1 (3.02), 1-17-2006)

Sec. 3.02: Judge of qualifications.

The commission shall be the judge of the election and qualification of its members and of the grounds for forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers of general circulation in the city, at least one (1) week in advance of the hearing.

(Ord. No. 2003-28, § 2, 11-18-2003)

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Sec. 3.03: Election and terms.

Reserved.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 3.04: Mayor and vice-mayor.

The electorate shall elect a Mayor at large with the candidate receiving the greatest number of votes declared elected. The commission shall elect from among its members a vice-mayor for a term of two (2) years. The election shall be conducted at the organizational meeting of the commission pursuant to section 2.34(a) of the Code of Ordinances.

In the event of a tie between two (2) candidates, the offices of mayor or vice-mayor shall be decided by lot, to be conducted in public by the city clerk.

The mayor shall preside at meetings of the commission, shall be recognized as head of city government for all ceremonial purposes, by the governor for purposes of military law, for service of process, execution of contracts, deeds and other documents, and shall act as the city official designated to represent the city in all agreements with other governmental entities or certifications to other governmental entities, but shall have no administrative duties except as required to carry out the responsibilities herein. The vice-mayor shall act as mayor during the absence or disability of the mayor.
(Ord. No. 82-14, § 1, 10-19-1982/3-8-1983; Ord. No. 94-20, § 2, 8-30-1994; Ord. No. 2003-28, § 2, 11-18-2003; Ord. No. 2003-32, § 2 (3.06), 11-18-2003)

DIVISION 2: POWERS AND DUTIES

Sec. 3.05: City commission; powers; composition.

There shall be a city commission with all legislative powers of the city vested therein, consisting of five (5) commissioners who shall be elected at large by the qualified electors of the city.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 3.06: General powers and duties.

All powers of the city shall be vested in the commission, except as otherwise provided for by law or this Charter, and the commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law. The city commission may establish by ordinance city departments, offices and agencies, and may prescribe their functions and duties.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec: 3.07: Prohibitions.

(1) *Holding other office.* Except where authorized by law, no commissioner shall hold any other Hallandale Beach city office, Hallandale Beach city employment, or other elected public office during the term for which he was elected to the commission.

(2) *Appointments and removals.* Neither the commission nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the manager or any of his subordinates are empowered to appoint, but the commission may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.

(3) *Interference with administration.* Except for the purpose of inquiries and investigations, the commission or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the commission nor its members shall give orders to any such officer or employee, either publicly or privately. Nothing in the foregoing is to be construed to prohibit individual members of the commission from closely scrutinizing by questions and personal observation all aspects of city government operations so as to obtain independent information to assist the members in the formulation of policies to be considered by the commission and assure the implementation of such policies as have been adopted. It is the express intent of this provision, however, that such inquiry shall not interfere directly with the ordinary municipal operations of the city and that recommendations

for change or improvement in city government operations be made to and through the city manager.
(Ord. No. 1999-15, § 1, 8-17-1999; Ord. No. 2003-28, § 2, 11-18-2003; Ord. No. 2008-04, § 2 (3.08), 3-5-2008)

Sec. 3.08: Investigations.

The commission may make investigations into the affairs of the city and the conduct of any city department, election, office, or agency, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the commission shall be guilty of a misdemeanor and punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment for not more than thirty (30) days, or both.
(Ord. No. 2003-28, § 2, 11-18-2003)

DIVISION 3: VACANCIES

Sec. 3.09: Vacancies; forfeiture of office; filling of vacancies.

(1) *Vacancies.* A vacancy in the city commission occurs when a commissioner leaves office otherwise than before the normal expiration of his term of office. The office of a commissioner shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office, such forfeiture to be declared by the remaining members of the commission.

(2) *Forfeiture of office.* A commissioner shall forfeit his office if he:

(a) Lacks at any time during his term of office any qualification for the office prescribed by this Charter or law;

(b) Violates any standard of conduct or code of ethics established by law for public officials;

(c) Is convicted of a crime involving moral turpitude; or

(d) Fails to attend three (3) consecutive months of regular meetings of the commission subject to and consistent with law.

(3) *Filling of vacancies.* A vacancy or vacancies in the city commission shall be filled as provided in the following:

(a) *Appointment.* Whenever there is a vacancy in the commission and there are less than twelve (12) months remaining before the next regular city or general election, the commission, by a majority vote of the remaining members, shall choose a successor to serve until that election. If, after a week of deliberation, a majority vote cannot be reached, the mayor, or in his absence the vice-mayor, shall cast an additional vote.

(b) *Special elections.* If no regular city or general election is scheduled within twelve (12) months, the commission shall schedule a special election to fill the unexpired term held not sooner than sixty (60) days, nor more than ninety (90) days following the occurrence of the vacancy or vacancies. In any special election held for the purposes of this section, the provisions for nominations and elections contained in article IV of this Charter shall apply.

(c) *Term.* The term of office for vacancies filled by election shall be for the remainder of the unexpired term of the office in which the vacancy exists. When more than one (1) vacancy exists to be filled by election and the unexpired terms are of unequal duration, the person or persons receiving the greatest number of votes cast shall be elected to fill the longest term or terms.

(d) *Regular city election.* When, at a regular city election in addition to regular commission offices, it becomes necessary to fill a commission vacancy or vacancies which have occurred under the provisions of section 3.09(1), candidates shall be elected according to the provisions of article IV of this Charter.

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(e) *Quorum requirement.* Notwithstanding any quorum requirements established herein, if at any time the membership of the commission is reduced to less than a quorum, the remaining members may, by majority vote, appoint additional members under (a) above.

(4) *Extraordinary vacancies.* In the event that all members of the commission are removed by death, disability, or forfeiture of office, the governor shall appoint an interim commission that shall call a special election as provided in (b) above and such election shall be conducted to fill the specific vacancies in the manner provided for under the regular election procedures of this city.
(Ord. No. 2002-04, § 2, 4-2-2002/11-5-2002; Ord. No. 2003-28, § 2, 11-18-2003; Ord. No. 2003-30, § 2, 11-18-2003; Ord. No. 2003-31, § 2, 11-18-2003)

ARTICLE IV. ELECTIONS AND REFERENDUMS

DIVISION 1: REGULAR AND SPECIAL ELECTIONS

Sec. 4.01: City elections generally.

(1) *Commission powers.* The city commission, by ordinance and subject to the provisions of this Charter, shall have the power to call regular and special elections as may be required for the city.

(2) *Electors.* All citizens qualified by the constitution and laws of Florida to vote in the city, and who satisfy the requirements for registration prescribed by law, shall be qualified electors within the meaning of this Charter.

(3) *Number of votes.* Every elector shall be entitled to vote for as many candidates of the city commission as there are members to be elected to the commission.

(4) *Nonpartisan elections.* All nominations and elections for the office of city commissioner shall be conducted on a nonpartisan basis without regard for a designation of a political party affiliation for any nominee or any nominating petition or ballot.
(Ord. No. 2003-28, § 2, 11-18-2003)

State law references—Qualifications to register, F.S. § 97.041; municipal electors, F.S. § 166.032.

Sec. 4.02: Conduct of elections.

Except as otherwise provided by this Charter, the provisions of the general election laws of the State of Florida shall apply to elections held under this Charter. All elections provided for by the Charter shall be conducted by the election authorities established by law. For the conduct of city elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the commission may adopt, by ordinance, other election regulations which it considers desirable, consistent with law and this Charter.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 4.03: Voting machines.

The commission may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.
(Ord. No. 2003-28, § 2, 11-18-2003)

State law reference—Purchase of voting equipment, F.S. § 101.294.

Sec. 4.04: Form of ballots.

(1) *The commission.* The commission, by ordinance, shall prescribe the form of ballot, including the method of listing candidates for the city commission elections and any other city elections.

(2) *Names on ballots.* The full names of all candidates nominated for the city commission, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two (2) or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot. The candidates' names are to be listed in alphabetical order.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 4.05: Acceptance; qualifying fee; time for qualification.

(1) Candidates for Mayor-Commissioner and Commissioners must pay to the city clerk a qualifying fee of fifty dollars ($50.00), accompanied by a signed notice of candidacy in the form specified

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by ordinance. The city clerk shall deliver to the candidate a copy of the fully executed notice of candidacy.

(2) The time for qualification shall be established by ordinance, but shall be consistent with state law.
(Ord. No. 86-14, §§ 1, 2, 6-3-1986; Ord. No. 2001-01, § 3, 1-16-2001; Ord. No. 2003-28, § 2, 11-18-2003; Ord. No. 2006-04, § 1 (6.05), 1-17-2006)

State law reference—Form of candidate oath, F.S. § 99.021.

Sec. 4.06: Regular and special elections.

(1) *City election.* A regular city election for the purpose of electing members of the city commission shall be held on the second Tuesday in March beginning in 1977 and biennially thereafter in odd-numbered years through March 2007. The March 2007 will be the last biennial election held in an odd-numbered year. Commencing in 2008, regularly scheduled elections shall be held on the same date as the November general election date in all even-numbered years. Notwithstanding any provision of the Charter or Code of Ordinances to the contrary, the individuals elected in March 2005 shall serve terms of three (3) years and eight (8) months (rather than four (4) years), and shall remain in office until the individuals elected in the regular elections held in November 2008 assume the duties of the position. The individuals elected in March 2007 shall serve terms of three (3) years and eight (8) months (rather than four (4) years), and shall remain in office until the individuals elected in the regular elections held in November 2010 assume the duties of the position.
(Ord. No. 2003-28, § 2, 11-18-2003; Ord. No. 2006-04, § 1 (6.06), 1-17-2006)

Sec. 4.07: Election of commissioners.

(1) *Regular ballot result.* At each regular city election commencing in 2005 and thereafter, there shall be elected a Mayor at large and commissioners as follows: Candidates for Mayor and commissioner receiving the greatest number of votes shall be declared elected until the number declared elected equals the number of commission offices to be filled at the election. All commissioners shall be elected for four-year terms which shall be staggered so that, alternately, two (2) or three (3) commissioners are elected every two (2) years.

When, as the result of a vacancy or vacancies in the commission occurring under section 3.09, it becomes necessary to elect an additional commissioner or commissioners to fill an unexpired term or terms, the candidates who receive the next greatest number of votes shall be declared elected to the unexpired term or terms until the vacancy or vacancies have been filled. When necessary, a tie between two (2) or more candidates in any election for the office of city commissioner shall be decided by lot, to be conducted in public by the city clerk.

If the number of candidates who have qualified for a particular election is equal to the number of commission offices to be filled at that election, no election shall be held and the candidates shall take office as if elected by popular vote.

(2) *Special ballot result.* When[,] as a result of a vacancy or vacancies occurring under section 3.09[,] it becomes necessary to elect a commissioner or commissioners to fill an unexpired term or terms, the candidate receiving the greatest number of votes shall be declared elected until the number declared elected equals the number of vacancies to be filled at the election. Should the terms of office vacancies be of unequal duration the candidate, or candidates receiving the greatest number of votes shall be elected to the longest term or terms.
(Ord. No. 91-06, § 1(b), 5-21-1991/11-3-1992; Ord. No. 2002-4, § 2, 4-2-2002/11-5-2002; Ord. No. 2003-28, § 2, 11-18-2003; Ord. No. 2003-32, § 2 (6.07), 11-18-2003)

DIVISION 2: REFERENDUM AND INITIATIVE

Sec. 4.08: Referendum.

The qualified electors of the city shall have power to require reconsideration by the commission of any adopted ordinance and, if the commission fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided

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such power shall not extend to the budget or capital program or ordinance relating to appropriation of money or levy of taxes.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 4.09: Initiative.

The qualified electors of the city shall have power to propose ordinances to the commission and, if the commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 4.10: Commencement of proceedings.

Any five (5) qualified electors may commence initiative or referendum proceedings by filing with the city clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the clerk shall, at the committee's request, prepare and issue the appropriate petition blanks to the petitioners' committee at the committee's expense.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 4.11: Petitions.

(1) *Number of signatures.* Initiative and referendum petitions must be signed by qualified electors of the city equal in number to at least ten (10) percent of the total number of qualified electors registered to vote at the last regular city election.

(2) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(3) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof, stating that he personally circulated the paper, the number of signatures thereof, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(4) *Time for filing referendum petitions.* Referendum petitions must be filed within sixty (60) days after adoption by the commission of the ordinance sought to be reconsidered.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 4.12: Procedure for filing.

(1) *Certificate of clerk; amendment.* Within twenty (20) days after an initiative or referendum petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. Grounds for insufficiency are only those specified in section 4.11. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the city clerk within two (2) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (1), (2) and (3) of section 4.11, and within seven (7) days after it is filed, the city clerk shall complete a certificate as to the sufficiency of the petition to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request commission review under subsection (2) of this section within the time required, the city clerk shall promptly

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present his certificate to the commission and the certificate shall then be a final determination as to the sufficiency of the petition.

(2) *Commission review.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the commission; the commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the commission's determination shall then be a final determination as to the sufficiency of the petition.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 4.13: Referendum petitions; suspension of effect of ordinance.

When a referendum petition has been certified sufficient by the city clerk, the ordinance sought to be reconsidered shall be suspended. Such suspension shall terminate when:

(1) The petitioners' committee withdraws the petition; or

(2) The commission repeals the ordinance; or

(3) After the result of the vote on the ordinance has been certified.

(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 4.14: Action on petitions.

(1) *Action by commission.* When an initiative or referendum petition has been finally determined sufficient, the commission shall promptly consider the proposed initiative ordinance in the manner provided in article V or reconsider the referred ordinance by voting its repeal. If the commission fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the electors of the city.

(2) *Submission to electors.* The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than sixty (60) days from the date that the recall petition was determined sufficient. If no regular city election is to be held within the period prescribed in this subsection, the commission shall provide for a special election, except that the commission may, in its discretion, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls and at the city clerk's office.

(3) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 4.15: Results of election.

(1) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results, and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the commission. If conflicting ordinances are approved at the same election, the one (1) receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(3) *Limitations.* No adopted initiative ordinance shall be repealed by the city commission until twelve (12) months have elapsed following the adoption. No repealed referred ordinance shall be adopted by the city commission until twelve (12) months have elapsed following its repeal.
(Ord. No. 2003-28, § 2, 11-18-2003)

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DIVISION 3: RECALL

Sec. 4.16: Recall.

The qualified electors of the city shall have the power to remove from office and recall any elected official of the city in accordance with the laws of the State of Florida.

(Ord. No. 2003-28, § 2, 11-18-2003)

State law reference—Municipal recall, F.S. § 100.361.

ARTICLE V. ADMINISTRATION

DIVISION 1: ORDINANCES AND RESOLUTIONS

Sec. 5.01: Ordinances and resolutions.

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

A "resolution" is an expression of the commission on matters of official concern, opinion, or administration, of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.

(1) *Form.* Each ordinance or resolution shall be introduced in writing and shall embrace but one (1) subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act, section, subsection, or paragraph of a section or subsection.

(2) *Procedure.* A proposed ordinance shall be read by title or in full on the first reading, and by title or in full on the second reading on at least two (2) separate days, at either regular or special meetings of the commission. At least seven (7) days prior to adoption, a proposed ordinance shall be noticed once in a newspaper of general circulation in the city. The notice of proposed enactment shall state the date, time and place of the meeting, the title or titles of proposed ordinances and the place or places within the city where such proposed ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(3) *Effective date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective ten (10) days after adoption or as otherwise specified therein.

(4) *Action requiring an ordinance.* In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the city commission shall be by ordinance which:

(a) Establish, alter or abolish any city department or agency.

(b) Establish a rule or regulation the violation of which carries a penalty.

(c) Levy taxes authorized by general law.

(d) Grant, renew or extend a franchise.

(e) Authorize the borrowing of money not inconsistent with the limitations in the constitution and general law of the state.

(f) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the city.

(g) Amend or repeal any ordinance previously adopted, except as otherwise provided in article VII, section 4.15(3), with respect to repeal of ordinances reconsidered under the referendum power.

(Ord. No. 80-44, § 1(b), (e), 12-2-1980/3-10-1981; Ord. No. 90-20, § 1, 11-6-1990; Ord. No. 2003-28, § 2, 11-18-2003)

State law reference—Procedures for adoption of ordinances and resolutions, F.S. § 166.041.

Sec. 5.02: Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the commission may adopt one (1) or more emergency ordinances, but

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such ordinances may not levy taxes, grant, renew or extend a franchise, set service or user charges for any municipal services or authorize the borrowing of money except as provided under the emergency appropriations provisions of article V, section 5.06 of this Charter.

(1) *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

(2) *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least two-thirds of all the commission shall be required for adoption. After its adoption, the ordinance shall be published once in a newspaper of general circulation.

(3) *Effective date.* Emergency ordinances shall become effective upon adoption or at such other date as may be specified in the ordinance.

(4) *Repeal.* Every emergency ordinance except emergency appropriations shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of an emergency ordinance.

(Ord. No. 2003-28, § 2, 11-18-2003)

State law reference—Uniform minimum mandatory procedure for adoption of emergency ordinances, F.S. § 166.041.

Sec. 5.03: Authentication, recording and disposition of ordinances, resolutions and Charter amendments.

(1) *Authentication.* The presiding officer of the commission and the city clerk shall authenticate by their signatures all ordinances and resolutions adopted by the commission. In addition, when Charter amendments have been approved by the electors, the presiding officer of the commission and the city clerk shall authenticate by their signatures the Charter amendment, such authentication to reflect the approval of the Charter amendment by the electorate.

(2) *Recording.* The city clerk shall keep properly indexed books in which shall be recorded in full, all ordinances and resolutions passed by the commission. Ordinances shall, at the direction of the commission, be periodically codified, published and made available for distribution on a continuing basis. The city clerk shall also maintain the city Charter in current form and shall enter all Charter amendments and send a copy of the revised Charter incorporating amendments to the secretary of state's office.

(3) *Printing.* The commission shall, by ordinance, establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this Charter available for public inspection and available for purchase at a reasonable price.

(Ord. No. 2003-28, § 2, 11-18-2003)

State law reference—Minimum uniform procedure for adoption of ordinances and resolutions, F.S. § 166.041.

DIVISION 2: FINANCIAL PROCEDURES AND AUDIT

Sec. 5.04: Independent audit.

The commission shall provide for an independent annual audit of all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The commission may, without requiring competitive bids, designate such accountant or firm of accountants annually or for a period not exceeding two (2) years. If the state makes such an audit, the commission may accept it as satisfying the requirements of this section.

(Ord. No. 87-21, § 1, 10-6-1987; Ord. No. 2003-28, § 2, 11-18-2003)

State law reference—Annual financial audit reports, F.S. § 218.39.

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Sec. 5.05: Fiscal year.

The fiscal year of the city shall conform to the general law of the state and shall commence on the first day of October and end the last day of September in each year as currently provided and until such controlling general law shall be changed.
(Ord. No. 2003-28, § 2, 11-18-2003)

State law reference—Fiscal year mandated, F.S. §§ 166.241, 218.33.

Sec. 5.06: Emergency appropriations.

To meet a public emergency affecting life, health, property or the public peace, the commission may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of section 5.02. To the extent that there are no available unappropriated revenues to meet such appropriations, the commission may, by such emergency ordinance, authorize the issuance of emergency notes, which may be renewed from time to time; but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 5.07: Payment of money by city.

Money shall be paid out of the city treasury only on warrants or checks signed by the mayor and countersigned by the city manager or, pursuant to a funds transfer agreement approved by the city commission.
(Ord. No. 94-20, § 6, 8-30-1994; Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 5.08: Bonds of city officers and employees.

The city commission shall determine by ordinance which city officers and employees shall give bond and the amount of penalty thereof.

All persons required by the city commission to give bond shall, upon entering their respective duties, give bond, with surety to be approved by the commission, conditioned for the faithful performance of these respective offices, which bond shall be payable to the city in such penalty as the commission may prescribe; and surety on any official bond shall be guaranteed only by a known, solvent bonding and surety company authorized to do business in the State of Florida. The premium on any such bonds shall be paid by the city and notice of such bonds shall be filed with the city clerk.
(Ord. No. 94-20, § 7, 8-30-1994; Ord. No. 2003-28, § 2, 11-18-2003)

DIVISION 3: PERSONNEL SYSTEM

Sec. 5.09: Personnel system.

All appointments and promotions of city officers and employees shall be made on the basis of merit and fitness, demonstrated by examination or other evidence of competence, and to this end, the commission shall, by ordinance, establish general personnel procedures and rules.
(Ord. No. 2003-28, § 2, 11-18-2003)

ARTICLE VI. OFFICERS

DIVISION 1: CITY ATTORNEY

Sec. 6.01: City attorney.

There shall be a city attorney of the city, appointed or removed, by a majority of the full commission, who shall serve as chief legal advisor to the commission, the city manager and all city departments, offices and agencies and who shall assure that the city is represented in all legal proceedings and perform any other duties prescribed by this Charter or by ordinance.
(Ord. No. 94-20, § 3, 8-30-1994; Ord. No. 2003-28, § 2, 11-18-2003)

DIVISION 2: CITY CLERK

Sec. 6.02: City clerk.

The city manager shall appoint the city clerk, following notification to the city commission when a vacancy exists. The city clerk shall give notice of meetings of the city commission, shall keep the journal of its proceedings, shall authenticate by his signature on record in full the book kept for the purpose of recording ordinances and resolu-

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tions of the commission, shall be the custodian of the seal and of all official city records, and shall perform such duties as shall be required by this Charter, by city ordinance or by the city manager.
(Ord. No. 2003-28, § 2, 11-18-2003)

DIVISION 3: CITY MANAGER

Sec. 6.03: Appointment, qualifications and compensation.

The city commission shall, by majority vote of the full commission, appoint a city manager who shall be the administrative head of the municipal government under the direction and supervision of the city commission. The city manager shall receive such compensation as the city commission may fix and determine. The city manager shall be chosen solely on the basis of executive and administrative qualifications, without regard to political belief and shall be over the age of twenty-one (21) years.
(Ord. No. 85-22, § 1, 9-19-1985; Ord. No. 94-20, § 5, 8-30-1994; Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 6.04: Removal.

The commission may remove the manager in accordance with the following procedures:

(1) The commission shall adopt by affirmative vote of a majority of all its members a resolution which must state the reasons for proposed removal and may thereupon suspend the manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the manager.

(2) Within five (5) days after a copy of the resolution is delivered to the manager, he may file with the commission a written request for a public hearing. This hearing shall be held at a commission meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The manager may file with the commission a written reply not later than five (5) days before the hearing.

(3) The commission may adopt a resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the suspension resolution was delivered to the manager if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The manager shall continue to receive his salary until the effective date of a resolution of removal.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 6.05: Powers and duties.

The city manager shall be responsible to the city commission for the proper administration of all affairs of the city coming under his jurisdiction and he shall:

(1) Appoint all heads of departments after notification of the city commission, and all city employees and officers, except as otherwise provided by law, by this Charter, or by personnel rules adopted pursuant to this Charter.

(2) When he deems it necessary for the good of the city, suspend any department head under his jurisdiction for a period not to exceed fifteen (15) days. He may remove the heads of city departments, except the legal department, provided he does so only after notification with the city commission.

(3) When he deems it necessary for the good of the administrative service, suspend or remove all other city officers or employees, in accordance with the personnel rules of the municipality. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(4) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law.

(5) Attend all commission meetings and shall have the right to take part in discussion but shall not vote.

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(6) See that all laws, provisions of this Charter and acts of the commission, subject to enforcement by him or by those officers subject to his direction and supervision, are faithfully executed.

(7) Prepare and submit the annual budget and capital program to the commission as provided under article V.

(8) Submit to the commission and make available to the public within a reasonable time a report on the finances and administrative activities of the city as of the end of each fiscal year.

(9) Make such other reports as the commission may require concerning the operations of city departments, offices and agencies subject to his direction and supervision.

(10) Keep the commission advised as to the financial condition and future needs of the city and make recommendations to the commission concerning the affairs of the city.

(11) Sign contracts on behalf of the city pursuant to the provisions of appropriations ordinances.

(12) Perform such other duties as are specified in this Charter, by law, or as required by the commission.

(13) In time of emergency or disaster, assume full temporary direction of all municipal operations.

(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 6.06: Supervision of departments.

Except as otherwise provided in this Charter or by general law, the city manager will be responsible for the supervision and direction of all departments, agencies or offices of the city. All departments, offices and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. The manager may serve as the head of one (1) or more such departments, offices or agencies or may appoint one (1) person as the head of two (2) or more of them.

(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 6.07: Acting city manager.

By letter filed with the city clerk, the manager shall designate, subject to approval of the commission, a qualified city administrative officer to exercise the powers and perform the duties of city manager during his temporary absence or disability. During such absence or disability, the commission may revoke such designation at any time and appoint another officer of the city to serve until the manager shall return or his disability shall cease.

(Ord. No. 2003-28, § 2, 11-18-2003)

ARTICLE VII. OFFICIAL CONDUCT

Sec. 7.01: Standards of ethics.

All elected officials and employees of the city shall be subject to the standards of conduct for public officers and employees set by general law and this Charter. In addition, the commission may, by ordinance, establish a code of ethics for officials and employees of the city.

(Ord. No. 2003-28, § 2, 11-18-2003)

State law reference—Code of ethics for public employees, F.S. § 112.311 et seq.

Sec. 7.02: Personal financial interest.

Any city officer, employee, board member or members of their immediate families who have a financial interest, direct or indirect, in any corporation, partnership or other organization in any contract with the city, in zoning and land classification, or in the sale of any land, material supplies or services to the city or to a contractor supplying the city, shall make known that interest; and, if substantial, shall refrain from voting upon or otherwise participating in his capacity as a city officer, employee or board member in the making of such sale or in the making or performance of such contract. Nor shall any city officer, employee or board member, or members of their immediate families subsequently benefit from any contract with the city, or matters of zoning and land classification, or the sale of any land, material, supplies or services to the city or to a contractor supplying the city wherein his financial interest failed to be disclosed under penalty of forfeiture of office or position and such additional

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penalties as may be prescribed by law. Any city officer, employee, or board member who willfully conceals such a substantial financial interest or willfully violates the requirements of this section, shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge, express or implied, of the person, corporation, partnership or other organization contracting with or making a sale to the city may render the contract or sale voidable by the city manager or the city commission.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 7.03: Penalties.

Violations of ordinances or this Charter shall be punishable in accordance with the uniform fines and penalties set by general law.
(Ord. No. 2003-28, § 2, 11-18-2003)

State law reference—Penalty for violations, F.S. § 162.21.

ARTICLE VIII. CHARTER AMENDMENTS*

Sec. 8.01: Charter amendment.

(1) *Initiation by ordinance.* The commission may, by ordinance, amend this Charter, except that amendments affecting the following subjects shall require approval by referendum of the electors:

(a) Terms of elected officers and manner of their election.

(b) Distribution of powers among elected officers.

(c) Matters prescribed by this Charter relating to appointive boards.

(d) Any change in the form of government.

(e) Any other subject so provided by general law.

(2) *Initiation by petition.* The electors of the city may propose amendments to this Charter by petition signed by at least ten (10) percent of the total number of qualified electors registered to vote in the last regular city election.

(a) *Form and content.* All papers of a petition shall be uniform in size and style, shall be in a form designated by the city clerk and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the proposed Charter amendment.

(b) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof, stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed Charter amendment.

(c) *Certification of petition.* Upon certification of the sufficiency of the petition by the city clerk, such certification to include the validity of the names on the petition as qualified electors registered to vote in the last regular city election, the commission shall place the proposed amendment to a vote of the electors at the next regular election held not less than sixty (60) days after certification or at a special election called for such purpose.

(Ord. No. 84-19, § 2, 9-4-1984; Ord. No. 2003-28, § 2, 11-18-2003)

State law references—Municipal annexation or contraction, F.S. ch. 171; required signatures, F.S. § 166.031; Charter amendment procedure, F.S. § 166.031.

ARTICLE IX. TRANSITION SCHEDULE

Sec. 9.01: Continuation of former Charter provisions.

All provisions of Laws of Florida, ch. 29108(1953), as amended by special law or otherwise, which are not embraced herein and which are not inconsistent with this Charter, shall become ordinances of the city, subject to modifica-

*__State law reference—__Charter amendments, F.S. § 166.031.

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tion or repeal in the same manner as other ordinances of the city in accordance with general law.
(Ord. No. 2003-28, § 2, 11-18-2003)

Cross reference—Special acts pertaining to jurisdiction and exercise of powers considered Charter amendments, § 1.04.

State law reference—Conversion of certain provisions to ordinances, F.S. § 166.021(5).

Sec. 9.02: Ordinances preserved.

All ordinances and resolutions in effect upon the adoption of this Charter, to the extent not inconsistent with it, shall remain in force until repealed or changed as provided herein.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 9.03: Rights of officers and employees.

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of adoption.

Elected officers shall continue to hold their offices and discharge the duties thereof until their successors are elected.

City employees at the time this Charter takes effect who were serving in the same or comparable positions at the time of its adoption shall not be subjected to competitive tests as a condition of continued employment in the same positions, but all city employees in all other respects shall be subject to the personnel system provided for in section 5.09 and such ordinances as may be adopted by the city commission.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 9.04: Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the city shall continue except as modified pursuant to the provisions of this Charter.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 9.05: Schedule.

(1) *Time of taking full effect.* This Charter shall be in full effect for all purposes following its adoption in accordance with general law.

(2) *Transition ordinances.* The commission shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within sixty (60) days of the first commission meeting under this Charter for the purpose of facilitating the transition may be passed as emergency ordinances following the procedures in article V, except that transition ordinances shall be effective for up to ninety (90) days after enactment. Thereafter, such ordinances may be readopted, renewed or otherwise continued only in the manner prescribed for normal ordinances in article V.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 9.06: Deletion of obsolete schedule items.

The commission shall have power, by resolution, to delete from this article IX any section, including this one, when all events to which the section to be deleted is or could become applicable have occurred.
(Ord. No. 2003-28, § 2, 11-18-2003)

Sec. 9.07: Severability clause.

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.
(Ord. No. 2003-28, § 2, 11-18-2003)

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CHARTER COMPARATIVE TABLE

ORDINANCES

This table shows the location of the sections of the basic Charter and any amendments thereto.

Ordinance Number	Adoption Date	Election Date	Section		Section this Charter
1057	1- 9-1976	3- 9-1976	1.01—10.08		1.01—10.08
79-33	8-21-1979		1		2.01
80-44	12- 2-1980	3-10-1981	1(a)		3.02
			1(b)		3.15
			1(e)		3.15
82-14	10-19-1982	3- 8-1983	1		3.06
84-19	9- 4-1984		2		9.01
85-22	9-19-1985		1		4.01
86-14	6- 3-1986		1, 2		6.05
86-48	11- 2-1986	3-10-1987	1		3.02
87-21	10- 6-1987		1		3.13
90-20	11- 6-1990		1		3.15
91-06	5-21-1991	11- 3-1992	1(a)		3.04
			1(b)		6.07
94-20	8-30-1994		1		1.04
			2		3.06
			3		3.10
			5		4.01
			6, 7		5.05, 5.06
1999-15	8-17-1999		1		1.01
					1.03
					2.01
					3.02
					3.08
2001-01	1-16-2001		3		6.05
					6.06
2002-04	4- 2-2002	11- 5-2002	2	Rpld	3.04
			2		3.09(3)(d)
					6.07
2003-28	11-18-2003	3- 9-2004	2		Charter (note)
2003-29	11-18-2003	3- 9-2004	2		2.01
2003-30	11-18-2003	3- 9-2004	2		3.09(1), (2)(a)—(d)
2003-31	11-18-2003	3- 9-2004	2		3.09(3)(a), (b)
2003-32	11-18-2003	3- 9-2004	2 (3.06)		3.04
			2 (6.07(1))		4.07(1)
2006-04	1-17-2006	11- 7-2006	1 (3.02)		3.01
			1 (6.05)		4.05
			1 (6.06(1))		4.06(1)
2008-04	3- 5-2008	11- 4-2008	2 (3.08(1))		3.07(1)

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PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.
Sec. 1-2. Definitions and rules of construction.
Sec. 1-3. Catchlines of sections.
Sec. 1-4. Effect of repeal of ordinances.
Sec. 1-5. Severability of parts of Code.
Sec. 1-6. Supplementation of Code.
Sec. 1-7. Altering Code.
Sec. 1-8. General penalty; continuing violations.

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Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Hallandale Beach, Florida," and may be cited as the "Hallandale Beach Code."
(Code 1980, § 1-1; Ord. No. 1999-15, § 1, 8-17-1999)

Charter reference—Codification requirement, § 3.17(2).

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code, and of all ordinances, the following rules shall be observed unless the content clearly indicates otherwise:

City. The term "city" shall be construed as if the term "of Hallandale Beach, Florida" followed it and shall extend to and include its several officers, agents and employees.

City commission. Whenever the term "city commission," "commission," or "governing body" is used, it shall be construed to mean the city commission of the City of Hallandale Beach, Florida.

Code. The term "Code" means the Code of Ordinances, City of Hallandale Beach, Florida, and may be cited as the Hallandale Beach Code, as designated in section 1-1.

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time; but the day on which such proceeding is to be had shall not be counted.

County. The term "county" shall mean Broward County, Florida.

State law reference—Broward County boundaries, F.S. § 7.06.

Delegation of authority. Whenever a provision appears requiring the city manager or other officer or employee to do some act or perform some duty, it shall be construed to authorize the city manager or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

F.S. Whenever the abbreviation F.S. is used, it shall refer to the official Florida Statutes and the latest supplement or amendment as adopted by the state legislature.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, corporations and other legal entities, as well as to males.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath; and in such cases, the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Officer, office, board, committee, or commission. Reference to any office, officer, board, committee, or commission of the city, state or county includes any person authorized by law to perform the duties of such office, officer, board, committee, or commission.

Or, and. The term "or" may be read "and," and the term "and" may be read "or" if the sense requires it.

Owner. The term "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The term "person" shall include and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property. Personal property includes every species of property except real property.

State. The term "state" shall be construed to mean the State of Florida.

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Tense. Words used in the present or past tense include the future as well as the present and past.
(Code 1980, § 1-2)

State law reference—Similar provisions, F.S. §§ 1.01, 1.02.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.
(Code 1980, § 1-3)

Sec. 1-4. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.
(Code 1980, § 1-4)

Sec. 1-5. Severability of parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of the court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.
(Code 1980, § 1-5)

Sec. 1-6. Supplementation of Code.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city commission. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the city commission or adopted by initiative and referendum during the period covered by the supplement and all changes made by the supplement in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by their omission from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of

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ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Code 1980, § 1-6)

Sec. 1-7. Altering Code.

It shall be unlawful for any person in the city to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages or portions of pages, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented. Any person violating this section shall be punished as provided in section 1-8.

(Code 1980, § 1-7)

Sec. 1-8. General penalty; continuing violations.

Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, or where the doing or not doing of any act is defined as a misdemeanor, where no specific penalty is provided, the violation of any such provision of the Code or any ordinance shall be punishable by a fine not exceeding $500.00 or imprisonment for a term not exceeding 60 days or by both such fine and imprisonment. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

(Code 1980, § 1-8)

Charter reference—Penalties as set by general law, § 8.03.

State law references—Ordinance violation excluded from definition of misdemeanor, F.S. § 775.08; punishment for committing misdemeanor, F.S. § 775.082; jurisdiction of county court, F.S. § 34.01.

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Chapter 2

ADMINISTRATION*

Article I. In General

Sec. 2-1. Corporate seal.
Sec. 2-2. Administrative code.
Sec. 2-3. Lobbyists; registration and disclosure; enforcement.
Secs. 2-4—2-30. Reserved.

Article II. City Commission

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Sec. 2-33. Meeting time and place as prescribed.
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Sec. 2-35. Referring matters to committees.
Sec. 2-36. Suspending, repealing or amending rules.
Sec. 2-37. Punishing absent members; expelling disorderly member; compelling attendance.
Sec. 2-38. Disturbances or disorderly conduct.
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Article III. Boards, Committees, Districts and Authorities

Division 1. Generally

Sec. 2-71. Appointment of members; alternates to city boards, authorities and agencies; vote of commission.
Sec. 2-72. Nomination and ratification of members of boards, authorities and agencies.
Sec. 2-73. Terms; reappointment.
Sec. 2-74. Election of officers.
Sec. 2-75. Attendance of board members and alternate board members.
Sec. 2-76. Exclusions.
Sec. 2-77. Issuance of subpoenas by boards and agencies; enforcement of subpoena by court.
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Division 2. Beautification Advisory Board

Sec. 2-101. Established; membership.
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Division 3. Charter Review Committee

Sec. 2-121. Created; membership.
Secs. 2-122—2-140. Reserved.

***Cross references—**Administration of flood damage prevention regulations, § 8-74; code inspector, § 9-2; administration of nuisance abatement by city manager, § 9-64; finance and taxation, ch. 10; administration and enforcement of minimum property maintenance and occupancy code, § 14-81 et seq.; enforcement officer for occupancy code, § 14-82; personnel, ch. 21; property and purchasing, ch. 23; administrative code regulations implementing purchasing, § 23-111; risk management, ch. 24; utilities, ch. 30; administration and enforcement of sign regulations, § 32-609.

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Division 4. Code Enforcement Board

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Division 5. Human Services Advisory Board

Sec. 2-171. Established.
Sec. 2-172. Qualifications of members; appointments; terms.
Sec. 2-173. Duties.
Sec. 2-174. Responsibility; director.
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Division 6. Nuisance Abatement Board

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Sec. 2-202. Conduct of hearings.
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Division 11. Historic Preservation Board

Sec. 2-301. Historic Preservation Board; created and established.
Sec. 2-302. Members.
Sec. 2-303. Terms and appointments.
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Sec. 2-305. Organization.
Sec. 2-306. Powers and duties.
Secs. 2-307—2-320. Reserved.

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Division 2. Human Services Department

Sec. 2-341. Established; director; purpose and functions.
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Sec. 2-362. Duties of city attorney; other counsel authorized.
Sec. 2-363. Attorney to attend commission meetings; other duties as prescribed.
Sec. 2-364. Compensation of personnel as fixed.
Sec. 2-365. Staff.
Sec. 2-366. Position of city prosecutor created; qualifications.
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Sec. 2-368. Term of office of city prosecutor; compensation as fixed; appointment.
Secs. 2-369—2-430. Reserved.

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Sec. 2-431. Survey of records by departments.
Sec. 2-432. Destruction or other disposition of records by city clerk with approval of records retention committee.
Sec. 2-433. Certificate of destruction or other disposition by witness.
Sec. 2-434. Scheduling procedures and retention periods.
Sec. 2-435. Microfilming of records.

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ARTICLE I. IN GENERAL*

Sec. 2-1. Corporate seal.

The corporate seal for the city shall be as follows: A round seal two inches in diameter with the words "City of Hallandale Beach" arranged in a circular form constituting the border around the top and the words "Broward County, Florida" around the base and the words "Incorporated 1947," "Seal" in the inner circle and the State of Florida emblem in the inner circle and the center of the seal; however, the city seal may be in such other form as the city commission may prescribe.
(Code 1980, § 2-1)

Editor's note—The Town of Hallandale was incorporated in 1927, and has continued as an incorporated municipality to the present time. However, by virtue of the Charter of 1947, the term "Town" was changed to "City" and the year "1927" was changed to "1947."

State law reference—Seal authorized, F.S. § 165.043.

Sec. 2-2. Administrative code.

The city manager shall develop and keep current an administrative code for the purpose of implementing ordinances passed by the commission.
(Ord. No. 1057, 1-9-1976/3-9-1976)

Sec. 2-3. Lobbyists; registration and disclosure; enforcement.

(a) The following definitions shall apply:

Lobbyist means all persons, firms, organizations and corporations (and their staff members) whether or not acting either on their own behalf on or on behalf of others on a matter before the city in which they may obtain a direct pecuniary gain and/or are paid by a party, principal or client who seek to participate, obtain and/or encourage the passage, defeat, or modification of any ordinance, resolution, contract, bid award, RFP, RFQ, and any action, decision or recommendation of the city commission or any action, decision or recommendation of the city board, agency or committee.

"Lobbyist" does not mean a city employee when acting in his official capacity.

"Lobbyist" does not mean any person in the public such as a resident who merely appears before the city commission, city board, agency or committee, in an individual capacity for the purpose of expressing his/her opinion without obtaining a direct pecuniary gain and is not specifically paid for the purpose of expressing support of or in opposition to any ordinance, resolution, decision or action on a matter of the city commission or any action recommendation or decision of any city board, agency or committee.

"Lobbyist" does not mean a person who, pursuant to the terms of a collective bargaining agreement, has been designated, and so recognized by the city as being a representative of a collective bargaining unit composed of city employees.

(b) *Registration.* Every lobbyist shall file the registration in part (c) below with the city clerk's office on the form provided by the city. Under no circumstances shall a lobbyist working for the city lobby the city commission.

(c) *Annual registration.* Commencing January 1, 2005, and annually thereafter, every lobbyist shall submit to the city clerk's office a signed statement under oath identifying themselves and their respective principals or clients and/or the party they represented on city matters over the past year or in accordance with administrative policy. Such annual disclosure statements shall be submitted on the form provided by the city clerk's office. A fee of $100.00 shall be paid to the city for annual lobbyist registration.

(d) *Investigation by city.* At the request of the city manager, the internal affairs department of the city's police department shall investigate any person engaged in lobbying activities which may be in violation of this ordinance and/or who has allegedly fraudulently made representations to the city, and/or allegedly intentionally mislead the city or abused their influence. Internal affairs of the city's police department shall report the results of the investigation to the city manager. Upon a finding by the city manager of a violation by a lobbyist of this ordinance, the city manager shall report to the city commission who may publicly reprimand, censure, fine and/or prohibit

*__Charter reference—__City manager to develop an administrative code, § 4.07.

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such person or firm from lobbying before the city commission or a city board, agency or committee for a period of up to but not to exceed two years.

(e) *Cone of silence.* Lobbyists shall cease all contact and communication with the city commission forty-eight hours before the date set for a decision on a matter, unless contacted by a city commissioner. No city board, agency or committee shall have contact forty-eight hours before the date set for a decision on a matter.

(f) *Administrative policy.* The city manager shall create an administrative policy to supplement this ordinance to include a lobbyist registration form and to carry out its purpose.
(Ord. No. 2004-31, § 1, 12-7-2004)

Secs. 2-4—2-30. Reserved.

ARTICLE II. CITY COMMISSION

Sec. 2-31. Compensation and expenses.

The commission at the annual review of the budget, may determine the annual salary, but not in excess of ten percent of commissioners current salary by majority vote of the commission. If the commission takes no action, the salary shall be adjusted (COLA) each year at the same rate increase as that of city employees. Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office as preauthorized by the city commission.
(Ord. No. 85-23, § 2, 9-19-1985; Ord. No. 2007-13, § 1, 8-1-2007)

Sec. 2-32. Boards.

The commission may create by ordinance boards, authorities and agencies and may specify their membership and duties. All persons serving on boards shall be residents of the city except in the case of boards having special occupational or professional qualifications as to membership, or whose membership qualifications are established by general law, state or federal regulation, county ordinance or interlocal governmental agreement. A person shall serve on no more than two such boards or committees or any combination, authority or agency; and members of such boards or committees or any combination, authorities or agencies shall serve without compensation except for necessary expenses approved by the commission. Such boards, committees, authorities and agencies shall be a part of the municipal government and shall utilize the services when available through the regular departments and offices of the city, including the city attorney.
(Ord. No. 80-44, § 1(d), 12-2-1980/3-10-1981; Ord. No. 94-20, § 4, 8-30-1994; Ord. No. 2008-17, § 1, 8-20-2008)

Sec. 2-33. Meeting time and place as prescribed.

The commission shall meet at such time and place as may be prescribed by resolution. All meetings of the commission shall be public.
(Code 1980, § 2-30)

Sec. 2-34. Procedure and meetings.

(a) *Organization.* Following the regular city election and certification by the supervisor of elections, or as soon as may be practicable thereafter, if there has been a disputed election, the commission shall call a meeting at the city hall, at which time the newly elected commissioners shall assume the duties of their offices.

(b) *Regular.* The commission shall meet at such times and places as shall be specified by resolution. All meetings, formal or informal, of the city commission, all committees and all boards, elective or appointive, administrative or advisory, shall be conducted in open session; and the press and public shall be permitted to attend any of such meetings.

(c) *Special.* Special meetings may be held on the call of the mayor or of a majority of the members of the commission, and whenever practicable, upon no less than 12 hours' notice to each member and the public.

(d) *Workshop.* In addition to regular and special meetings, the mayor or the commission, by a majority vote, may decide to hold workshop meetings for information on and discussion of municipal and related matters, which meetings may be

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conducted like regular meetings; except that no resolution or ordinance may be adopted at a workshop meeting.

(e) *Rules and journal.* The commission shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. The journal shall be a public record.

(f) *Voting.* Voting on ordinances and resolutions shall be by roll call and shall be recorded in the journal. A majority of the commission shall constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the commission. No action of the commission, except as otherwise provided in the preceding sentence and in Charter § 3.09(3), shall be valid or binding unless adopted by the affirmative vote of the majority of the commission.
(Ord. No. 85-16, § 1, 6-18-1985; Ord. No. 89-10, § 1, 5-2-1989)

State law references—Public records, F.S. ch. 119; public meetings, F.S. § 286.011.

Sec. 2-35. Referring matters to committees.

The commission shall have the right to refer any matters coming before the commission to a committee selected by the commission, which committee may be composed of one or more members of the commission, or the mayor, or private citizens, and shall be of such number of members as the commission shall designate. Such committee shall have authority only to investigate and make recommendations to the commission on any matters referred to it.
(Code 1980, § 2-46)

Sec. 2-36. Suspending, repealing or amending rules.

Any rule not made mandatory by the Charter may be temporarily suspended by a majority vote of the commission present but shall not be repealed or amended unless by a four-fifths vote of the commission.
(Code 1980, § 2-47)

Sec. 2-37. Punishing absent members; expelling disorderly member; compelling attendance.

The commission may punish its members for nonattendance or disorderly conduct and, four-fifths of its members concurring, may expel a member for nonattendance or for improper conduct in office. They may compel the attendance of absent members by fines and penalties.
(Code 1980, § 2-48)

Sec. 2-38. Disturbances or disorderly conduct.

In case of any disturbance or disorderly conduct, the presiding officer shall have the power to require the commission chamber to be cleared if necessary, or to expel any member of the audience causing such disturbance or disorderly conduct.
(Code 1980, § 2-49)

Sec. 2-39. Police and Firefighters' Board of Trustees.

The city commission shall appoint two city commissioners to serve as regular members of the City of Hallandale Beach Police Officers' and Firefighters' Board of Trustees. The city commission's appointment of its members to serve as members of the Hallandale Police Officers' and Firefighters' Board of Trustees, shall serve as an ex officio duty of their office as city commissioner. The city commissioners appointed to the City of Hallandale Beach Police Officers' and Firefighters' Board of Trustees shall perform their ex officio duties as members of the City of Hallandale Beach Police Officers' and Firefighters' Board of Trustees as authorized by law.
(Ord. No. 2008-18, § 2, 9-3-2008)

Editor's note—Ord. No. 2008-18, § 2, adopted Sept. 3, 2008, set out provisions intended for use as § 2-40. For purposes of classification, and at the editor's discretion, these provisions have been included as § 2-39. See also the Code Comparative Table.

Secs. 2-40—2-70. Reserved.

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ARTICLE III. BOARDS, COMMITTEES, DISTRICTS AND AUTHORITIES*

DIVISION 1. GENERALLY

Sec. 2-71. Appointment of members; alternates to city boards, authorities and agencies; vote of commission.

All boards, authorities and agencies created by ordinance of the city commission, including their alternate members, shall be appointed by a majority vote of the city commission.
(Code 1980, § 2-31)

Sec. 2-72. Nomination and ratification of members of boards, authorities and agencies.

Nomination and appointment to boards, authorities and agencies created by ordinance of the city commission shall be as follows:

(1) On boards, authorities or agencies consisting of five members, each member of the city commission shall have one nomination.

(2) On boards, authorities or agencies consisting of seven members, the mayor and vice-mayor shall have two nominations and the remaining three commissioners shall each have one nomination.

(3) On boards, authorities or agencies consisting of membership other than five or seven, the city commission shall specify the method of appointment in the enabling ordinance.

(4) The city commission may appoint an alternate member to each board, authority or agency to serve as a substitute for absent regular members; and while so serving, the substitute shall have the full power and authority of the absent member. No special qualifications shall be required to serve as an alternate member of any such board, authority or agency except as otherwise provided by law.

(Code 1980, § 2-32)

Sec. 2-73. Terms; reappointment.

The members and alternate members of all boards, authorities and agencies created by ordinance of the city commission shall serve at the pleasure of the city commission and shall be appointed for terms of approximately two years, with all terms expiring on the date of the city commission organizational meeting following each biennial city commission election. However, each member and alternate member shall continue to serve until a successor is appointed. All members and alternate members are eligible for reappointment.
(Code 1980, § 2-33)

Sec. 2-74. Election of officers.

All boards, authorities and agencies of the city shall regularly hold open or closed ballot election for the selection of a chairman and vice-chairman to be held in accordance with administrative policy.
(Code 1980, § 2-34; Ord. No. 2007-09, § 1, 6-20-2007)

Sec. 2-75. Attendance of board members and alternate board members.

An attendance record of each scheduled board meeting shall be kept. Every board member, including alternate board member of boards acting in a quasi-judicial capacity, is to attend all board meetings. If any board member or alternate board member of quasi-judicial boards shall miss three unexcused consecutive meetings or four unexcused meetings in one calendar year, the chair or vice chair of the board shall report such unexcused absences to the city and the commission will be notified of the removal so the commission can select a new appointment. The city shall send a letter advising the member of their removal.
(Code 1980, § 2-35; Ord. No. 2002-01, § 1, 1-18-2002; Ord. No. 2003-09, § 1, 4-1-2003; Ord. No. 2007-09, § 2, 6-20-2007)

Editor's note—Ord. No. 2007-09, § 2, adopted June 20, 2007, changed the title of section 2-75 from "Excessive absences of board members" to read as herein set out.

*__Cross references—__Code board, § 9-44; nuisance abatement board, § 9-58; civil service board, § 21-61 et seq.

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Sec. 2-76. Exclusions.

(a) All boards, authorities and agencies created by general law, special act of the legislature, or pursuant to other authority, including but not limited to the unsafe structures board and the civil service board, shall follow the requirements of the enabling legislation when such legislation is in conflict with this chapter.

(b) Specifically exempted from this chapter are all municipal pension boards.
(Code 1980, § 2-36)

Sec. 2-77. Issuance of subpoenas by boards and agencies; enforcement of subpoena by court.

(a) Wherever the power to subpoena witnesses to appear and testify in any matter, and to compel the production of documents or other materials or objects, has been conferred by the legislature of the state upon the city commission, the city civil service board, or any other board or agency of the city, such subpoenas, orders and other process shall be issued by the secretary or clerk of such board, signed by the presiding officer of such board, and served by a member of the police department of the city. The fee allowed by the laws of the state for the attendance of witnesses at any court shall be tendered to the witness together with the mileage to and from the place of hearing within the city and as provided by law.

(b) Such subpoena shall be issued under the name of the board or agency conducting a hearing or investigation or other proceeding wherein the attendance of witnesses or production of documents is required by law, and shall be enforced by the court.

(c) Upon the failure of any witness to attend after due service of a witness subpoena or upon a witness improperly declining to testify, or produce documents or materials before such board, or upon such witness or other individual conducting himself in such a way as to constitute a contempt of the board, the board may vote to direct its counsel to initiate contempt proceedings against the witness or other individual in the court having jurisdiction.

(d) Upon the decision by majority vote of the board to initiate contempt proceedings, the chairman shall direct the counsel for such board to present to the city prosecutor the necessary facts, documents and other evidence to initiate attachment and contempt proceedings before the court. Upon receipt of such information and evidence, the prosecutor shall institute in the court a proceeding for contempt including attachment of a person alleged to be guilty.

(e) After process has been issued and the person of the defendant brought before the court, the judge shall hear such evidence as may be offered upon the question of failure to obey the lawful commands of a subpoena, or to produce documents or other materials, or to testify, or otherwise be contemptuous of the lawful exercise of authority by such administrative board or agency, and shall decide the issue as in other matters of contempt of a court of record in this state.

(f) If the witness or other person is adjudged guilty of contempt, that person shall be subject to the same penalties as for violation of any other section of the Code of Ordinances of the city.

(g) All requests for witness subpoenas and for subpoenas for production of documents shall be addressed to the board by the party desiring the attendance of the witness or the production of documents or materials. The city shall pay such costs for witness fees and mileage as may be required to serve subpoenas on behalf of the city or any of its departments. Any other party to any proceeding desiring to obtain the issuance of a subpoena shall also advance the costs for witness fees and mileage to the clerk or secretary of the board issuing the subpoena for delivery to the witness if served.
(Code 1980, § 2-9)

Secs. 2-78—2-100. Reserved.

DIVISION 2. BEAUTIFICATION ADVISORY BOARD

Sec. 2-101. Established; membership.

(a) *Established; number of members; appointment.* There is established the Hallandale Beach Beautification Advisory Board which shall consist of seven members appointed by the city commission.

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(b) *Terms.* The members shall serve at the pleasure of the city commission.

(c) *Officers.* The beautification advisory board shall select and designate from among its membership a chairman, vice-chairman, secretary, and such other officers as may be deemed to be necessary by a majority of the full board. These officers shall serve at the pleasure of the beautification advisory board.

(d) *Duties.* The duties of the beautification advisory board shall be to advise and recommend to the city commission action to be taken in the following matters as they concern beautification factors:

(1) Overall appearance of the city.

(2) Long range plans for beautification projects.

(3) Such other matters pertaining to the beautification of the city referred to the board by the city commission.

(Code 1980, § 2-24)

Secs. 2-102—2-120. Reserved.

DIVISION 3. CHARTER REVIEW COMMITTEE

Sec. 2-121. Created; membership.

(a) *Creation.* There is created and established a body to be known as the City of Hallandale Beach Charter Review Committee. The committee will be made up of individuals appointed by the city commission in 1999, or earlier, by motion of the commission, and again every eight years thereafter, and shall continue to exist until the committee renders the report described in subsection (g) of this section.

(b) *Appointment and membership.* The committee shall consist of seven members and one alternate who shall be appointed in the manner provided by section 2-72, except that service on another board or authority shall not preclude service on this committee. Nominations are to be approved by a majority vote of the city commission.

(c) *Purpose.* The purpose of the committee shall be to meet on a periodic basis, as needed, to identify and address issues of concern to the city relevant to its Charter.

(d) *Duties.* The duties of the committee shall be to study the existing city Charter with the view to improve the Charter so as to provide for the preservation of the general health, welfare and safety of the inhabitants of the city, and to make recommendations to the city commission for changes if they are deemed necessary. The committee shall act only in an advisory capacity to the city commission.

(e) *Organization.*

(1) After the appointments have been completed, the first meeting of the committee will be called by the city manager, who will explain the duties of the committee and call for the election of the committee's chairman and vice-chairman.

(2) The members of the committee shall elect a chairman and a vice-chairman. The chairman shall set the time, date and place of the meetings; or four members may, in writing, call a meeting.

(3) The committee may adopt such internal procedures and rules as may be necessary to carry out its function, including but not limited to the method by which meetings shall be called and policies relating to attendance.

(f) *Meetings.*

(1) *Notice.* All meetings of the committee shall be open to the public, and public notice of such meetings shall be provided as is practical.

(2) *Quorum.* A quorum shall consist of four members.

(3) *Action of committee.* The affirmative vote of at least four members of the committee shall be required to carry out the functions of the committee.

(g) *Report.* Within six months of the committee's first meeting, the committee shall prepare a written report to the city commission detailing its

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findings and recommendations; and a copy shall be made available in the office of the city clerk for public review.
(Code 1980, § 2-23)

Secs. 2-122—2-140. Reserved.

DIVISION 4. CODE ENFORCEMENT BOARD*

Sec. 2-141. Code and permitting advisory committee.

A code and permitting advisory committee which shall be governed by administrative policy is hereby established.
(Ord. No. 2008-30, § 1, 11-19-2008)

Editor's note—Ord. No. 2008-30, § 1, adopted Nov. 19, 2008, repealed former §§ 2-141—2-148, and enacted a new § 2-141 as set out herein. See also the Code Comparative Table.

Secs. 2-142—2-170. Reserved.

DIVISION 5. HUMAN SERVICES ADVISORY BOARD

Sec. 2-171. Established.

There is created a board to be named and known as the human services advisory board. The board shall be composed of ten members and shall meet at least once a month with the director of human services and otherwise as needed to plan and coordinate an efficient program of health, welfare and general social services.
(Code 1980, § 2-14; Ord. No. 2000-27, § 1, 10-3-2000)

Sec. 2-172. Qualifications of members; appointments; terms.

The human services advisory board shall be composed of persons whom the city commission believes are and will be committed to serving the purposes of the ordinances establishing the human services advisory board and, to the extent possible, will represent the various elements of the community such as young people, senior citizens, minority persons and persons who participate in programs conducted by the department of human services.
(Code 1980, § 2-15; Ord. No. 2000-27, § 1, 10-3-2000)

Sec. 2-173. Duties.

In general, the human services advisory board shall study basic community problems and needs and develop plans of action to resolve the found needs; study current social problems to determine causes and assist in arriving at solutions; long range planning focusing on future program priorities and financing patterns; formulating programs and the initiation of new services to meet community needs; and dissemination of social services program information through meetings, speakers, directories of services, pamphlets and other printed matter. These stated purposes are not meant to impose a limitation on the advisory powers of the board.
(Code 1980, § 2-16)

Sec. 2-174. Responsibility; director.

The human services advisory board shall be directly responsible to the city commission. It shall have the assistance of the human services director at all times and shall work in conjunction with such director to carry out the stated purposes of its formation.
(Code 1980, § 2-17; Ord. No. 2000-27, § 1, 10-3-2000)

Secs. 2-175—2-200. Reserved.

DIVISION 6. NUISANCE ABATEMENT BOARD†

Sec. 2-201. Organization.

(a) *Created; membership.* There is created and established a nuisance abatement board to hear evidence relating to the existence of drug-related

*__Cross reference—__Code enforcement and nuisance abatement, ch. 9.

State law reference—Code enforcement board, F.S. § 162.05.

†**Cross reference—**Code enforcement and nuisance abatement, ch. 9.

State law reference—Nuisance abatement board, F.S. § 893.138.

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public nuisances on premises located in the city. The board shall consist of the five members of the city commission, who shall serve ex officio as members of the nuisance abatement board created in this division.

(b) *Terms and conditions of membership.* The city commission may, by resolution, amend the provisions of subsection (a) of this section relating to the terms and conditions of membership on the board.

(c) *Quorum; compensation.* The presence of three or more members shall constitute a quorum. Members shall serve without compensation. (Code 1980, § 2-101)

Sec. 2-202. Conduct of hearings.

(a) The chairman of the nuisance abatement board may call hearings of the board. Hearings may also be called by written notice signed by at least three members of the board. The board, at a hearing, may set a future hearing date. The board shall convene as the demand necessitates. The board shall adopt rules for the conduct of its hearings. Minutes shall be kept of all hearings, and all hearings shall be open to the public. The city shall provide clerical and administrative personnel as may be reasonably required for the proper performance of the board's duties.

(b) The city attorney shall present cases before the board when an employee or officer of the city is the complainant. In all other cases, the city attorney may present cases before the board.

(c) All parties shall have an opportunity to present evidence and argument on all issues involved, to conduct cross examination and submit rebuttal evidence, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, all parties shall be given an opportunity to cross examine or challenge or rebut it. The board may consider any evidence, including evidence of the general reputation of the place or premises. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Orders of the board shall be based on competent and substantial evidence.

(d) After considering all evidence, the board may declare the place or premises to be a public nuisance as defined in section 9-1 and may enter an order immediately prohibiting the:

(1) Maintaining of the nuisance;

(2) Operating or maintaining of the place or premises; or

(3) Conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.

All orders of the board shall be approved by motion by a majority of those members present and voting, except that at least three members of the board must vote in order for the action to be official.

(e) The board shall have the authority to levy fines against operators of public nuisances not to exceed $250.00 per day or $500.00 per day for recurring public nuisances. The total fines imposed by the board shall not exceed $7,500.00.

(f) The board may also enter orders requiring operators of public nuisances to pay the reasonable costs and attorney's fees associated with investigations of and hearings on public nuisances.

(g) A certified copy of the board's orders on public nuisances shall be recorded in the public records of the county and thereafter shall constitute a lien against the real property that is the subject of the order. Should the lien remain unpaid, the city may file an action for the foreclosure of the property subject to the lien and may recover all costs, including attorney's fees, associated with the recording of the board's orders and the foreclosure action. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Fla. Const., art. X, § 4.

(h) An order entered under subsection (c) of this section shall expire after one year or at such earlier time as stated in the order. The board shall retain jurisdiction to modify its order prior to the expiration of such orders.

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(i) The board or city may bring a complaint under F.S. § 60.05 seeking a permanent injunction against any public nuisance.
(Code 1980, § 2-103; Ord. No. 1999-18, § 2, 10-2-1999)

Sec. 2-203. Appeals.

An aggrieved party, including the city administration, may appeal a final administrative order of the nuisance abatement board to the circuit court of the 17th Judicial Circuit. Such appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the board. An appeal shall be filed within 30 days of the date of the written order appealed from.
(Code 1980, § 2-104)

Sec. 2-204. Enjoining of nuisances.

When any nuisance, as defined in F.S. 823.05, exists, the city attorney or any citizen of the county may sue in the name of the state on his relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.
(Code 1980, § 2-105)

Sec. 2-205. Rights preserved.

This division does not restrict the right of any person to proceed under F.S. § 60.05 against any public nuisance.
(Code 1980, § 2-106)

Secs. 2-206—2-230. Reserved.

DIVISION 7. PLANNING AND ZONING BOARD*

Sec. 2-231. Created; membership; responsibilities.

(a) *Established.* A planning and zoning board is established, which shall consist of seven members.

(b) *Appointments.* The board shall be appointed by a majority vote of the city commission. Each city commissioner shall have one nomination and the mayor and vice-mayor shall each have one additional nomination.

(c) *Terms of office.* All board members shall serve at the pleasure of the city commission and shall be appointed for a term of approximately two years, with all terms expiring on the date of the city commission organizational meeting following each biennial city commission election. However, each member shall continue to serve until a successor is appointed. All members are eligible for reappointment.

(d) *Qualifications.* Each board member shall be a resident of the city and shall possess experience or interest in the fields of planning, zoning and land development.

(e) *Officers and voting.* The board shall select a chairman and a vice-chairman from among its membership. Board members shall vote on all matters before the board except where a legally constituted conflict of interest is established, and all votes shall be recorded and made public.

(f) *Responsibilities.* The board shall review and make advisory recommendations to the city commission on applications for the following:

(1) Changes to the zoning code text or official zoning map (rezonings);

(2) Conditional uses;

(3) Variances, other than those variances it has authority to approve pertaining to minor development under section 32-965(a);

(4) Changes to the comprehensive land use plan;

(5) Development review approval for major development;

(6) Application for all plats of subdivision and resubdivisions of land; and

(7) Such other matters as deemed appropriate by the city commission.

(Ord. No. 84-18, § 4, 8-21-1984; Ord. No. 97-9, § 1, 6-17-1997; Ord. No. 2001-5, § 1, 5-1-2001; Ord. No. 2004-13, § 1, 6-1-2004)

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*__Cross reference—__Zoning and land development code, ch. 32.

State law reference—Comprehensive planning, F.S. § 163.3161 et seq.

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Sec. 2-232. Meetings.

(a) *Establishment.* The planning and zoning board shall establish the time and place for all meetings and shall meet at least once each month on a regularly scheduled date. The board may schedule special meetings upon the call of the chairman.

(b) *Rules of procedure.* The board shall adopt rules of procedure necessary to the conduct of its business provided such procedures do not conflict with any requirements of this Code.

(c) *Secretary and quorum.* The director shall serve as secretary to the board. A quorum for the conduct of business shall not be less than four members.

(d) *Procedures.*

(1) All board meetings shall be open to the public.

(2) The director shall be in attendance at all meetings as an advisor and be permitted to propound questions, give evidence and make recommendations.

(3) No action shall be taken on any application unless a quorum is present, and only upon a majority vote of all members present and voting. No member shall be permitted to abstain from voting unless he has a conflict of interest as defined in accordance with F.S. ch. 112.

(4) Minutes shall be kept of all meetings and proceedings and shall include the vote of each member on each question, and the motion shall state the reason or reasons being based upon the prescribed guides and standards of good zoning and planning principles. If a member is absent or abstains from voting, the minutes shall so indicate. The minutes should reflect that all prerequisites for board action have occurred, including, where applicable, advertisement, notices and postings.

(5) The board shall keep accurate records of its minutes which shall be filed, together with all resolutions, with the city clerk and shall be open for public inspection at reasonable times and hours.

(6) All board decisions shall be by motion.

(Ord. No. 97-9, § 2, 6-17-1997; Ord. No. 2001-5, § 1, 5-1-2001)

Secs. 2-233—2-250. Reserved.

DIVISION 8. PUBLIC TRANSPORTATION BOARD

Sec. 2-251. Created; purpose; duties generally.

There is created and established the Hallandale Beach Public Transportation/Flood Mitigation Board, which board is established for the purposes of assisting the city commission in planning, developing and implementing a mass transit program and methods of disseminating information concerning flood damage prevention. The board shall serve in an advisory capacity to the city commission regarding matters related to the city's mass transit program, issues involving flood mitigation, and the dissemination of information concerning flood damage prevention. It shall exercise and perform such other duties as may be established by the city commission.

(Code 1980, § 2-29.1; Ord. No. 2003-36, § 1, 1-6-2004)

Sec. 2-252. Members.

The public transportation/flood mitigation board shall consist of seven members.

(Code 1980, § 2-29.2; Ord. No. 2003-36, § 1, 1-6-2004)

Sec. 2-253. Organization; quorum; meetings.

The members of the public transportation/flood mitigation board shall elect a chairman and such other officers as deemed necessary or desirable. A majority of the board shall constitute a quorum. No meeting shall be held except as provided under this division and unless a quorum of the board is present, but every matter upon which a vote is taken shall require at least four votes. The members shall set the time, date and place of the regular meetings of the board. All meetings of the

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board shall be open, and all members shall serve without compensation. The board may adopt such rules of procedure as it may deem necessary.
(Code 1980, § 2-29.3; Ord. No. 2003-36, § 1, 1-6-2004)

Secs. 2-254—2-270. Reserved.

DIVISION 9. RECORDS RETENTION COMMITTEE*

Sec. 2-271. Created; composition; duties.

There is created a records retention committee, consisting of the city clerk, the director of finance, the city attorney and the city manager. The city manager shall be the chairman of the committee. The records retention committee shall make and promulgate suitable rules, within the limitations of this division, governing the destruction or other disposition or microfilming and destruction or other disposition of public records of the city. Nothing contained in this division, however, shall relieve the records retention committee of the duty of investigating and approving the destruction or other disposition of each individual group of records when it is proposed that such group of records be destroyed or otherwise disposed of.
(Code 1980, § 2-75)

Secs. 2-272—2-290. Reserved.

DIVISION 10. RECREATION BOARD

Sec. 2-291. Created and established; membership.

There is created and established a recreation board for the city, which shall consist of 15 residents of the city. Each of the five commissioners will appoint three board members to the recreation board.
(Code 1980, § 20-20; Ord. No. 2003-35, § 1, 1-6-2004; Ord. No. 2004-06, §§ 1, 2, 4-7-2004)

*__State law reference—__Public records, F.S. ch. 119.

Sec. 2-292. Officers; meetings.

The recreation board is authorized to elect one of its members as chairman and one of its members as secretary. A copy of the minutes shall be filed with the city clerk.
(Code 1980, § 20-21)

Sec. 2-293. Functions and duties.

The recreation board shall have the following functions and duties:

(1) Make recommendations concerning the operation of all public parks, playgrounds, undeveloped park lands, public beaches and other recreational facilities within the city.

(2) Recommend to the city commission and the city manager from time to time actions which it believes the city commission should take with reference to the acquisition, development and maintenance of parks, playgrounds and recreational facilities in the city.

(3) Recommend rules and regulations for the operation of city parks, playgrounds and public recreational facilities.

(Code 1980, § 20-22)

Secs. 2-294—2-300. Reserved.

DIVISION 11. HISTORIC PRESERVATION BOARD

Sec. 2-301. Historic Preservation Board; created and established.

There is hereby created an Historic Preservation Board (hereinafter "the board") as an advisory board to the City Commission of the City of Hallandale Beach. The board is hereby vested with the power, authority, and jurisdiction to recommend designation, regulation, and administration of aesthetic, archaeological, architectural, cultural, historical, and paleontological resources within the city.
(Ord. No. 2005-6, § 1, 5-3-2005)

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Sec. 2-302. Members.

The board shall consist of 11 members appointed by the city commission. The city commission should attempt to appoint persons with education, experience, training, and interest in the fields of archaeology, architecture, art, history, law, urban planning, natural history, and real estate or other individuals with related backgrounds or from the business, financial, and other segments of the community who, by virtue of their profession, business, or other ties to the city have demonstrated a concern and interest in historic preservation within the city.
(Ord. No. 2005-6, § 1, 5-3-2005)

Sec. 2-303. Terms and appointments.

(a) The mayor shall have three appointments to the board. The vice mayor and each member of the city commission shall have two appointments to the board.

(b) All board members shall serve at the pleasure of the city commission for a term of approximately two years, with all terms expiring on the date of the city commission organizational meeting following each biennial city commission election. However, each member shall continue to serve until a successor is appointed. All members are eligible for reappointment.
(Ord. No. 2005-6, § 1, 5-3-2005)

Sec. 2-304. Quorum.

A quorum shall be not less than six members or deemed a simple majority of the active membership that remains.
(Ord. No. 2005-6, § 1, 5-3-2005)

Sec. 2-305. Organization.

The members of the board shall elect a chair who shall serve at the pleasure of the board and other such officers as may be deemed necessary or desirable. The city manager shall provide adequate professional staff for the operational support of the board. Minutes of each board meeting shall be kept and prepared under the supervision and direction of the board, and copies of such minutes shall be filed with the city clerk.
(Ord. No. 2005-6, § 1, 5-3-2005)

Sec. 2-306. Powers and duties.

(a) The Historic Preservation Board shall have the following enumerated powers and duties:

(1) Make recommendations to the city commission for adoption or amendment to rules and procedures reasonably necessary and appropriate for the proper administration and enforcement of the provisions of this section.

(2) Recommend designation of individual sites, districts, archaeological and paleontological zones to the city commission.

(3) Recommend issuance or denial of special certificates of appropriateness and certificates to dig to the city commission.

(4) Establish, maintain, and update guidelines for preservation and criteria for the issuance by staff of regular certificates of appropriateness.

(5) Approve historic markers and provide other recognition for individual sites, districts, and zones.

(6) Promote the awareness of historic preservation and its community benefits.

(7) Establish, review and update the city's historic survey.

(8) Provide an annual report to the city commission concerning the board's actions and decisions.

(9) Identify sources of historic records pertaining to the city.

(10) Serve as central collection point for donation of historic documents pertaining to the city.

(11) Archive, catalogue, and maintain all historic documents of the city.
(Ord. No. 2005-6, § 1, 5-3-2005)

Secs. 2-307—2-320. Reserved.

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ARTICLE IV. DEPARTMENTS

DIVISION 1. GENERALLY

Secs. 2-321—2-340. Reserved.

DIVISION 2. HUMAN SERVICES DEPARTMENT

Sec. 2-341. Established; director; purpose and functions.

There is created a department to be named and known as the human services department. The head of such department shall be designated as the director. The purposes and functions of the human services department and the director shall include the purposes and functions heretofore performed by the department of social services and its director.
(Code 1980, § 2-13; Ord. No. 2000-27, § 1, 10-3-2000)

Secs. 2-342—2-360. Reserved.

DIVISION 3. LEGAL DEPARTMENT

Sec. 2-361. City attorney to function as head of department; qualifications.

The legal department of the city shall be under the supervision of a full-time city attorney appointed by the city commission to serve at the pleasure of the commission. The city attorney shall be a member of The Florida Bar, and shall not during his tenure of office engage in any private practice of law.
(Code 1980, § 2-60)

Sec. 2-362. Duties of city attorney; other counsel authorized.

It shall be the duty of the city attorney to act as legal advisor to the city commission, the city manager, department heads and all boards of the city. He shall prepare all ordinances, resolutions or regulations submitted for consideration of the commission. He shall examine and approve as to legal sufficiency all contracts, franchises, deeds or other undertakings of the city and shall participate in the negotiation process for all transactions which involve more than $50,000.00. The city attorney shall also partake in all negotiations in which the subject matter of a dispute could foreseeably lead to litigation. He shall represent the city in bond validations, condemnations under eminent domain, and other legal proceedings in which the city is a party; however, the city commission may, in its discretion, associate other counsel in any matter in which the city has an interest, and pay the compensation of such associate counsel. The police and fire pension board may retain its own attorney at the pension fund's expense. The police and fire pension board may also retain the services of the city attorney under terms and conditions acceptable to the board and to the city commission.
(Code 1980, § 2-61; Ord. No. 2000-15, § 1, 8-15-2000)

Sec. 2-363. Attorney to attend commission meetings; other duties as prescribed.

The city attorney shall attend meetings of the city commission and shall perform such other duties as the commission may by resolution or ordinance provide.
(Code 1980, § 2-62)

Sec. 2-364. Compensation of personnel as fixed.

The compensation of the city attorney and all other personnel of the legal department shall be fixed by the commission in the annual budget. It shall be paid by the city in the same manner as salaries of other city employees are paid.
(Code 1980, § 2-63)

Sec. 2-365. Staff.

The city attorney shall have such clerical, stenographic and legal assistance as shall be approved by the commission. Employees of the legal department, other than the city attorney, may be placed under civil service at the option of the city commission.
(Code 1980, § 2-64)

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Sec. 2-366. Position of city prosecutor created; qualifications.

There is created the position of a prosecuting attorney for the city. The person so selected shall be an attorney at law licensed to practice in all of the courts of the state and shall be a member in good standing of The Florida Bar.
(Code 1980, § 2-6)

Sec. 2-367. Duties of city prosecutor.

The duties of the city prosecutor shall include but are not limited to the preparation of all charges and complaints against, and shall appear in court in the prosecution of, every person charged with the violation of a city ordinance or of any regulations adopted under authority of the Charter, or with the commission of a misdemeanor as declared by the Charter or by virtue of its authority or by the appropriate statutes. The city prosecutor shall also represent the city in any appellate proceedings from a decision or judgment of county court.
(Code 1980, § 2-7)

State law reference—Municipal prosecutors may prosecute ordinance violations, F.S. § 34.13(5).

Sec. 2-368. Term of office of city prosecutor; compensation as fixed; appointment.

The term of office of the city prosecutor shall be at the pleasure and consent of the city commission. The compensation of the city prosecutor shall be that sum of money as the city commission may from time to time fix, and his appointment shall be made in the same manner without the requirement or necessity of a formal resolution.
(Code 1980, § 2-8)

Secs. 2-369—2-430. Reserved.

ARTICLE V. PUBLIC RECORDS*

Sec. 2-431. Survey of records by departments.

At intervals at the discretion of the department head, the head of each department of the city shall make, or cause to be made, a survey of the records of his department, and shall forward to the city clerk, for consideration by the records retention committee, his recommendations as to destruction or other disposition, microfilming, or microfilming and destruction, or other disposition, of any of the records of his department.
(Code 1980, § 2-71)

Sec. 2-432. Destruction or other disposition of records by city clerk with approval of records retention committee.

The city clerk shall have the power to order the destruction or other disposition of public records of the city with or without photographing such records prior to their destruction or other disposition. Before the clerk shall order any public records destroyed or otherwise disposed of by any department head, official or employee, such destruction or other disposition shall be approved by the records retention committee and the division of archives, history and records management of the department of state. Records may be photographed or microfilmed, whether or not destroyed or disposed of in some other fashion.
(Code 1980, § 2-72)

Sec. 2-433. Certificate of destruction or other disposition by witness.

Destruction or other disposition of records shall be accomplished by disposing of them by any means or procedures approved by the state division of archives, history and records management. Upon the destruction or other disposition of any city records, the person destroying or otherwise disposing of or witnessing the destruction or other disposition of such records shall forthwith make and file with the city clerk a certificate describing the records destroyed or otherwise disposed of, and certifying the date and manner of destruction or other disposition.
(Code 1980, § 2-73)

Sec. 2-434. Scheduling procedures and retention periods.

The general records schedule for local government agencies promulgated by the department of

*__State law reference—__Public records, F.S. ch. 119.

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state shall govern the procedures for scheduling and disposition of records of the city, and the retention periods established in such schedule or hereafter adopted or approved by the department are adopted; however, the city clerk shall have the authority to extend or defer the disposition of any record deemed necessary or convenient.
(Code 1980, § 2-74)

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Sec. 2-435. Microfilming of records.

Microfilming of city records shall be in accordance with standards established by the department of state, and microfilm records shall be stored in accordance with such standards. In instances where the original document is lost, destroyed or otherwise disposed of, the microfilm copy shall serve as the official record of the city and may be certified by the city clerk as a true copy of the official records of the city.
(Code 1980, § 2-76)

Chapter 3

AMBULANCES*

Sec. 3-1. Applicability of chapter; definition.
Sec. 3-2. Compliance with chapter prerequisite to operation.
Sec. 3-3. Licensed as required by state law; permitted uses.
Sec. 3-4. Disqualification of operator.
Sec. 3-5. Certificate of public convenience and necessity required; application; hearing; issuance; denial; form; transfer.
Sec. 3-6. Revocation or suspension of certificate of public convenience and necessity.
Sec. 3-7. Rates; regulatory body.
Sec. 3-8. Compliance; rate schedule on file.
Sec. 3-9. Transportation of deceased persons.
Sec. 3-10. Insurance.
Sec. 3-11. Lettering of vehicle.
Sec. 3-12. Attendants.
Sec. 3-13. Radio; telephone service.
Sec. 3-14. Logs.
Sec. 3-15. Compliance with traffic laws; speed limit.
Sec. 3-16. Exits from patient compartment.
Sec. 3-17. Required equipment.
Sec. 3-18. Vehicle inspection; safety of equipment.
Sec. 3-19. Emergency medical service rate.

*__Cross reference—__Traffic and motor vehicles, and boats, ch. 28.

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Sec. 3-1. Applicability of chapter; definition.

For the purpose of this chapter, an ambulance shall be considered a motor vehicle constructed, reconstructed or arranged for the purpose of transporting ill, sick or injured persons. This chapter shall be applicable to ambulance operators doing business in the city.
(Code 1980, § 31-20)

Cross reference—Definitions generally, § 1-2.

Sec. 3-2. Compliance with chapter prerequisite to operation.

(a) It shall be unlawful to operate within the city any vehicle constructed, reconstructed or arranged for the purpose of transporting ill, sick or injured persons unless the requirements of this chapter have first been complied with.

(b) Prior to the issuance of any license provided for in this chapter, the city clerk shall ascertain from the police department and the fire department that the provisions of this chapter have been met as to the requirements contained in this chapter pertaining to these departments.
(Code 1980, § 31-21)

Sec. 3-3. Licensed as required by state law; permitted uses.

Each ambulance shall be licensed in accordance with the provisions of the laws of the state; and its use shall be limited to transporting ill, sick or injured persons and any medical supplies or medical equipment.
(Code 1980, § 31-22)

State law references—Ambulance service license, F.S. § 401.25; ambulance permit, F.S. § 401.26.

Sec. 3-4. Disqualification of operator.

No license under this chapter shall be issued to any person or any corporation in which any officer, director or stockholder or operator shall have been guilty of a felony or a crime involving moral turpitude.
(Code 1980, § 31-23)

Sec. 3-5. Certificate of public convenience and necessity required; application; hearing; issuance; denial; form; transfer.

(a) No person shall operate any ambulances upon any of the streets or the highways of the city without first obtaining from the city commission a certificate of public convenience and necessity as provided in this section.

(b) Application for such certificates of public convenience and necessity shall be filed with the city commission, in writing, verified by the applicant, and shall specify the following matters:

(1) The name and address of the applicant, and the names and addresses of its officers, if any.

(2) The number of ambulances the applicant desires to operate.

(3) A brief description of each vehicle, including the motor number, which the applicant desires to operate or use.

(4) The rates to be charged.

(5) A statement from the chief of police that the applicant is of good moral character and fitness and possesses sufficient knowledge of the provisions of this chapter. It is the duty of the chief of police to make proper investigation to determine the moral character and fitness of the applicant.

(c) Upon filing the application, the commission shall fix a time for hearing and acting upon the application. Notice of such hearing shall be given the applicant and all other operators of ambulances within the city. Such notice shall contain a brief summary of the subject matter of the application and any other pertinent facts in connection with the application and shall be mailed at least five days prior to the date assigned for hearing of such application. At the time specified in such notices, or at such subsequent time as may be fixed by the commission, a public hearing upon the application shall be held by the commission. At or after such hearing, the commission may issue a certificate of public convenience and necessity as prayed for, or refuse to issue the certificate, or may issue the certificate with modifica-

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tions or upon such terms and conditions as in its judgment the public convenience and necessity may require.

(d) When any such application is heard and denied, the commission shall not thereafter entertain any further application covering the same applicant until the expiration of at least 90 days from the date of such denial.

(e) When any application for a certificate of public convenience and necessity is made by any person, the commission shall grant such application when existing certificate holders fail to provide service and facilities which may reasonably be required by the commission. The city commission shall have sole and absolute discretion as to the existing service and whether facilities are adequate or inadequate.

(f) Each certificate of convenience and necessity issued under the provisions of this section shall contain, among other things, the following:

(1) The name of the grantee.

(2) The number of ambulances which the applicant is permitted to operate.

(3) The rates to be charged.

(4) Such additional terms, conditions and provisions and limitations as the commission may deem necessary or proper in the public interest.

(g) No certificate of public convenience and necessity issued under the provisions of this section shall be assigned or transferred without the consent or approval of the city commission.
(Code 1980, § 31-24)

State law reference—Certificate from county required, F.S. § 401.25(2)(d).

Sec. 3-6. Revocation or suspension of certificate of public convenience and necessity.

(a) The city commission shall have the power to revoke all or any certificates of public convenience and necessity which may have been issued, under the provisions of this chapter, for ambulances, upon receiving reasonable proof to the effect that the ambulance for which any such certificate may have been so issued is no longer owned by the owner or transferee, or that such ambulance is in such condition that if put in operation it would be a menace to public safety.

(b) The city commission may at any time suspend or revoke any certificate of public convenience and necessity for cause; but before suspending or revoking any such certificate, a statement setting forth the grounds upon which it is proposed to suspend or revoke such certificate, and setting forth the time and place when and where the city commission shall meet to consider the suspension or revocation of such certificate, shall be served upon the person whose certificate it is proposed to revoke [or suspend]. Such service shall be made personally on such person or by registered or certified mail addressed to such person at his last known address, as the case may be, at least five days before the date of such hearing.

(c) Cause for the suspension or revocation of a certificate of public convenience and necessity shall include but is not limited to any violation of the terms of this chapter; failure to pay any judgment which may be obtained, or appeal taken and not superseded, and which may have been rendered by a court of competent jurisdiction against such operator because of injuries to persons or property inflicted or caused in the city by any ambulance owned or operated at the time of such injury by such operator; failure of such operator to have and maintain an established place of business; failure to render proper service; failure to take proper precautions to prevent the drivers of such operator from not complying with the terms of this chapter or other ordinances of the city pertaining to the operation of ambulances or not complying with the traffic ordinances of the city; or failure of such operator to comply with the agreement made at the time of accepting such certificate.
(Code 1980, § 31-25)

Sec. 3-7. Rates; regulatory body.

The city commission is declared to be the regulatory body for the purpose of determining rates to be charged for the use of ambulances for other than any governmental entity.
(Code 1980, § 31-26)

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Sec. 3-8. Compliance; rate schedule on file.

No ambulance or operator shall charge any rate in excess of that rate which has been established by the regulatory body. Each licensee shall at all times be required to keep on file with the city clerk a complete schedule of rates and fees to be charged, which, except for those to be charged a governmental entity, shall be subject to the approval of the city commission, and recommendation of the South Broward Hospital Commission.
(Code 1980, § 31-27)

Sec. 3-9. Transportation of deceased persons.

An ambulance may not be used for transporting the remains of humans after official pronouncement of death, except in cases of extreme emergency.
(Code 1980, § 31-28)

Sec. 3-10. Insurance.

Each licensee under this chapter shall carry public liability and property damage insurance with solvent and responsible insurers, authorized to transact business in the state, to secure payment of any loss or damage resulting from any occurrence arising out of or caused by the operation or use of any of the licensee's ambulances. Each vehicle shall be insured for the sum of at least $25,000.00 for property damage and $100,000.00 for injuries to or death of any one person, and the sum of at least $300,000.00 for injuries to or death of more than one person in any one accident. Every insurance policy issued shall provide for the payment and satisfaction of any final judgment entered against the licensee or any person driving any such insured vehicle. No license shall be issued until the applicant files a certificate with the city clerk as proof that the requirements of this section have been met.
(Code 1980, § 31-29)

State law reference—Insurance as required by state, F.S. § 401.25(2)(c).

Sec. 3-11. Lettering of vehicle.

Each vehicle shall have lettering on all sides clearly indicating that such vehicle is an ambulance.
(Code 1980, § 31-30)

Sec. 3-12. Attendants.

Each ambulance, while transporting an individual as a patient, shall be manned by two qualified attendants. One individual must be qualified and shall act as the chauffeur of the vehicle and must possess a valid chauffeur's license, and the other individual shall perform the duty of caring for the patient and his welfare. Each attendant shall be qualified in first aid, subject to the approval of the fire department, equal to or better than the requirement of an advanced Red Cross first aid rating, and shall carry with him at all times proof of such qualifications.
(Code 1980, § 31-31)

State law reference—Certification and standards for personnel, F.S. § 401.27.

Sec. 3-13. Radio; telephone service.

Each ambulance operating under a license from the city and furnishing emergency ambulance service in the city shall be equipped with a two-way radio operating on an independent radio frequency authorized by the Federal Communications Commission. The licensee shall maintain and provide, at its own expense, a telephone service such telephone service to be on a 24-hour basis. The ambulance headquarters shall maintain during the entire 24-hour period a telephone service sufficient to properly process all calls.
(Code 1980, § 31-32)

Sec. 3-14. Logs.

All ambulances shall maintain written logs acceptable and accessible to the city, its commissioners, and officials of the police and the fire departments, which shall cover the following items:

(1) Subject's name, address and sex.

(2) Location of call.

(3) Person or department requesting ambulance service, if obtainable.

(4) Date and time of departure for the scene.

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(5) Date and time of arrival at the scene.

(6) Date and time of departure from the scene.

(7) Date and time of arrival at the hospital or the physician's office.

(8) Date and time of return to the ambulance station.

(9) Attending doctor's name.

A copy of the log shall be submitted to the chief of police monthly.
(Code 1980, § 31-33)

State law reference—Required records, F.S. § 401.30.

Sec. 3-15. Compliance with traffic laws; speed limit.

All ambulances shall operate under the traffic rules and regulations of the city and abide by all pertinent laws. No ambulance shall exceed the speed of 40 miles per hour except in cases of extreme emergency.
(Code 1980, § 31-34)

Sec. 3-16. Exits from patient compartment.

Each ambulance shall have at least one exit from the compartment where the patient is carried and an additional emergency exit from such compartment.
(Code 1980, § 31-35)

Sec. 3-17. Required equipment.

(a) Each ambulance shall be equipped with the following, maintained in a workable and usable condition at all times, subject to inspection by the proper officials of the city:

(1) One siren.

(2) One red flashing light (front and rear).

(3) Two adult splints.

(4) Two child leg splints.

(5) One oxygen tank with regulator and mask attached at all times. Tank shall contain medical oxygen.

(6) One back board.

(7) One collapsible stretcher.

(8) One urinal.

(9) Cotton blankets.

(10) One UL-approved fire extinguisher CO_2 or dry chemical type of at least five pounds capacity.

(11) Two restraint straps.

(12) Two red flares.

(13) Two sand bags.

(14) Adequate supply of clean linen.

(15) One emesis basin.

(16) One spare size E oxygen tank filled with medical-type oxygen.

(b) In addition to the provisions of subsection (a) of this section, each ambulance shall carry an attendant's bag which shall include the following:

(1) One bandage shears.

(2) One flashlight.

(3) Four arm splints.

(4) Six tongue depressors.

(5) One small airway.

(6) One large airway.

(7) Six rolls of three-inch bandage.

(8) Six rolls of two-inch bandage.

(9) Two rolls of one-inch adhesive tape.

(10) One infant oxygen face cone.

(11) Two cravats.

(12) Three 18-foot pieces of rubber tubing.

(13) Two rolls of half-inch adhesive tape.

(14) Ten four-by-four gauze pads.
(Code 1980, § 31-36)

Sec. 3-18. Vehicle inspection; safety of equipment.

(a) Each vehicle operating as an ambulance, prior to the issuance of a city license to do business, shall be inspected by the police department for compliance with the requirements of this chapter. Each inspection shall cover only a three-month period, at the expiration of which a new

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inspection is required. In addition to the customary inspection, the police department shall check the following as to safety:

(1) Shock absorbers.

(2) Tires with adequate tread for nonskid operation throughout the inspection period.

(3) Glass for pits or cracks.

(4) Stretcher retaining locks.

(5) Security of all auxiliary equipment.

(6) Safety belts fastened to the main stretcher.

(b) Each ambulance shall be brought to the municipal garage for quarterly inspections and within 15 days of the time prescribed by this section for such inspections. The inspections provided for in this section shall be made by authorized personnel of the traffic division of the police department. The purpose of the inspection is to determine that each ambulance licensed under the terms and provisions of this chapter is complying fully and completely with all the terms, conditions and provisions of this chapter.

(c) If an ambulance is examined and thereupon found to be in compliance with this section, a written statement shall be given to the owner or operator to that effect; if an ambulance is found to not be in compliance, the owner or operator shall be so notified and given full particulars as to wherein the ambulance is not in compliance, whereupon the owner shall have a period of seven days within which to effect compliance and to pass the inspection required in this section. If compliance is not effected within the prescribed time, the city commission shall have the right to revoke the certificate of convenience and necessity issued for such ambulance not so complying.
(Code 1980, § 31-37)

State law reference—Inspection by state, F.S. § 401.31.

Sec. 3-19. Emergency medical service rate.

A rate will be charged for each emergency medical call responded to by the city which results in the transportation of an individual in which basic life services (BLS) are rendered, while a rate will be charged for each such call in which advanced life services (ALS) are rendered. A fee, which is on file in the city clerk's office, will be charged for each emergency medical call responded to by the city which does not result in the transportation of an individual. The city manager may waive such charge involved when the emergency medical call does not involve a medical exam or treatment or when the person involved was not responsible for the call.
(Code 1980, § 10-9)

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Chapter 4

AIRCRAFT AND AIRPORTS*

Sec. 4-1. Definitions.
Sec. 4-2. Compliance with federal and state regulations required.
Sec. 4-3. Certificates required.
Sec. 4-4. Lights and equipment.
Sec. 4-5. Unnecessary noise.
Sec. 4-6. Advertising; type of aircraft from which permitted.
Sec. 4-7. Attaching advertising material.
Sec. 4-8. Loudspeakers; noise used to advertise.
Sec. 4-9. Permit for exhibition flights.
Sec. 4-10. Dropping objects or substances.
Sec. 4-11. Acrobatic flying.
Sec. 4-12. Permissible landing.
Sec. 4-13. Minimum elevation.
Sec. 4-14. Landing fields, pads or places.

*__Cross reference—__Streets, sidewalks and other public ways, ch. 25.
State law reference—Aeronautics, F.S. chs. 330—333.

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Sec. 4-1. Definitions.

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

Acrobatic flying means any intentional airplane maneuver or stunt not necessary to air navigation, or operation of aircraft in such manner as to endanger human life or safety by the performance of unusual or dangerous maneuvers.

Aircraft means any aeroplane, airplane, gas bag, flying machine, balloon, helicopter, autogyro, and any other contrivance now known or hereafter invented, used or designated for navigation of or flight in the air, except a parachute or other contrivance used primarily as safety equipment.
(Code 1980, § 4-1)

Cross reference—Definitions generally, § 1-2.

Sec. 4-2. Compliance with federal and state regulations required.

No person shall operate any aircraft over or within the city in violation of any valid air traffic or other rule or regulation established by the Federal Aviation Administration or by the state.
(Code 1980, § 4-2)

Sec. 4-3. Certificates required.

No person shall operate any aircraft within or over the city unless such person has current certificates issued by the federal and state governments and unless such aircraft shall have current certificates from the federal and state governments.
(Code 1980, § 4-3)

Sec. 4-4. Lights and equipment.

All aircraft when flying within or over the city at night shall have lights and other equipment required for such flying by the rules, regulations or orders of the Federal Aviation Administration and the state.
(Code 1980, § 4-4)

Sec. 4-5. Unnecessary noise.

Unnecessary noise by operators of aircraft within or over the city is prohibited.
(Code 1980, § 4-5)

Sec. 4-6. Advertising; type of aircraft from which permitted.

It shall be unlawful for any person to operate or fly, or cause to be operated or flown over the city, an airplane or any other kind of aircraft, except a balloon, for or in connection with advertising purposes.
(Code 1980, § 4-6)

Sec. 4-7. Attaching advertising material.

It shall be unlawful for any person to attach any signs, banners or other form of advertising material to any aircraft, except balloons, flying over the city.
(Code 1980, § 4-7)

Sec. 4-8. Loudspeakers; noise used to advertise.

It shall be unlawful to broadcast through loudspeakers, or otherwise, any music, noises, entertainment, announcements, or advertising matter of any kind, from aircraft flying over the city.
(Code 1980, § 4-8)

Sec. 4-9. Permit for exhibition flights.

No person shall make exhibition flights by carrying banners or signs on any aircraft flying within or over the city without first obtaining a permit to do so from the city clerk, and payment of a permit fee for each flight. Such permit fee is on file in the city clerk's office. The city clerk shall issue such permit if the person who will operate the aircraft, in carrying out any of the objects named in this section, is duly licensed by the federal government, the aircraft to be used is licensed by the federal government, and the safety or lives of the inhabitants of the city will not be endangered by the proposed flight; however, the permits provided for in this section may be issued for periods not longer than six months, rather than for individual flights, if the safety or lives of the inhabitants of the city will not be endangered

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by such permit and a permit fee is paid. Such six months' permit shall be revoked by the city upon violation of any of the terms and provisions of this chapter.
(Code 1980, § 4-9)

Sec. 4-10. Dropping objects or substances.

No person in any aircraft shall cause or permit to be thrown out, discharged or dropped within the city any object or substance, except loose water or loose sand ballast when absolutely essential to the safety of the occupants of the aircraft.
(Code 1980, § 4-10)

Sec. 4-11. Acrobatic flying.

Acrobatic flying by any person flying over any residential or business portion of the city is prohibited.
(Code 1980, § 4-11)

Sec. 4-12. Permissible landing.

Except in case of emergency, no person shall land any aircraft within the city except upon a regularly established airport field, or landing pad or place; except that airplanes which land on water shall land on the waters of the Atlantic Ocean, or other designated place.
(Code 1980, § 4-12)

Sec. 4-13. Minimum elevation.

Except while taking off or landing at an established landing field, pad or place, no person shall fly or permit any aircraft to be flown within the city except at a height sufficient to permit a reasonably safe emergency landing, which in no case shall be less than 1,000 feet. The provisions of this section may be deviated from when special circumstances render a deviation necessary to avoid immediate danger, or necessity, or when such deviation is required because of stress of weather conditions or other unavoidable cause.
(Code 1980, § 4-13)

Sec. 4-14. Landing fields, pads or places.

No private landing field, pad or place for aircraft shall be established or maintained within the city without a permit first having been granted by the city. Any landing field, pad or place established within the city shall be subject to such regulations from time to time as may be adopted by ordinance, and subject to all the applicable rules and regulations of this chapter.
(Code 1980, § 4-14)

Chapter 5

ALCOHOLIC BEVERAGES*

Sec. 5-1. Definitions.
Sec. 5-2. Limitation on place of sale of beverages.
Sec. 5-3. Annual approval of establishments for zoning; hours of closing.
Sec. 5-4. Closing hours specified; special permit; fees.
Sec. 5-5. Exclusion of patrons.
Sec. 5-6. Distances between businesses and from schools, churches and public parks.
Sec. 5-7. Creation of noise on licensed premises.
Sec. 5-8. Drinking on public property.
Sec. 5-9. Nightclub licenses; issuance and renewal.

*__Cross references—__Businesses, ch. 7; nudity and sexual conduct in alcoholic beverage establishments, § 7-81 et seq.

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Sec. 5-1. Definitions.

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

Alcoholic beverages means all beverages containing more than one percent of alcohol by weight.

Beer means all malt beverages containing more than one percent of alcohol by weight and not over 14 percent of alcohol by weight.

Club means a bona fide club. Such a club shall consist of persons associated together under a charter as an incorporated club, incorporated under the laws of the state. Such clubs shall have a bona fide membership and shall have been in continuous existence and operation for a period of not less than two years in the city at the time of the application for such license, except municipally owned golf clubs and national veterans' and fraternal organizations.

Consumption off the premises means the selling of beers, wines and other alcoholic beverages in the original unbroken containers, to be taken by the purchaser off the premises where sold before being consumed.

Consumption on the premises means consumption of all beers, wines or other alcoholic beverages, or the right to sell such beverages by the drink or bottle.

Hotel bar means a bar operated in connection with a hotel or apartment hotel of more than 50 hotel rooms or apartments, and operated by the same management, such bar equipped with adequate and sanitary equipment.

Intoxicating beverages means all liquors, wines and beers containing more than 3.2 percent of alcohol by weight.

Liquor means all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

Nightclub means any place of business operating after 2:00 a.m. where alcoholic beverages are served and sold to the public for consumption on the premises.

Package store means a vendor licensed to sell all alcoholic beverages, but in sealed containers only and for consumption off the premises. The sealed package shall not be broken and the contents shall not be consumed in or on the premises under a package store license.

Restaurant bar means a bar operated in connection with a restaurant and by the same management, where the principal business is the serving of meals and where meals are actually and regularly served, having accommodations for service of 150 or more patrons at tables and occupying more than 3,000 square feet of space, such space being provided and equipped with adequate and sanitary kitchen and dining room equipment. The restaurant bar must be directly connected with such dining room. The sale of beers, wines and liquors shall be strictly incidental to the serving of food. No sign shall be displayed on the restaurant or restaurant bar to the outside, denoting that alcoholic beverages are sold there.

Vendor means any person, association of persons or corporation selling or keeping with the intention of selling or dealing in the beverages referred to in this chapter.

Wine means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe fruit, with the usual cellar treatment and necessary additions to correct defects due to climatic saccharine and seasonal conditions, including champagne, wine coolers, sparkling and fortified wine of an alcoholic content not to exceed 24 percent by volume. No other product shall be called "wine" unless designated by appropriate prefixed descriptive of the fruit or other product from which it was predominantly produced or as artificial or imitation wine.

(Code 1980, § 5-1)

Cross reference—Definitions generally, § 1-2.

State law reference—Definitions, F.S. § 561.01 et seq.

Sec. 5-2. Limitation on place of sale of beverages.

No person shall sell or serve any intoxicating liquor, including malt beverages of legal alcoholic

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content, except upon the premises of a person holding a license from the state for the sale of alcoholic beverages.
(Code 1980, § 5-2)

Sec. 5-3. Annual approval of establishments for zoning; hours of closing.

All licensees holding licenses issued by the state for the sale of alcoholic beverages shall be required to have approval of their place of business to ensure that the place of business complies with all applicable ordinances of the city regarding zoning and hours of closing.
(Code 1980, § 5-3)

Cross reference—Zoning and land development, ch. 32.

State law references—Establishing hours of sale, F.S. §§ 562.14, 562.45(2); regulating location by municipality, F.S. § 562.45(2); enacting sanitary regulations, F.S. § 562.45(2).

Sec. 5-4. Closing hours specified; special permit; fees.

(a) No person licensed under the provisions of the state beverage law, or any employee of such person, shall sell, offer for sale, or deliver, or serve upon the premises of such vendor, any liquors, beer or wine, regardless of alcoholic content, on any weekday or Saturday between the hours of 2:00 a.m. and 7:00 a.m., or on Sundays between the hours of 2:00 a.m. and 1:00 p.m.; however, holders of nightclub licenses may serve, offer for sale and sell, upon the premises of such license holder, liquors, beer and wine, except between the hours of 6:00 a.m. and 7:00 a.m. on weekdays or Saturdays and 6:00 a.m. and 1:00 p.m. on Sundays. A holder of a 6:00 a.m. nightclub license may file a written request with the city manager to serve, offer for sale and sell, upon the premises of such license holder, liquor, beer and wine, between the hours of 6:00 a.m. and 7:00 a.m. on January 1. In deciding whether to grant the request, the city manager shall consider the specific criteria contained in section 5-9(a)(1—3). If the city manager denies the request, the holder of the 6:00 a.m. nightclub license may appeal the city manager's decision to the city commission. In deciding whether to uphold, modify or reverse the city manager's decision, the city commission shall consider the specific criteria contained in section 5-9(a)(1—3). The holder of the 6:00 a.m. nightclub license may seek review of the city commission's decision as provided by law.

(b) Application for a special permit to commence sales of alcoholic beverages for consumption on the premises at 6:00 a.m. on Saturday and/or Sunday, or for sales off the premises at 7:00 a.m. on Sunday may be made by establishments upon payment of a nonrefundable application fee, on file in the city clerk's office, to defray the costs of issuance, policing and regulation of such licenses. Issuance, renewal and revocation of such special permit shall be based upon the criteria of section 5-9(a)—(c) and (e) as to nightclub licenses shall be applicable to this permit issued by the city manager; however, appeals of his decisions shall be to the city commission; and such an application shall not be reviewed by the planning and zoning board.

(c) Application for a special permit for particular holidays or events may be made by an establishment licensed for 2:00 a.m. sales for extended hours to 4:00 a.m. upon application made at least 30 days prior to the event or holiday and payment of an application fee, which is on file in the city clerk's office.
(Code 1980, § 5-5; Ord. No. 2002-21, § 1, 12-3-2002)

State law references—Authority to regulate hours of sale, F.S. §§ 562.14, 562.45(2); closing by mayor in time of riot, F.S. § 562.454; closing during disorders, F.S. § 870.045.

Sec. 5-5. Exclusion of patrons.

It shall be unlawful for any owner, proprietor, operator, lessee, manager, or agent for any owner, proprietor, operator or lessee of any bar, cabaret, lounge, tavern, nightclub or other establishment where alcoholic beverages are sold or offered for sale for consumption either on or off the premises, to allow or permit any patron, customer or prospective patron or customer, or any other person except the owner, proprietor, operator, lessee, manager or agent for the owner, proprietor, operator or lessee, and the normal and ordinary employees of such establishments, to remain upon the premises longer than 20 minutes after the time set for cessation of sales of alcoholic beverages at such establishment.
(Code 1980, § 5-6)

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Sec. 5-6. Distances between businesses and from schools, churches and public parks.

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

Restaurant means a public food service establishment where food is regularly prepared and served for immediate consumption on the premises, duly licensed under all applicable laws, regulations and ordinances. Such establishment shall also have full kitchen facilities, and in excess of 50 percent of the establishment's gross income shall be from a source other than the sale of alcoholic beverages.

School means an organization of pupils for instructional purposes on a kindergarten, elementary or secondary level, whether public, private or parochial.

(b) *Interbusiness distances.*

(1) No place of business licensed to sell beer with consumption on the premises; beer and wine with consumption on the premises; or beer, wine and liquor with consumption on the premises may be located within 1,000 feet, measured by the most direct route from main entrance to main entrance, of a place of business where there is already an establishment licensed in any of these three categories.

(2) No place of business licensed to sell beer, wine and liquor with consumption off the premises may be located within 600 feet, measured by the most direct route from main entrance to main entrance, of another place of business licensed to sell beer, wine and liquor with consumption off the premises, nor may it be located within 1,000 feet, measured by the most direct route from main entrance to main entrance, of any of the types of businesses enumerated in subsection (b)(1) of this section.

(c) *Exception.* The provisions of subsection (b) of this section shall not apply to restaurants. Any business licensed to sell alcoholic beverages within the categories specified in subsection (b) of this section may be located within 1,000 feet of a restaurant selling alcoholic beverages, measured by the most direct route from main entrance to main entrance; and a restaurant selling alcoholic beverages may be located within 1,000 feet of such businesses.

(d) *Church, school and public park distances:* No establishment other than that specified in subsection (g) hereof may sell any alcoholic or other intoxicating beverage within 500 feet of a public park or within 1,000 feet of a church, school or property owned by a church or school and designated for use as a church or school. In order for a church or school to put on notice a property owner of its intention to erect a structure on a site, it must submit an affidavit to the city clerk setting forth the legal description of its property, affirming that the property is owned by the church, and which affidavit shall state the intention of the church to build a structure on the site. For the purposes of this section, the distances shall be determined by the most direct route from the main entrance of the establishment to the nearest property line of the church, school or public park.

(e) *Existing establishments.* Nothing contained in this section shall be construed as preventing the renewal, continued use or transfer of ownership of any current licenses issued in full compliance with all laws, ordinances or regulations applicable at the time of issuance of the original license; but such licenses shall be subject to the restrictions contained in the zoning ordinance of the city. Whenever a license has been lawfully procured and thereafter a church or a school site is acquired, or a church or school is constructed without compliance by such church or school with the notice requirements set forth in subsection (d) of this section, such acquisition or construction shall not have any effect on the revocation, renewal or transfer of ownership of such licenses.

(f) *Zoning compliance.* Nothing contained in this section is intended to affect provisions of the zoning ordinance of the city, which are reaffirmed and continued.

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(g) *Off-premises beer establishments.* Subsection (d) of this section shall not apply to establishments licensed under F.S. § 563.02 to sell beer off the premises; however, such establishments located within 1,000 feet of a school measured in the manner set forth in subsection (d) of this section shall be prohibited from selling beer between the hours of 7:00 a.m. and 9:00 a.m., and 11:00 a.m. and 4:00 p.m. on days when school is in session, and establishments located within 1,000 feet of a church measured in the manner set forth in subsection (d) of this section shall be prohibited from selling beer between the hours of 8:00 a.m. and 1:00 p.m. on Sundays.

(h) *Variances.*

(1) The city commission may grant a variance to any of the provisions contained in this section, subject to the following limitations:

a. The applicant shall file an application and pay an application fee. Such fee is on file in the development services department.

b. The city commission must hold a public hearing with prior written notice by certified mail being given to the affected parties. With respect to a variance from the establishment separation requirement, the notice shall be to any such establishment within the specified distance. With respect to the separation requirements from churches and schools, notice shall be to the church or school, as appropriate. With respect to public schools, notice shall be sent to the principal and to the school board of the county.

c. All variances granted are subject to revocation by the city commission if adverse effects on the affected parties result.

d. The applicant is required to demonstrate that the granting of the variance will not have any substantial or material adverse effect on the parties sought to be protected by the particular provision sought to be varied, and that the spirit and intent of this section will not be violated.

(2) The granting of the authority to the city commission to grant variances to this section is expressly declared to be nonseverable from the requirements and limitations imposed on the exercise of that authority, and the invalidity of any of those provisions shall result in the invalidity of that grant of authority.

(Code 1980, § 5-7; Ord. No. 2001-7, § 1, 6-5-2001)

Cross reference—Zoning use districts, app. A, art. IV, § 20.09.

State law references—Persons holding off-premises beer sale licenses not subject to zoning, F.S. § 563.02(1)(a); authority to regulate location, hours, etc., F.S. § 562.45(2).

Sec. 5-7. Creation of noise on licensed premises.

(a) No person licensed under the state alcoholic beverage law shall allow or permit between the hours of 12:00 p.m. and 7:00 a.m. the following morning, instrumental music, singing or other forms of entertainment (whether live or mechanical) in any room where alcoholic beverages are sold or offered for sale, indoors or outdoors, of such a loud and noisy nature as to disrupt the peace and quiet of the neighborhood or of such nature as to annoy or disrupt any citizen of ordinary sensibility in his residence in the city.

(b) If during the hours specified in subsection (a) of this section such instrumental music, singing or other forms of entertainment (whether live or mechanical) is plainly audible at a distance of 300 feet from the building or structure in which it is located, such shall be prima facie evidence of a violation of this section. It is not intended by this section to sanction or condone noisy, annoying and disturbing music, singing and other forms of entertainment (whether live or mechanical) at hours other than the time designated in this section; nor is it intended to allow music, singing and other forms of entertainment (whether live or mechanical) at any hours other than the hours in which alcoholic beverages may be lawfully sold.

(Code 1980, § 5-8)

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Sec. 5-8. Drinking on public property.

The consumption, holding or carrying of any alcoholic beverage in an open bottle, glass or other drinking container shall be unlawful if conducted outside of an enclosed or walled structure or patio portion of premises licensed under this chapter. It shall be unlawful to carry on such activities while upon any public street, thoroughfare, park, sidewalk or other public place or area regularly devoted to public vehicular or pedestrian use. The service of alcoholic beverages shall be restricted to on-premises consumption by customers within a licensed outdoor cafe.
(Code 1980, § 5-9)

Cross reference—Streets, sidewalks and other public ways, ch. 25.

Sec. 5-9. Nightclub licenses; issuance and renewal.

(a) A person licensed under the provisions of the state beverage law may file an application with the city for a nightclub license to enable the applicant to serve, offer for sale, and sell upon the applicant's premises, liquor, wine and beer, until the hours of 4:00 a.m. or 6:00 a.m. Upon receipt of an application for a nightclub license, the development services department director shall place the application on the planning and zoning board agenda for a hearing and notify the applicant of the date of such hearing. At the time of the hearing, the planning and zoning board shall recommend to the city commission that the commission grant the license, deny the license, or grant the license subject to certain conditions. Once the planning and zoning board has made its recommendation, the application shall be placed on the city commission agenda, and the city commission shall hear the application after proper notice to the applicant of the date of such hearing. At the time of the hearing, the city commission may grant the license, deny the license, or grant the license subject to specific conditions. The applicant may seek review of the city commission's decision, as provided by law. In considering the application, the planning and zoning board and the city commission shall base their decisions on the following criteria:

(1) The amount of off-street parking in relation to the demands created by the extra hours of operation, especially with regard to any spillover effect creating illegal or hazardous parking or parking in adjacent residential areas.

(2) The amount and degree of law enforcement activities generated by the extra hours of operation, both inside and outside the particular location, with particular reference to noise, vehicular use by patrons, and illegal activity of any kind by employees, patrons or others associated with the establishment, during or within one hour after the extended hours of operation.

(3) The adverse effects, if any, that the extended hours of operation will have on neighboring properties, especially with respect to the effects of noise, parking and glare from headlights or exterior lighting, on nearby residential properties.

(b) The city commission may require, as a condition of the privilege of extended hours of operation, compliance with any reasonable conditions deemed by the commission to be necessary to mitigate or eliminate the adverse effects of that operation. These conditions may include, without being limited to, provision by the owner or operator or the licensee, at his expense, of additional off-street parking, security personnel, and screening and buffering from nearby properties.

(c) The granting of extended hours of operation, either citywide or to a particular licensee, has been and continues to be a privilege subject to modification or termination by the city commission each year at renewal time; and no person may reasonably rely on the continuation of that privilege.

(d) All nightclub licenses shall expire at 11:59 p.m. on September 30 of each year unless previously renewed by the city commission. The development services director shall place all current nightclub licenses on the agenda for the first regular city commission meeting in August and shall notify all licensees of that date. The city commission may deny renewal, grant renewal or grant conditional renewal. The specific criteria for city commission consideration in making the

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decision shall be the same criteria set forth in subsection (a) of this section for the original issuance.

(e) If prior to renewal time the city manager determines that any licensee has either violated a condition of renewal or is operating in a manner harmful to the public health, safety or welfare, he may place on the city commission agenda the matter of revoking the nightclub license, providing at least ten days written notice to the licensee of the charges against him and the date, time and place of the agenda item, and, after consideration of the matter, and allowing the licensee to be heard, the city commission may revoke, modify or condition the nightclub license. In deciding whether to revoke the license, the city commission shall consider the specific criteria contained in section 5-9(a)(1—3). The licensee may seek review of the city commission's decision as provided by law.

(f) In addition to the business tax, each licensee shall pay an annual nonrefundable application fee and, in the event of approval, a regulatory fee to defray the costs of policing and regulation. Such fees are on file in the development services department.

(Code 1980, § 5-13; Ord. No. 2002-21, § 1, 12-3-2002)

Chapter 6

ANIMALS*

Article I. In General

Sec. 6-1. Definitions.
Sec. 6-1.1. Dogs shall be restrained.
Sec. 6-1.2. Dangerous dogs—Determination and requirements.
Sec. 6-1.3. Same—Violations.
Sec. 6-2. Keeping dangerous animals prohibited; exceptions.
Sec. 6-3. Keeping cattle, horses or poultry prohibited; exceptions.
Sec. 6-4. Permitting dangerous animals, cattle, swine or poultry to run at large prohibited.
Sec. 6-5. Animals not permitted in public parks or on beaches; exceptions.
Sec. 6-6. Running at large prohibited.
Sec. 6-7. Impoundment of animals in violation of chapter.
Sec. 6-8. Enforcement.
Sec. 6-9. Prohibited activities.
Sec. 6-10. Standards for new development.
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Secs. 6-12—6-40. Reserved.

Article II. Nuisances

Division 1. Generally

Secs. 6-41—6-60. Reserved.

Division 2. Animal Waste

Sec. 6-61. Duty of owner or person in control of animal.
Sec. 6-62. Duty to carry and use utensils for removal and cleanup of waste.
Sec. 6-63. Disposal of waste material.
Sec. 6-64. Penalty for violation of article.
Sec. 6-65. Exceptions to article provisions.

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*__Cross reference—__Dog and horse racing, § 10-171 et seq.
State law references—Damage by dogs, F.S. ch. 767; animals, F.S. ch. 828.

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ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

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

Animal means any living creature, domestic or wild.

Artificial light or *artificial lighting* means the light emanating from any human-made device.

At large means off the premises of the owner and not under the control of the owner, a member of his immediate family, or some other person, either by leash, cord, chain, or other physical holding device or restraint.

Bug type bulb means any yellow colored light bulb that is marketed as being specifically treated in such a way so as to reduce the attraction of bugs to the light.

Coastal construction activities means any work or activity that is likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes.

Cumulatively illuminated means illuminated by numerous artificial light sources that as a group illuminate any portion of the beach.

Dangerous animal means any wild mammal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristic, constitutes a danger to human life or property, and any domestic mammal, reptile or fowl which, because of its size, vicious propensity or other characteristic, constitutes a danger to human life or property.

Dangerous dog means a dog that bites, inflicts injury on, kills or otherwise attacks a human being or domestic animal without provocation on any public or private property, or any dog owned or harbored primarily or in part for the purpose of fighting.

Directly illuminated means illuminated as a result of glowing element(s), lamp(s), globe(s), or reflector(s) of an artificial light source which is visible to an observer on the beach.

Domestic animal means any equine or bovine animal, goat, sheep, swine, domestic cat, dog, poultry, ostrich, emu, rhea, or other domesticated beast or bird.

Dune means a mound or ridge of loose sediments, usually sand-sized, lying landward of the beach and deposited by any natural or artificial mechanism.

Frontal dune means the first natural or man-made mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.

Ground-level barrier means any vegetation, natural feature or artificial structure rising from the ground which prevents beachfront lighting from shining directly onto the beach-dune system.

Hatchling means any species of marine turtle, within or outside of a nest, that has recently hatched from an egg.

Indirectly illuminated means illuminated as a result of the glowing element(s), lamp(s), globe(s), or reflector(s) of an artificial light source, which is not visible to an observer on the beach.

Marine turtle means any marine-dwelling reptile of the families cheloniidae or dermochelyidae found in Florida waters or using the beach as nesting habitat, including the species: caretta caretta (loggerhead), chelonia mydas (green), dermochelys coriacea (leatherback), eretmochelys imbricata (hawksbill), and lepidochelys kempi (Kemp's Ridley). For purposes of this article, marine turtle is synonymous with sea turtles.

Nesting season means the period from March 1 through October 31 of each year.

Poultry means all kinds of poultry, including without limitation chickens, turkeys, guineas, pigeons and other domesticated food birds, but excepting duck and geese.

Provocation means that the injury or damage caused by the dog was sustained by a person, who

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at the time, was committing a willful trespass or other tort upon the premises occupied by the dog's owner, or was tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime against a person or property. Provocation also means that the injury, or damage caused by the dog was sustained by a domestic animal, which at the time, was tormenting, abusing, or assaulting the dog.

Severe injury means any physical injury to a human being or domestic animal that results in a broken bone, or a cut, puncture, piercing or breakage of the skin, or a disfiguring laceration requiring stitches, sutures or reconstructive surgery.

Tinted glass means any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.
(Code 1980, § 6-1; Ord. No. 2001-26, § 1, 12-4-2001; Ord. No. 2002-19, § 1, 10-15-2002)

Cross reference—Definitions generally, § 1-2.

Sec. 6-1.1. Dogs shall be restrained.

Each owner shall keep and maintain his dog under restraint; provided, however, that this section shall not apply to any dog being used for rescue or law enforcement work or any dog used in connection with a pari-mutuel facility licensed under Chapter 550, F.S. It shall be unlawful for any owner to allow his dog to cross outside of the property line of its owner to any extent, including reaching over or under a fence, or to keep or allow his dog to be outdoors on an unfenced portion of the owner's property, unless the dog is restrained by a substantial chain or leash not exceeding six feet in length and under the control of its owner or another responsible person. The provisions of this section constitute an affirmative duty on the part of the dog's owner and the offenses described herein shall be strict liability offenses.

Any dog owner who violates any provision of this section shall be subject to a fine of up to $500.00, if the violation does not result in severe injury or death to a person or domestic animal. If the violation results in severe injury or death to a person or domestic animal, the dog's owner shall be subject to a fine of up to $1,000.00. In addition to any fine imposed by this section, the dog's owner may be required to submit full restitution to the victim for any damage caused by the dog or may be incarcerated for a period not to exceed six months, or may be required to perform up to 100 hours of community service, or any combination thereof.
(Ord. No. 2002-19, § 1, 10-15-2002)

Sec. 6-1.2. Dangerous dogs—Determination and requirements.

The city manager shall have the authority to determine that a dog is a dangerous dog, as defined in section 6-1, and to order the dog's owner to comply with any of the measures set forth below for the protection of the public health, safety and welfare.

(1) Upon receipt of a citizen complaint or police report of a dog bite, attack, threatening behavior, or other reason to believe that a dog may be a dangerous dog, the city manager shall evaluate the seriousness of the complaint or police report and, if circumstances warrant, may conduct an investigation of the facts. Where practicable and readily located, the investigation shall include interviewing the complainant, the victim, if any, the dog's owner, and any witnesses, and observation of the dog and the scene. Based upon the investigation, the city manager shall declare whether the dog is a dangerous dog.

(2) Where a dog is declared to be a dangerous dog, and the dog has killed a person or a domestic animal, the city manager shall order the humane destruction of the dog.

(3) In all cases in which a dog is declared to be a dangerous dog and the dog is not humanely destroyed, the city manager shall order the dog's owner to comply with the following requirements:

a. While on the owner's property, the owner must securely confine the dangerous dog indoors or within a securely enclosed locked pen, fence or structure. The enclosure must be a minimum of six feet in height and

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must have secure sides, top and bottom, and shall be designed to prevent the entry of young children and to prevent the dog from escaping over, under or through the enclosure. The enclosure must be humane and provide some protection from the elements for the dog.

b. While off the owner's property, a dangerous dog must be muzzled securely to prevent the possibility of biting, restrained by a substantial chain or leash not exceeding six feet in length, and under the control of the owner or a responsible person at all times. The muzzle must be placed on the dog in a manner that will not injure the dog or impair its vision or respiration, but must prevent the dog from biting any person or domestic animal.

c. The owner must display, in a conspicuous manner, a sign on the owner's premises warning that a dangerous dog is on the premises. The sign must be visible from the public right of way and from 50 feet away from the enclosure required by subsection (3)a. above.

d. The owner, at the owner's expense, shall have an electronic animal identification device (microchip) installed under the dog's skin by a veterinarian.

e. Within 10 days of the declaration that a dog is a dangerous dog, the owner must procure and maintain in effect liability insurance to cover claims arising from the conduct of the dangerous dog, in an amount not less than $100,000.00 The insurance policy shall include a provision requiring the insurer to notify the city manager not less than 30 days prior to cancellation or lapse of coverage.

(4) Where the owner's address can be readily ascertained, the city manager shall send notice to the owner, by certified or registered mail, stating that his dog has been declared a dangerous dog, describing the basis for such declaration by specific behavior and date(s) of occurrence, setting forth all applicable orders and restrictions imposed by reason of such declaration, and informing the owner of his right to appeal such determination by filing a written request for a hearing within seven days of receipt of the notice. A copy of such notice shall be sent to the complainant, if any. Where the dog has been impounded pursuant to subsection (5) below, such notice shall be sent within 15 days after such impoundment.

(5) If the owner requests a hearing, the city attorney shall appoint a special master who shall hold a hearing, at which the owner and all interested parties may present testimony and any other relevant evidence, within 15 days of the request. The hearing shall be taped or recorded by other appropriate means. The special master shall uphold the city manager's decision unless the special master finds that the city manager's decision constitutes an abuse of discretion. If the special master upholds the city manager's determination that the dog is dangerous, the owner shall have 20 days to satisfy all requirements contained in subsection (3) and the notice. The owner may appeal the special master's ruling by filing a petition for certiorari in the circuit court within 30 days of the rendition of the special master's ruling.

(6) Where there is probable cause to believe that a dog is a dangerous dog, the city manager or his designee is authorized to impound and hold the dog, at the owner's expense, pending the investigation and resolution of any appeals. Where the dog has severely injured any person or domestic animal, the city manager shall cause the dog to be impounded and held, at the owner's expense, pending the investigation and resolution of any appeals. Moreover, the dog shall not be released to its

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owner before the city manager approves the enclosure required by subsection (3)a.
(Ord. No. 2002-19, § 1, 10-15-2002)

Sec. 6-1.3. Same—Violations.

(a) Any owner who fails to comply with any of the requirements of section 6-1.2(3) and any additional orders of the city manager as authorized by that subsection shall be punished by a fine of up to $500.00 for the first offense, and by a fine of up to $1,000.00 for any subsequent offenses.

(b) Any dog which has been declared a dangerous dog and which (1) is seen outside and not confined within the enclosure required by section 6-1.2(3)a., and not muzzled and under control of the owner or other responsible person as required by section 6-1.2(3)b., or (2) thereafter attacks or injures a person or domestic animal, may be impounded by a police officer or an officer of the Broward County Animal Care and Regulation Division, at the owner's expense, and the city manager may order the owner to comply with any of the alternatives contained in section 6-1.2(2) and (3), including humane destruction of the dog. The owner shall be entitled to notice and an opportunity for a hearing in the same manner as provided in section 6-1.2(4) and (5).
(Ord. No. 2002-19, § 1, 10-15-2002)

Sec. 6-2. Keeping dangerous animals prohibited; exceptions.

It shall be unlawful for any person to keep any dangerous animal of any kind within the city. This section shall not be construed to prohibit the operation of a zoo or circus or similar activity that is properly permitted, licensed and operating in full compliance with all applicable state, federal and local laws and regulations.
(Code 1980, § 6-2; Ord. No. 2002-19, § 1, 10-15-2002) Code 1980, § 6-2)

Sec. 6-3. Keeping cattle, horses or poultry prohibited; exceptions.

It shall be unlawful for any person to keep any cattle, horses, swine, sheep, goats or poultry within the city. This section shall not be construed to prohibit the operation of a zoo or circus or similar activity or any farm or agricultural establishment that is properly licensed and permitted and operating in full compliance with all applicable federal, state, and local laws and regulations.
(Code 1980, § 6-3)

Sec. 6-4. Permitting dangerous animals, cattle, swine or poultry to run at large prohibited.

It shall be unlawful for any person to permit any dangerous animal or any cattle, horses, swine, sheep, goats or poultry to run at large in the city.
(Code 1980, § 6-4)

Sec. 6-5. Animals not permitted in public parks or on beaches; exceptions.

No person owning or having charge, care, custody or control of any animal shall cause, permit or allow the animal into or upon any public park or beach in the city; however, this provision shall not apply to guide dogs or service dogs, as specified in F.S. § 413.08, or to parkways, wayside parks or other park areas in which dogs are specifically authorized by the appropriate governmental entity having custody and control of such park area.
(Code 1980, § 6-5)

Cross reference—Streets, sidewalks and other public ways, ch. 25.

Sec. 6-6. Running at large prohibited.

No person owning or having possession, charge, custody or control of any animal shall cause or permit or allow the animal to stray, run, be, go, or in any manner to be at large in or upon any public street, sidewalk, beach or park or on private property of others without the express or implied consent of the owner of such private property.
(Code 1980, § 6-6)

Sec. 6-7. Impoundment of animals in violation of chapter.

Any animal found in violation of any of the provisions of this chapter may be caught by city law enforcement personnel or any code enforcement officer or any officer of the Broward County Animal Care and Regulation Division and impounded at a place maintained and designated for that purpose by Broward County. Any animals or

dogs impounded by city personnel may be transferred to the Broward County Animal Care and Regulation Division and redemption or release of such animals shall be in compliance with the applicable sections of the county code.
(Code 1980, § 6-7; Ord. No. 2002-19, § 1, 10-15-2002) Code 1980, § 6-7)

Sec. 6-8. Enforcement.

It shall be the duty of all city law enforcement personnel, and the city manager, by and through his duly appointed subordinates, to enforce the provisions of this chapter. Officers of the Broward County Animal Care and Regulation Division shall have full authority to enforce the provisions of this chapter and all applicable provisions of the county code within the city.
(Code 1980, § 6-8; Ord. No. 2002-19, § 1, 10-15-2002)

Sec. 6-9. Prohibited activities.

The following activities involving direction illumination of portions of the beach are prohibited on the beach at nighttime during the nesting season for the protection of nesting females, nests, and hatchling marine turtles:

(1) The operation of motorized vehicles, except emergency and law enforcement vehicles or those permitted on the beach for marine turtle conservation or research.

(2) The building of campfires or bonfires.
(Ord. No. 2001-26, § 2, 12-4-2001)

Sec. 6-10. Standards for new development.

To provide the highest level of protection for nesting marine turtles and their hatchlings, the following standards apply to artificial light sources on new coastal construction:

(1) Exterior artificial light fixtures must be designed and positioned so that:

a. The point source of light or any reflective surface of the light fixture is not directly visible from the beach;

b. Areas seaward of the frontal dune are not directly, indirectly or cumulatively illuminated.

(2) Exterior artificial light fixtures within direct line-of-sight of the beach are considered appropriately designed if:

a. Completely shielded downlight only fixtures or recessed fixtures having low wattage (i.e. 50 watts or less) "bug" type bulbs and nonreflective interior surfaces are used. Other fixtures that have appropriate shields, louvers, or cut-off features may also be used if they are in compliance with subsection (1)a. and b. above; and

b. All fixtures are mounted as low in elevation as possible through the use of low mounted wall fixtures, low bollards, and ground-level fixtures.

(3) Floodlights, uplights or spotlights for decorative and accent purposes that are directly visible from the beach, or which indirectly or cumulatively illuminate the beach, shall not be used.

(4) Exterior lights used expressly for safety or security purposes shall be limited to the minimum number and configuration required to achieve their functional role(s). The use of motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible is preferred.

(5) Only low intensity lighting shall be used in parking areas within line-of-sight of the beach. Such lighting shall be:

a. Set on a base which raises the source of light no higher than 48 inches off the ground; and

b. Positioned or shielded so that the light is cast downward and the source of light or any reflective surface of the light fixture is not visible from the beach and does not directly or indirectly illuminate the beach.

(6) Parking areas and roadways, including any paved or unpaved areas upon which motorized vehicles will park or operate,

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shall be designed and located to prevent vehicular headlights from directly or indirectly illuminating the beach.

(7) Vehicular lighting, parking area lighting, and roadway lighting shall be shielded from the beach through the use of ground-level barriers. Ground-level barriers must not interfere with marine turtle nesting or hatchling emergence, or cause short- or long-term damage to the beach/dune system.

(8) Tinted glass shall be installed on all windows and glass doors of single or multistory structures within line-of-sight of the beach.

(9) Use of appropriately shielded low pressure sodium vapor lamps and fixtures are preferred for high-intensity lighting applications such as lighting parking areas and roadways, providing security, and similar applications.

(10) Temporary lighting of construction sites during the marine turtle nesting season shall be restricted to the minimal amount necessary and shall incorporate all of the standards of this article.

(Ord. No. 2001-26, § 2, 12-4-2001)

Sec. 6-11. Standards for existing development.

By January 1, 2003, all light sources or reflective surfaces illuminated by such sources that are visible from the beach shall comply with the following:

(1) Existing artificial light fixtures shall be repositioned, modified, or removed so that:

a. The point source of light or any reflective surface of the light fixture is not directly visible from the beach;

b. Areas seaward of the frontal dune are not directly, indirectly or cumulatively illuminated.

(2) The following measures shall be taken to reduce or eliminate the negative effects of existing exterior artificial lighting:

a. Reposition fixtures so that the point source of light or any reflective surface of the light fixture is no longer visible from the beach;

b. Replace fixtures having an exposed light source with fixtures containing recessed light sources or shields;

c. Replace traditional light bulbs with yellow "bug" bulbs not exceeding 25 watts, low pressure sodium vapor bulbs, red light emitting diodes or true neon light sources;

d. Replace nondirectional fixtures with directional fixtures that point down and away from the beach;

e. Replace fixtures having transparent or translucent coverings with fixtures having opaque shields covering an arc of at least 180 degrees and extending an appropriate distance below bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach;

f. Replace pole lamps with low profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach;

g. Plant or improve vegetation buffers between the light source and the beach to screen light from the beach;

h. Construct a ground level barrier to shield light sources from the beach. Ground level barriers must not interfere with marine turtle nesting or hatchling emergence, or cause short- or longterm damage to the beach/dune system;

i. Permanently remove or disable any fixture, which cannot be brought into compliance with the provisions of these standards.

(Ord. No. 2001-26, § 2, 12-4-2001)

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Secs. 6-12—6-40. Reserved.

ARTICLE II. NUISANCES

DIVISION 1. GENERALLY

Secs. 6-41—6-60. Reserved.

DIVISION 2. ANIMAL WASTE

Sec. 6-61. Duty of owner or person in control of animal.

It shall be unlawful for any person who is the owner or custodian or is in possession or control of any animal to permit such animal to eliminate any feces upon private property not owned, controlled or possessed by such individual, or upon public property, including public beaches, sidewalks or swale areas, unless such owner or person in possession or control of the animal shall immediately thereafter remove and clean up such matter from such property.
(Code 1980, § 6-21)

Sec. 6-62. Duty to carry and use utensils for removal and cleanup of waste.

Whenever any animal is off the premises of its owner or custodian or the person having possession or control of such animal, such person shall have in his possession a utensil, device or implement sufficient for the removal and cleanup of animal waste, together with a suitable bag or container for deposit of such waste and its removal to a suitable place of disposal. Failure to have such utensil, device or implement, and bag or container, in such person's possession at such times, shall be a violation of this section and shall be prima facie evidence of a violation of section 6-61.
(Code 1980, § 6-22)

Sec. 6-63. Disposal of waste material.

It shall be unlawful to deposit any animal feces in public trash collection facilities, trash collection facilities of private property owners, or on any premises or at any location other than the private property of the owner, custodian or person in possession or control of the animal. Such matter shall be disposed of in a sanitary manner so as to ensure that flies, fleas and other pests are not attracted, and that other unsanitary conditions are not created.
(Code 1980, § 6-23)

Cross reference—Health and sanitation, ch. 13.

Sec. 6-64. Penalty for violation of article.

Violation of any provision of this article shall be punishable by a fine not to exceed $100.00.
(Code 1980, § 6-24)

Sec. 6-65. Exceptions to article provisions.

This article shall not apply to any dog while in the possession or control of any impaired person using such dog as a guide or service dog. This article shall not be construed to make lawful the presence of any animal on any property, public or private, where animals are prohibited.
(Code 1980, § 6-25)

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Chapter 7

BUSINESSES*

Article I. In General

Secs. 7-1—7-30. Reserved.

Article II. Adult Entertainment Business

Division 1. Generally

Secs. 7-31—7-50. Reserved.

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ARTICLE I. IN GENERAL

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ARTICLE II. ADULT ENTERTAINMENT BUSINESS*

DIVISION 1. GENERALLY

Secs. 7-31—7-50. Reserved.

DIVISION 2. LICENSING

Sec. 7-51. Definitions.

The words, terms and phrases, when used in this article, shall have the meanings ascribed to them in section 32-261, except where the context clearly indicates a different meaning.

Cross reference—Definitions generally, § 1-2.

Sec. 7-52. Separate licensing.

No person may operate an adult entertainment business without first applying for and receiving an adult entertainment license to engage in such activity from the city. The license required by this section shall be in addition to and not satisfied by any other occupational license which may be held, obtained or required of such persons; nor shall it be satisfied by any other state or county license. (Code 1980, § 18-100)

Sec. 7-53. Application; granting.

Applications for a license to operate an adult entertainment business shall be made to the city upon such form and in such manner as shall be prescribed by the city, the form to elicit the following information:

(1) *Identification; interests.* The name of the applicant for a license under this section, if an individual, or in the case of a firm, corporation, partnership, association or organization, any person having managerial control or a material interest. For the purposes of this article, a material interest means direct or indirect ownership of more than five percent of the total assets or capital stock of any business entity. If one or more of the stockholders having a material interest in the applicant business entity is itself a corporation, the requirement shall extend to any officer, director or shareholder owning a material interest in the business entity. All such persons must include their business address and name on the application form.

(2) *Penal history.* The criminal record, if any, other than misdemeanor traffic violations of the applicant or any person specified in subsection (1) of this section. The same information shall be provided for all employees of the applicant on a continuing basis during the life of its adult entertainment business license.

(3) *Business history.* Whether the applicant has operated or applied to operate an adult entertainment type of business in this or any other state and, if so, whether the franchise, permit or license for such business has ever been denied, revoked or suspended, and if so, the reasons, and the business activity or occupation of the applicant subsequent to such denial, revocation or suspension.

(4) *Existence of business entity.* If the applicant is a corporation, the applicant shall submit proof of incorporation in good standing in the state of incorporation and, if a foreign corporation, the applicant shall provide information certifying that the applicant is qualified to do business in this state. If the applicant is operating under a fictitious name, the applicant shall submit proof that it has registered such fictitious name and is entitled to its use.

(5) *Prior occupation.* The business, occupation or employment of the applicant, if an individual, or any other individual specified in subsection (1) of this section, for the three years immediately preceding the date of application.

(6) *Statement of the specific and exact nature of the business to be conducted.* The appli-

*Cross reference—Adult entertainment, § 32-261 et seq.

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cant for a license shall provide a statement clearly specifying the type of business to be conducted and if merchandise is to be sold, a description of such merchandise.

(7) *On-site manager.* The applicant shall list the names, addresses and telephone numbers of all individuals employed by the adult entertainment business who will be in charge of managing the establishment's operations. At least one of the managers listed must be physically present on the premises at all times when the adult entertainment establishment is open for business.

(8) *Signature on application and manner of submission; fee.* An application for a license for an adult entertainment business shall be signed by the individual submitting the application, and, in the case of a corporation, by its president and secretary, and in the case of a partnership or other association, by all members of the partnership or association. All applicants shall sign a statement swearing and affirming that they will conduct business in a lawful manner and will observe all ordinances of the city and county, and all laws of the state and the United States. The completed application shall be submitted to the city manager and shall be accompanied by a fee which is established and on file in the city clerk's office. Upon receipt of a completed application, the city manager shall furnish such application to the chief of police and such other appropriate departments as he deems necessary for review and the preparation of a certificate of approval.

(9) *Standards for issuance.* Based upon the information obtained by the city in the processing of the application, the city manager shall grant the license within twenty days of receiving a completed application unless one or more of the following conditions exist:

a. The application does not comply with the requirements of this section.

b. The granting of the application would violate a state statute or city ordinance.

c. That a material false statement or false information has been provided by the applicant.

d. The applicant, if an individual, or any of the other persons specified in subsection (1) of this section, has been convicted, pleaded guilty, pleaded nolo contendere, or suffered a forfeiture for any criminal offense directly related to the nature of the occupation, profession or business for which the license is sought; however, any such persons who have had their civil rights restored shall only be denied a license if such crime was a felony or a first degree misdemeanor.

(Code 1980, § 18-101; Ord. No. 2002-05, § 2, 4-2-2002)

Sec. 7-54. Denial.

Should the city manager deny an application for an adult entertainment business license, he shall notify the applicant of such denial by certified mail within twenty days of the submission of the application. The notice of denial shall contain a statement of the reasons the application was denied.

(Code 1980, § 18-102; Ord. No. 2002-05, § 2, 4-2-2002)

Sec. 7-55. Appeal from denial.

An applicant for an adult entertainment business license may appeal the denial of such license to the city commission. Should an applicant seek an appeal from the denial of the license, the applicant shall furnish a written request for an appeal to the city clerk within ten days after the date of the registered letter advising the applicant of the denial of the license. Upon receipt of a written request for an appeal, the city clerk shall fix the date and time at which the city commission shall hear the appeal, the hearing to be held not less than ten nor more than 30 days subsequent to the date upon which the request for appeal was

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filed with the city clerk. The city clerk shall notify the applicant in writing of the date and time of such hearing.

At the hearing, the mayor reserves the right to limit or prohibit redundant or irrelevant evidence, testimony or questions, may set reasonable time limits and rules on any evidentiary questions or objections. The city attorney represents the city commission at the hearing. The Code of Ordinances and material in the city commission's agenda backup are automatically considered as evidence without authentication. The hearing is conducted as follows:

(1) The applicant, city staff, and all those who will testify during the hearing are collectively sworn by oath or affirmation by the city clerk.

(2) City staff makes its presentation and the applicant then has the opportunity to cross examine the city's witnesses.

(3) The applicant makes its presentation and city staff may cross examine the applicant and its witnesses.

(4) The applicant and city staff make brief concluding remarks.

(5) At the conclusion of the hearing, the city commission shall either sustain the decision of the city manager or direct the city manager to issue a license. The city has the burden of proof by the preponderance of the evidence and the decision of the city commission must be supported by substantial competent evidence. The city commission's decision may be immediately reviewed as a matter of right by the circuit court upon the filing of an appropriate pleading by an aggrieved party.

(Code 1980, § 18-103; Ord. No. 2002-05, § 2, 4-2-2002)

Sec. 7-56. Regulatory fee.

Each licensee shall pay an annual regulatory fee. Such regulatory fee shall be as established and on file in the city clerk's office, and shall be in addition to any required occupational licenses.
(Code 1980, § 18-104)

Sec. 7-57. Transfer.

An adult entertainment business license issued under the provisions of this division may not be assigned or transferred without the consent of the city commission.
(Code 1980, § 18-105)

Sec. 7-58. Information to be filed monthly with the city.

Each month during the term of a license, each licensee shall supply the city with the following information, such information to be provided on the form and in the manner prescribed by the city:

(1) A statement of the names of all employees of the licensee.

(2) A statement as to whether any arrests have occurred upon the licensed premises and if so, the dates of such arrests, the persons arrested and the offense with which each of those persons was charged.

(3) Any material change in any of the information required pursuant to the original application for the license.

(Code 1980, § 18-106)

Sec. 7-59. Revocation.

The violation of any of the terms and conditions of this division or the violation of any ordinance of the city or county, or the violation of any of the laws of the state or the United States as they pertain to the conduct of the licensed business shall be cause for revocation of the license. If at any time during the period for which the license is issued it is determined that any statement contained in the application or otherwise provided by the applicant upon which the license was issued is untrue or if the person to whom such license is issued or any employee of such person has violated the ordinances of the city or county, or the laws of the state or the United States in the practice of the business for which the license was issued, the license shall be subject to revocation. The city manager may revoke a license for any violation of the aforementioned and he may immediately declare such license null and void. Upon such declaration, the licensee shall immediately cease all operations and shall be consid-

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ered as having forfeited the license and the rights acquired under the license. Should the city manager decide to revoke a license, he shall provide the licensee with notice of such revocation and the reasons. Upon receipt of such notice, the licensee may appeal such revocation to the city commission; and the appeal and hearing shall be conducted in accordance with the procedures set forth for the denial of a license. The revocation of the license shall be stayed, pending such appeal unless the city commission, after hearing, determines that the public health, safety or welfare would be threatened by a stay of such revocation pending full hearing. The city commission's decisions may be immediately reviewed as a matter of right by the circuit court upon the filing of an appropriate pleading by an aggrieved party.
(Code 1980, § 18-107; Ord. No. 2002-05, § 2, 4-2-2002)

Sec. 7-60. Unlawful to operate without a license.

It shall be unlawful for any person to conduct an adult entertainment business within the city without obtaining a license for such business pursuant to this division.
(Code 1980, § 18-108)

Sec. 7-61. Hours of operation.

An adult entertainment business must be closed between the hours of 2:00 a.m. and 8:00 a.m.
(Ord. No. 2002-05, § 2, 4-2-2002)

Sec. 7-62. Touching of employee by patron.

(a) It is a violation of this section for any person on the premises of an adult entertainment business, other than another employee, to intentionally touch, either directly or through a medium, an employee who is displaying or exposing any specified anatomical areas.

(b) It is a violation of this section for any person on the premises of an adult entertainment business, other than another employee, to intentionally touch, either directly or through a medium, the clothed or unclothed breast of any employee, or to touch, either directly or through a medium, the clothed or unclothed body of any employee at any point below the waist and above the knee of the employee.

(c) It shall be unlawful for any person, except another employee, to voluntarily be within three feet of any employee displaying or exposing any specified anatomical area at the adult entertainment business.

(d) It shall be unlawful for an employee of an adult entertainment business, whether clothed or not, to use any part of his or her body to massage, rub, stroke, knead, caress or fondle the genital or pubic area of a patron or to place his or her genital or pubic area in contact with the face of a patron, while on the premises of an adult entertainment business.

(e) For the purposes of this section, employee means a person who works or performs in an adult entertainment business, irrespective of whether such person is paid a salary or wage by the owner or manager of the premises. The term includes, but is not limited to independent contractors and concessionaires.
(Ord. No. 2002-05, § 2, 4-2-2002)

Secs. 7-63—7-80. Reserved.

DIVISION 3. NUDITY AND SEXUAL CONDUCT IN ALCOHOLIC BEVERAGE ESTABLISHMENTS*

Sec. 7-81. Nudity, sexual conduct prohibited in alcoholic beverage establishments.

(a) No person shall expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or any portion of the foregoing specified anatomical areas, or any simulation of such areas in any establishment at which alcoholic beverages, beer or wine are provided, sold or offered for sale or allowed for consumption on the premises.

(b) No female person shall expose to public view any portion of her breasts encompassed within an area falling below the horizontal line one would have to draw to intersect a point above

*__Cross reference—__Alcoholic beverages, ch. 5.

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the top of the areola, or any portion of the areola; or any simulation of such area in any establishment at which alcoholic beverages, beer or wine are provided, sold or offered for sale or allowed for consumption on the premises. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exposed by a dress, blouse, shirt, leotard, bathing suit, or other wearing appeal, provided the areola is not exposed.

(c) No person maintaining, owning or operating an establishment at which alcoholic beverages, beer or wine are provided, sold or offered for sale or allowed for consumption on the premises shall suffer or permit any person to expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or any portion of the foregoing specified anatomical areas, or simulation of such areas, within any establishment at which alcoholic beverages, beer or wine are provided, sold or offered for sale or allowed for consumption on the premises.

(d) No person maintaining, owning or operating an establishment at which alcoholic beverages, beer or wine are provided, sold or offered for sale or allowed for consumption on the premises shall suffer or permit any female person to expose to public view any portion of her breasts encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola, or any portion of the areola, or any simulation of such areas, within any establishment at which alcoholic beverages, beer or wine are provided, sold or offered for sale or allowed for consumption on the premises. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed.

(e) No person shall engage in and no person maintaining, owning or operating an establishment at which alcoholic beverages, beer or wine are provided, sold or offered for sale or allowed for consumption on the premises shall suffer or permit any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act which is prohibited law, touching, caressing, or fondling of the breasts, buttocks, or any portion of such areas, anus or genitals or the simulation of such areas, within any establishment at which alcoholic beverages, beer or wine are provided, sold or offered for sale for consumption or allowed on the premises.

(Code 1980, § 18-109; Ord. No. 2002-05, § 2, 4-2-2002; Ord. No. 2008-21, § 2, 9-17-2008)

Secs. 7-82—7-110. Reserved.

ARTICLE III. ALARM SYSTEMS

Sec. 7-111. Definitions.

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

Alarm activated response (AAR) means a signal emitted by a burglar alarm system other than one resulting from illegal acts or entry, or a signal emitted by a fire protective signaling system other than one resulting from a fire and/or smoke which causes a response by public safety departments. Signals emitted due to any of the following shall not be considered an alarm activated response for purposes of this article:

(1) Signals activated by persons having reasonable cause to suspect an illegal act or entry, or a fire.

(2) Signals resulting from repair work or system test, where the appropriate city department has previously been notified of such repair work or test.

(3) Signals activated by an individual not subject to the control of the person owning, controlling or occupying the premises.

Burglar alarm system means any mechanical, optical, electronic or electrical device designed to detect an unauthorized entry into a building, structure, facility or enclosed area, and which emits a signal when activated.

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Fire protective signaling system means any electrically operated circuit, instrument or device, together with the necessary electrical energy, designed to transmit alarms and supervisory and trouble signals necessary for the protection of life and property from fire and/or smoke; however, such term shall not include a single-station smoke detector.
(Code 1980, § 4.5-21; Ord. No. 97-18, § 1, 10-7-1997)

Cross reference—Definitions generally, § 1-2.

Sec. 7-112. Registration of system; decal.

Every person who installs, maintains or operates a burglar alarm system or fire protective signaling system shall, within 30 days of installing such system, register the system with the police department or fire department of the city, as the case may be, and obtain a decal from such department for which a fee shall be charged. If the person or entity owning, operating or occupying a property fails to register a burglar alarm or fire protective signaling system within 30 days of installation, the registration fee shall be double the fee charged for a timely registration. Registration shall be on a form provided by the appropriate department and shall include provision for identification of the occupant of the premises and one or more persons who are authorized to enter the premises with their respective business and residence addresses and telephone numbers. The decal shall state that the premises are protected by a burglar alarm system or fire protective signaling system, as the case may be. The decal shall be affixed in a conspicuous place on the premises. It shall be the duty of every person registering a burglar alarm system or fire protective signaling system to notify the appropriate department in writing of any change in the information contained on the registration form. Such registration shall expire on September 30 of each year and shall be renewed each year thereafter. Any registration not renewed by October 1 shall be considered delinquent and subject to a delinquency payment for each month or part of a month of delinquency until paid. It shall be unlawful and a violation of this Code to fail to timely renew a registration.
(Code 1980, § 4.5-22; Ord. No. 97-18, § 2, 10-7-1997; Ord. No. 2000-7, § 1, 3-7-2000)

Sec. 7-113. Automatic deactivation of burglar alarms.

Every burglar alarm system installed, maintained or operated in the city shall be designed to deactivate automatically within 30 minutes of activation; but this requirement shall not apply to fire protective signaling systems.
(Code 1980, § 4.5-23)

Sec. 7-114. Entry of premises.

Every person who installs, maintains or operates a burglar alarm system or fire protective signaling system shall make reasonable provision for entry into or upon the premises in or upon which such system is located for the purpose of deactivating the alarm as soon as practicable after it has been activated and, in any event, not more than 30 minutes after activation.
(Code 1980, § 4.5-24)

Sec. 7-115. Report of response.

(a) *Inspection of premises.* Whenever police or fire personnel of the city respond to a burglar or fire alarm and find that there was no unauthorized entry or fire, an employee on the scene shall inspect the area and make a report.

(b) *Notice of alarm; service.* If a report concludes that the department was caused to respond to an AAR, a notice shall be mailed or delivered to the person operating or occupying the premises.

(c) *Contents.* Such notice shall state that each AAR within a 12-month period beginning after the first two notices is a violation of this Code and shall subject the owner to increasing registration fee and shall contain a copy of section 7-117.
(Code 1980, § 4.5-25)

Sec. 7-116. Violations.

Failure to register an alarm system or to comply otherwise with sections 7-112, 7-113 and 7-114 shall constitute a violation of this Code punishable as provided in section 1-8.
(Code 1980, § 4.5-26)

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Sec. 7-117. Annual alarm registration fees.

Every person required to register an alarm as provided in this article shall pay an annual fee to be calculated by the city manager according to the number of alarm activated responses generated by the particular premises within the prior license year in accordance with the schedule of fees set by resolution.
(Code 1980, § 4.5-27)

Sec. 7-118. Enforcement.

The code enforcement board shall have nonexclusive jurisdiction over violations of this article.
(Code 1980, § 4.5-28)

Secs. 7-119—7-150. Reserved.

ARTICLE IV. BINGO*

Sec. 7-151. Definitions.

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

Bingo and *guest games* mean any game commonly known as bingo and all other similarly organized and played games wherein participants pay a sum of money for the use or benefit of one or more prenumbered cards. When the game commences, numbers are drawn by chance, one by one, and announced; and the numbers are continually ascertained at random until a participant announces that he has matched up on the prenumbered purchased card enough randomly drawn numbers to complete the desired winning pattern of numbers. At this time, the participant calls out "bingo" or such other desired word or phrase and is declared the winner of a predetermined prize.

Leased full-time means a lease of not less than one year's duration in which the leased premises are occupied solely by the exempted organization and not sublet to or shared with any other organization. This definition is intended to preclude the use of any one premises for bingo more than twice a week regardless of the entity conducting the game.

Operator means the person performing, operating, conducting, managing, directing or supervising a bingo or guest game. The following described acts or activities are not exclusive; but they shall constitute performing, operating, conducting or supervising a bingo game:

(1) Directly or indirectly causing the supply, distribution and collection of prenumbered bingo cards.

(2) Direct or indirect acceptance or collection of money from players for the purpose of participating in a bingo game.

(3) Actual distribution of prizes to players.

(4) Selecting or announcing numbers or other characters involved in playing the game of bingo.

(Code 1980, § 19-21)

Cross reference—Definitions generally, § 1-2.

Sec. 7-152. Grant of exemption as to county restriction.

Condominium and cooperative associations in the city which conduct bingo or guest games for the enjoyment of their residents and guests of those residents shall, subject to the restrictions in this section and section 7-153, shall be exempt from the provisions of section 21, article IV of the county code which pertains to the regulation of bingo and guest games.
(Code 1980, § 19-22)

Sec. 7-153. Use of proceeds by operator.

(a) *Condominiums or cooperative associations.*

(1) In the case of condominium or cooperative associations which are organizations referred to in F.S. § 849.093(3), the entire net proceeds from bingo or guest games must be distributed to the players in the form of prizes or, if at the conclusion of any one session there remain proceeds which have not been paid out in prizes, the operator shall at the next day of play

*__State law reference—__Bingo regulations, F.S. § 849.0931.

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conduct bingo or guest games without charges to the players until such excess proceeds are exhausted.

(2) As to condominium or cooperative associations which are organizations referred to in F.S. § 849.093(2)(a), the entire proceeds derived from the conduct of bingo games, less disbursements for prizes and actual business expenses for articles designed for and essential to the operation, conduct and playing of bingo, shall be denoted for charitable, civic, community, benevolent, religious or scholastic works.

(b) *Requirements.* Operation of bingo or guest games shall:

(1) Be bona fide members of the exempted organization conducting the game;

(2) Not receive any remuneration of any nature;

(3) Conduct the game solely on the premises owned or leased full-time by the exempted organization;

(4) Not conduct games for more than one cooperative or condominium association; and

(5) Not allow anyone under 18 years of age to play.

(Code 1980, § 19-23)

Sec. 7-154. Observation by law enforcement officer.

Each operator shall permit observation of the game at all times games are in progress by any state law enforcement officer.
(Code 1980, § 19-24)

Sec. 7-155. Nonseverability of regulations.

If any word, sentence or paragraph of this article is declared invalid by a court of competent jurisdiction, the entire contents of all of this article shall be deemed repealed and any conflict with section 21, article IV of the county code no longer would exist.
(Code 1980, § 19-25)

Secs. 7-156—7-190. Reserved.

ARTICLE V. COIN-OPERATED MACHINES

Sec. 7-191. Definitions.

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

Coin-operated amusement device means any machine, contrivance or device which is set in motion or permitted to function by the insertion of a coin or slug, and which is operated for amusement only and does not dispense any form of prize or reward.

Coin-operated devices means:

(1) *Automatic vendors* means automatic coin-operated vending and amusement machines with premium features, which may or may not vend for each coin deposited a standard article of merchandise having recognized retail value, and which at intervals vend checks, tokens, coins or orders which may or may not be exchanged for additional merchandise.

(2) *Skill machines* means coin-operated skill machines, commonly referred to as pin games, marble tables and similar devices of this type which may have a skill feature, which machines may or may not pay a reward for skillful operation, or upon which operation premiums may or may not be given for high score or making certain combinations. Such premiums may be awarded either automatically by the machine in the form of checks, tokens or orders which designate the value of the premium or may be indicated by a scorecard attached to the machine.

(3) *Trade machines* means machines which have no automatic vending feature, although, at intervals, indicate that the patron is entitled to receive premiums.

(4) *Other machines* means all other coin-operated machines or slot machines not specifically covered by this section and which shall be subject to an occupational license tax as provided in this Code or other ordinances of the city.

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Location operator means any person who displays any coin-operated device to the public to be played or operated by the public.

Operator means any person who leases or rents out or places, under any kind of arrangement whatsoever, with any other person or a location operator any coin-operated device.
(Code 1980, § 18-50)

Cross reference—Definitions generally, § 1-2.

Sec. 7-192. Applicability of article; article not to authorize gambling or games of chance.

This article shall not be construed as authorizing the use of any machine, contrivance or device for gambling or as a game of chance. This article is intended to cover all machines that are subject to be licensed under the state statutes.
(Code 1980, § 18-51)

Sec. 7-193. Uniform classification of machines.

The city commission shall make and promulgate such reasonable rules and regulations as may be necessary to determine uniform classification of all devices and machines regulated by this article.
(Code 1980, § 18-52)

Sec. 7-194. Manner of operation generally.

All machines regulated by this article shall be operated and maintained at all times in an orderly manner, and their operation shall be conducted with the same dignity as any other well-regulated business.
(Code 1980, § 18-53)

Sec. 7-195. Arrest of persons using machines for gambling; confiscation of machines used for gambling.

The licensing of devices or machines regulated by this article shall not interfere with or restrain any law enforcement officer of the city from arresting anyone operating such machine for gambling, nor prevent the seizure and confiscation of such machine, should it be used for gambling.
(Code 1980, § 18-56)

Sec. 7-196. Effect of gambling laws on machines regulated.

No laws which have for their purpose the prohibition of gambling devices shall be violated by the use of coin-operated machines regulated by this article.
(Code 1980, § 18-57)

Sec. 7-197. Inspection of machines.

All machines regulated by this article shall at all times be subject to such inspection as may be directed by the chief of police.
(Code 1980, § 18-59)

Sec. 7-198. License decal.

(a) *Display on machine required.* All coin-operated vending or amusement machines required to be licensed under section 18-37 shall display in a prominent place on each machine the name and address of the owner or operator of the machine, together with a proper sticker or decal, to be furnished or approved by the city, showing that the current tax has been paid; provided, if any such machine shall be exempt, the owner or operator shall display his name, address and statement of exemption on the machine.

(b) *Notice of delinquent taxes if decal not affixed to machine.* Whenever any enforcement officer of the city shall find any coin-operated machine required to be licensed under this article to be operated without a current, valid decal, he shall attach to the machine a notice of delinquent taxes. The notice shall be in a form to be approved by the city and shall state that the delinquent business tax shall be paid within ten days of the date the notice is affixed. Removal of the notice by anyone other than an officer of the city or removal of any money from the subject machine prior to payment of the delinquent tax shall be a violation of this section and punished as provided by law. Written notice shall be sent to the owner whose name and address appears on the machine, if any.

(c) *Authority to seal machine; notice.* If at the end of the ten-day notice period the delinquent tax remains unpaid, the subject machine shall be posted with a notice so stating; and the coin slots of the machine shall be sealed in a manner to

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prevent the machine's further operation. Written notice of such sealing shall be sent to the owner whose name and address appears on the machine, if any.

(d) *Removal of notice, sealing device, money, etc., deemed violation.* It shall be a violation of this section for any person other than an officer of the city to remove or cause to be removed any notice or sealing device attached to a machine pursuant to this subsection or to remove any money contained in the machine until the delinquent tax has been paid. Upon conviction of a violation under this section, the violator shall be punished by law.
(Code 1980, § 18-60)

Secs. 7-199—7-230. Reserved.

ARTICLE VI. FORTUNETELLERS, ASTROLOGERS, CLAIRVOYANTS, PALMISTS AND KINDRED BUSINESSES

Sec. 7-231. Definitions.

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

Fortunetelling means and includes telling of fortunes, forecasting of future events or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult or psychic power, faculty or force, including but not limited to seances, clairvoyance, phrenology, spirits, tea leaves or other such reading, prophecy, augury, astrology, palmistry, necromancy, mind reading, telepathy, or other craft, art, cards, talisman, charm, potion, magnetized article or substance, crystal gazing, or magic, of any kind or nature, for compensation.
(Ord. No. 2000-3, § 1, 2-15-2000)

Cross reference—Definitions generally, § 1-2.

Sec. 7-232. Issuance, denial and revocation of licenses.

(a) No person shall engage in or practice in any manner, within the corporate limits of the city, the business of fortunetelling unless such person first obtains a city license. A license, when issued, pertains only to an individual fortuneteller for use at a particular location. A separate license is required for a fortuneteller to conduct business at any other location. A separate license is also required for each individual conducting fortunetelling.

(b) A person desiring to engage in the business of fortunetelling shall file an application with the city. The application shall require the applicant to provide:

(1) The applicant's name, current residential address and telephone number.

(2) A photograph of the applicant's face and head, two inches by two inches in size, taken within 30 days of submission of the application. A photograph of the applicant is not required to renew an unexpired license.

(3) A statement as to whether the applicant holds or has held a fortunetelling, palmistry, clairvoyance, astrology or similar license from any state, county or municipality; a list of such licenses and a statement of the time, place and by whom issued.

(4) A statement as to whether any state, county or municipality has ever refused to issue a fortunetelling, palmistry, clairvoyance, astrology or similar license to the applicant, together with a full disclosure of the reasons for any such refusal; and a statement as to whether any state, county or municipality has ever revoked a fortunetelling, palmistry, clairvoyance, astrology or similar license held by the applicant, together with a full disclosure of the reasons for any such revocation.

(5) A statement as to whether the applicant has ever been convicted of a crime, which under the law in which the applicant was convicted was punishable by imprisonment in excess of one year, or that involved dishonesty or a false statement regardless of the punishment. If so, the

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applicant shall make full disclosure of the nature of the offense and penalty or punishment imposed.

(6) A full set of fingerprints of the applicant administered by a law enforcement agency. However, fingerprints of the applicant are not required to renew an unexpired license.

(7) That the application be accompanied by a nonrefundable fee, on file with the city, to cover the reasonable cost of processing the application and performing a background investigation on the applicant.

(8) That upon issuance or renewal of a fortunetelling license, the applicant pay the license fee set by resolution of the city commission.

(c) A license shall be denied if:

(1) The applicant provides false information in the application for a license or knowingly makes a false statement or conceals a material fact regarding the applicant's prior criminal history.

(2) The applicant has been convicted or entered a plea of guilty or a plea of nolo contendere in the past seven years to any felony, under the laws of any state or local government of the United States.

(3) The applicant has been convicted or entered a plea of guilty or a plea of nolo contendere within the last five years to a misdemeanor involving a violation of the Florida Comprehensive Drug Abuse Prevention and Control Act (F.S. ch. 893).

(4) The applicant has been convicted or entered a plea of guilty or a plea of nolo contendere to a misdemeanor or municipal ordinance involving theft, fraud, dishonesty or moral turpitude, within the past five years under the laws of any state or local government of the United States.

(5) There is an unsatisfied civil judgment for fraud or based on dishonesty, or for breach of contract (whether written, oral or implied) for services of the same or similar nature as for which a license is sought, or arising out of a contract (whether written, oral or implied) for services of the same or similar nature as for which a license is sought, against the applicant or any corporation or other entity in which the applicant was an officer or director or owner of more than a ten percent interest in that entity.

(d) After issuance of a license for fortunetelling, such license must be surrendered and shall be revoked if at any time it is discovered that:

(1) There was a false statement or concealment of a material fact in the application for a license;

(2) There has been a conviction, a finding of guilt, or a plea of nolo contendere to a felony under the laws of any state or local government of the United States subsequent to the submission of the application;

(3) There has been a conviction, a finding of guilt, or a plea of nolo contendere to a misdemeanor or municipal ordinance which involved theft, fraud, dishonesty or moral turpitude, under the laws of any state or local government of the United States subsequent to the submission of the application;

(4) There has been a conviction, a finding of guilt, or a plea of nolo contendere to a misdemeanor involving a violation of the Florida Comprehensive Drug Abuse Prevention and Control Act (F.S. ch. 893), subsequent to the submission of the application;

(5) There is an unsatisfied civil judgment for fraud or grounded in dishonesty, or for breach of contract (whether written, oral or implied) for services of the same or similar nature as for which the permit was issued, or arising out of a contract (whether written, oral or implied) for services of the same or similar nature as for which the permit was issued, against the applicant or any corporation or other entity in which the applicant was an officer or director or owner of more than a ten

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percent interest in the entity; but the permit and license shall not be revoked if the holder satisfied the judgment within 30 days after the judgment was rendered; or

(6) The applicant has violated any of the provisions of this section.

(e) The denial of the issuance of a fortuneteller license or the revocation of such license may be appealed to the city commission by a written request for a hearing made within ten days from notification of the denial or revocation of the license to the applicant. The hearing shall then be set by the city manager within 30 days of a receipt of a timely request with notice provided to the applicant. The city commission shall render a written decision affirming, modifying or reversing the city manager's decision within 30 days of the hearing. Any person aggrieved by the decision of the city commission may, within 30 days of rendition of the decision, file a petition for writ of certiorari in the county circuit court.

(f) The provisions of this section shall not apply to:

(1) Any person solely by reason of the fact that he is engaged in the business of entertaining the public by demonstrations of mind reading, mental telepathy, thought conveyance, or the giving of horoscopic readings at public places and in the presence of, and within the hearing of, other persons and at which no questions are answered as part of such entertainment except in a manner to permit all persons present at such public place to hear such answers. For the purposes of this section, the term "public" shall mean the immediate presence of at least ten people not associated with the entertainer or hosting establishment.

(2) Any person who is a practitioner of the healing arts as defined by F.S. § 456.32 or has a state license or permit for the specific type of activity the person is engaging in.

(3) Any person who practices hypnosis under the supervision, direction, prescription and responsibility of a practitioner of the healing arts as defined by F.S. § 456.32.

(4) Religious, charitable or educational activities of nonprofit organizations as defined by F.S. § 205.022(6).

(Ord. No. 2000-3, § 1, 2-15-2000)

Secs. 7-233—7-260. Reserved.

ARTICLE VII. FRANCHISES

DIVISION 1. GENERALLY

Sec. 7-261. Specific franchises and contracts.

The following franchises and contracts are in effect in the city:

Ordinance / Resolution Number	*Date*	*Grantee—Subject*
95-11	3- 7-1995	*People's Gas System*—Granting 15-year franchise to People's Gas System for distribution of natural gas, effective 3-17-1995.
902	8- 4-1970	*Southern Bell Telephone and Telegraph Company*—Granting 30-year franchise to Southern Bell Telephone and Telegraph Company.

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Ordinance / Resolution Number	*Date*	*Grantee—Subject*
—	1-13-1978	*Broward County, Florida*—Traffic engineering agreement with Broward County to perform various traffic engineering functions, including installation and maintenance of traffic signs, street signs, traffic signals, lane markings, etc.—Renewed in March 1984, amended 1-3-1995.
—	7-20-1978	*Chamber of Commerce*—Contract for placement of bus benches at specified locations throughout the city renewed August 30, 1994, for five years.
94-18	8-16-1994	*Selkirk Communications, Inc.*—Renewing 15-year franchise to Selkirk Communications, Inc. (cable television)—Amended by Ordinance No. 94-30. Changes control from Maclean Hunter Ltd. to Comcast.
93-03A	2-16-1993	*Reliable Wrecking Company, Inc.*—Granting three-year franchise to Reliable Wrecking Company, Inc., (towing) by authority of Ordinance No. 1055.
80-04	1-28-1980	*Florida Power and Light Company*—Granting 30-year franchise to Florida Power and Light Company.

Secs. 7-262—7-280. Reserved.

DIVISION 2. CABLE SERVICE

Sec. 7-281. Procedures.

In approval and administration of rates for basic cable service, the city will follow procedures consistent with and prescribed by the Federal Communications Commission, including the provisions of part 76, subpart N of the rules and regulations of the FCC, concerning cable rate regulation, 47 CFR 76.900 et seq., as may be amended.
(Code 1980, § 18-141)

Sec. 7-282. Opportunity to express views.

During consideration of rate regulation matters, all interested parties will be given a reasonable opportunity to express views. Parties include but are not limited to the franchising authority (the city), the cable operator (franchisee), subscribers and residents of the franchise area.
(Code 1980, § 18-142)

Sec. 7-283. Notice of changes.

A franchisee under this article shall give 30 days' prior written notice to the city manager and all affected subscribers of any pricing increases or additional changes or charges sought to be established after the effective date of this article. The notice to subscribers shall include the name and address of the city's office designated to handle cable television inquiries. The franchisee may reduce the price at any time without notification.
(Code 1980, § 18-143)

Sec. 7-284. Written decision of city commission.

The city commission shall issue a written decision in a rate-making proceeding that is consistent with the rules and regulations of the FCC. The decision shall find whether or not the rates or proposed rate increase are reasonable or unreasonable; and, if unreasonable, a remedy shall be provided.
(Code 1980, § 18-144)

Sec. 7-285. Inconsistency with other local law or act.

Insofar as the provisions of this article are inconsistent with the provisions of any other local law or act, the provisions of this article shall be controlling.
(Code 1980, § 18-145)

Secs. 7-286—7-310. Reserved.

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ARTICLE VIII. GASOLINE RETAIL OUTLETS

Sec. 7-311. Outlets required to post prices.

All gasoline outlets (defined for the purposes of this article as those places within the city where gasoline is dispensed at retail for use as a fuel in motor vehicles) are required to post prices for the fuel sold at that location on a sign which is easily readable from a passing motor vehicle on the public street abutting the gasoline outlet. If a gasoline outlet abuts more than one public street, a sign of the type required by this article shall be placed so as to be easily readable from each public street providing access to the gasoline outlet. No more than one sign per abutting public street shall be required or permitted.
(Code 1980, § 18-131)

Sec. 7-312. Sign specifications.

(a) In order to accomplish the requirements of section 7-311, the signs required shall be so placed as to allow an unobstructed view of the face of the sign from the public street abutting the gasoline outlet. In no event shall the required sign be placed, however, in such a manner that it obscures the vision of drivers so as to create an unsafe condition for persons operating motor vehicles on the public streets.

(b) The prices displayed on the required signs shall be posted in numerals no smaller than ten inches. If a gasoline outlet sells more than one grade of leaded gasoline or sells both leaded and unleaded gasoline, the unit price for at least one octane level of both leaded and unleaded gasoline shall be displayed on the required sign.

(c) All prices displayed on the required sign shall be the price charged for one U.S. gallon of gasoline of the specified type. If the price displayed is for less than one gallon, the fraction of one gallon that the specified price represents shall be displayed in numerals no smaller than five inches in height on the sign.

(d) If the gasoline outlet makes a different charge for gasoline which is pumped by the customer from that charged for gasoline pumped by an employee of the gasoline outlet, the required sign shall display the price charged for gasoline pumped by the customer unless the sign clearly indicates that the price is for gasoline pumped by an employee of the gasoline outlet. For the purposes of this section, the term "full-service" or "full-serve," when used on the required sign, shall be deemed a legally sufficient indication that the price displayed on the sign is for gasoline which is pumped by an employee of the gasoline outlet; and such information shall be displayed in letters no smaller than five inches in height.
(Code 1980, § 18-132)

Sec. 7-313. Sign requirements deemed additional permitted signs.

The signs required by this article shall be an additional permitted sign over and above the other types and sizes of signs permitted to service stations by sections 32-601—32-609. All the provisions of sections 32-601—32-609 shall be observed with respect to the signs required by this article, except as they may conflict with the specific requirements of this article.
(Code 1980, § 18-133)

Sec. 7-314. Emergency generators required; compliance.

(a) *Requirement for emergency generators.* Gasoline stations that sell gasoline at retail to consumers from gas pumps at their stations, within the city, shall have as a minimum an alternative energy source, a generator connection/hookup, that is capable of providing electrical service during an interruption of the normal electrical supply, sufficient to power up the gasoline pumps so that gasoline can be sold to the consumer.

(b) *Compliance.* Gasoline stations shall comply with this section within three years from adoption.

(c) *Sanctions.* Failure to comply with this section shall subject gas station owners and operators to the penalties prescribed in F.S. § 162.22, as well as code enforcement pursuant to chapter 9 of this Code.
(Ord. No. 2006-02, § 1, 1-17-2006)

Secs. 7-315—7-340. Reserved.

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ARTICLE IX. NEWSRACKS

Sec. 7-341. Definitions.

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

Commercial rack means any container, rack, storage unit or other dispenser installed, used or maintained for the display or distribution of publications that advertise, offer or promote products or sales, without predominant news content, such as real estate listing, vehicles or products for sale, business or service promotions, or commercial flyers.

Modular newsrack means a connected grouping of two to 18 pockets within a single structure, with self-service or a coin mechanism for each pocket, which may be placed on a pedestal bolted to a paved surface or be bolted directly to the paved surface, which is installed or used for the display, sale or distribution of newspapers, news periodicals or advertising publications.

Movable object means any newsrack, bench, waste receptacle or other nonattached fixture, excepting signs.

Newsrack means any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display or distribution (and) sale of newspapers, periodicals, advertising circulars or other publications.

Owner means the particular person who is responsible for installing and/or maintaining a newsrack, or the owner or one who distributes publications or materials from the newsrack.

Private property means its common meaning and all property other than public property, including shopping centers and governmental buildings, facilities or installations not open to the general public.

Public property means parks, rights-of-way, squares, plazas and any and all other real property owned by the public, any governmental agency, or the city, streets, roadways, rights-of-way and public easements.

Public right-of-way means a strip of land dedicated or deeded to the public, occupied or intended to be occupied by a street, driveway/access, crosswalk, railroad, electric transmission line, oil or gas pipeline, utility drainage way, water main, sanitary or storm sewer main, sidewalk/bicycle path or for similar special use.

Roadway means the portion of a street or highway, including swales, and shoulders, for the intended use of vehicles.

Special newsrack areas means those designated locations within the city where individual or modular newsracks must comply both with otherwise applicable regulations and supplemental standards specified in the city's design guidelines manual which supplements the requirements specified by this article. Areas of the city designated special newsrack areas shall include:

(1) The financial district.

(2) The fashion row district.

(3) Other districts as may be designated a special newsrack area by the city commission.

Street means all that area dedicated to public use for public street purposes and includes but is not limited to roadways, parkways, alleys, medians and sidewalks.

Visibility triangle means:

(1) At street intersections, an area bounded by the first 25 feet along the intersecting edges of the right-of-way, projected where rounded, and a line running across the lot and connecting the ends of such 25-foot lines.

(2) At intersections of driveways with streets, an area bounded by the first ten feet along the intersecting edges of the right-of-way and the driveway, projected where rounded, and a line running across the lot and connecting the ends of such ten-foot lines.

(Ord. No. 1998-29, § 1(1), 12-15-1998)

Cross reference—Definitions generally, § 1-2.

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Sec. 7-342. Standards and requirements.

(a) No person shall install, use or maintain any newsrack which projects onto, into or over any part of the roadway of any public street, or which rests, wholly or in part, upon, along or over any portion of a roadway, including medians.

(b) No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any public right-of-way or other public property, when such installation, use or maintenance endangers the safety of persons or property, or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally marked or stopped vehicle, the ingress into or egress from any residence, place of business, or the use of poles, posts, public utilities, public transportation, traffic signs or signals, hydrants, mailboxes or other objects permitted at or near the location.

(c) Any newsrack which in whole or in part rests upon, in or over any public right-of-way or other public property shall comply with the following standards:

(1) The newsrack shall be of a freestanding rectangular type both vertically and horizontally with external dimensions of not more than 50 inches in height, 24 inches in width (except for double newsracks) and 20 inches in depth. Notwithstanding these dimensions, freestanding newsracks holding multiple publications (modular racks) may have a height of up to 54 inches.

Alternatively, the newsrack may be of a pedestal type that has external dimensions that do not exceed 20 inches in height, 24 inches in width and 20 inches in depth on a pedestal of not more than 28 inches in height. Pedestal-mounted newsracks shall be designed to comply with section 4.4 of the Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities as may be amended from time to time.

(2) Newsracks shall only be placed next to and opposite of the roadway side of a sidewalk or adjacent to the wall of a building. In instances where no sidewalks exist, newsracks shall be located approximately eight feet from the edge of the roadway where at least eight feet is available. Newsracks placed adjacent to the wall of a building shall be placed parallel to such wall and not more than six inches from the wall, except if there is a display window in such building, the provisions of subsection (c)(9) of this section shall prevail.

(3) No newsrack shall be bolted or otherwise attached to any property or to any permanently fixed object not owned by the owner of the newsrack unless the consent of the owner or lessee of such property or object is obtained. When such attachment is proposed to public property, written consent shall be required from the city manager or his designee.

(4) Newsracks may be placed or attached to one another; however, no more than six newsracks may be joined or placed together in this manner, and a space of not less than 300 feet shall separate each group of newsracks. Within each such grouping, all newsracks shall be of the same general type (i.e., all boxes or all post mounted).

(5) No newsrack shall be maintained within 300 feet radius of another newsrack containing the same newspaper or news periodical except where separated by a street corner. Where warranted by the quantity of newspaper sales, the city manager or his designee may allow double newsracks not more than 36 inches and otherwise complying with the requirements of subsection (c)(1) of this section.

(6) No newsrack, unless bolted or otherwise securely attached to any property or permanently fixed object, or group of attached newsracks allowed under subsection (c)(4) of this section, shall weigh in the aggregate less than 125 pounds when empty.

(7) Every newsrack shall be installed level and plumb on a hard surface. If a concrete

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base must be poured for this purpose, the owner of the newsrack shall first obtain a permit from the city manager. Every newsrack on a single pedestal or a multiple post shall be securely bolted to a level, concrete base set in the ground in accordance with the South Florida Building Code. Each newsrack shall be constructed, installed and maintained in a safe and secure condition.

(8) No newsrack shall be installed, used or maintained:

a. Within a visibility triangle;

b. Within five feet of any fire hydrant, fire call box or other emergency facility, traffic sign or signal, bus bench, bus shelter or building entrance;

c. Within six inches of any landscaped area;

d. At any location whereby the clear space for the passageway of pedestrians or wheelchairs is reduced to less than three feet;

e. In a designated parking space or driveway;

f. On any grass or landscaped area; or

g. In the median of a divided street.

(9) No newsrack shall be installed, used or maintained in such manner as to block any display window of any building abutting the sidewalk or in such manner as to impede or interfere with the reasonable use of such window for display purposes.

(10) No newsrack shall be used for advertising signs other than to identify the newspaper, periodical or other publications contained in the newsrack; and any such advertising sign shall be no larger than two square feet.

(11) No newsrack shall contain newspapers, periodicals or other publications which contain material which is lascivious, indecent, or explicit sex or expose to public view any matter which predominantly appeals to the prurient interest and taken as a whole, lacks serious literary, artistic, political or scientific value. No person shall sell, offer for sale, or keep or maintain any newspaper, periodical, or other publication in any newsrack on any public right-of-way or other public property in such manner as to expose to the public view any photograph, cartoon or drawing, which displays specified anatomical areas as defined in section 32-8 et seq.

(12) Each newsrack shall be maintained in a neat, clean condition and shall be in good repair and working order at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

a. It is free of graffiti;

b. It is reasonably free of dirt and grease;

c. It is reasonably free of chipped, faded, peeling and cracked paint in its visible painted areas;

d. It is reasonably free of rust and corrosion in its visible metal areas;

e. The clear plastic or glass parts, if any, through which the publications are viewed are unbroken and reasonably free of cracks, dents, blemishes and discolorations;

f. The paper or cardboard parts or inserts are reasonably free of tears, peeling or fading;

g. The structural parts are not broken or unduly damaged; and

h. The surrounding area upon which the newsrack is placed will also be maintained in a neat and orderly condition.

(13) Only newspapers may be displayed in the front window area. No rack cards are allowed to be inserted in front of the newspaper or in the front window area.

(14) Each coin-operated newsrack shall be equipped with a coin-return mechanism to provide an immediate refund if a person is unable to receive the publication paid for. The coin-return mechanisms shall be maintained in good working order.

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(15) Every person who places or maintains a newsrack upon, in or over any public right-of-way or other public property shall permanently affix to each newsrack the owner's name, address and telephone number in a place where such information may be easily seen.

(d) The allocation of public right-of-way for placement of newsracks shall be based on the following priority criteria:

(1) First priority shall be given to newspapers of general circulation which are published at least five times per week, for one location per group of six.

(2) Second priority shall be given to publications published less frequently than five times per week with news and editorial content as the primary purpose of the publication.

(3) Third priority shall be given to commercial racks.

(4) Fourth priority shall be given to any publication that has had difficulty obtaining a site within three city blocks due to the unavailability of space.

(5) Fifth priority shall be given to any second rack of a publication that already has a first rack within the group of six, subject to section 7-345.

(e) The city commission may designate by resolution in support of public or private investment in revitalizing portions of the city as newsrack enhancement areas. Each newsrack within districts designated special newsrack areas shall comply with the regulations of this article and supplemental standards in the city's design guidelines manual. The supplemental requirements for newsracks in such areas shall be included and specified in the design guidelines manual for the applicable district. In the absence of design guidelines for newsracks in a special district, the requirements of this article shall apply. Where the regulations of this article conflict with otherwise applicable guidelines, the provisions in the design guidelines manual shall control.

(f) (1) Any damage to public property or public right-of-way caused at the time of placement or installation of any newsrack shall be the responsibility of the owner, publisher or distributor.

(2) Every publisher, distributor or responsible entity who places or maintains a newsrack on a public right-of-way or public property shall provide to the city manager a current certificate of insurance, naming the city as an additional insured on October 1 of each year. Such insurance shall be comprehensive, general liability or commercial general liability coverage. Minimum limits of total coverage shall be $300,000.00 per occurrence combined single limit for bodily injury liability and property damage liability. Reasonable evidence of equivalent self-insurance coverage may be substituted by the publisher, distributor or responsible entity for this certificate of insurance, subject to the approval of the city manager. The insurance shall run continuously with the presence of the publisher or distributor's newsrack in the city's right-of-way. Any termination or lapse of such insurance shall be a violation of this section.

(3) The owner of each newsrack shall execute a document, approved as to form by the city attorney, agreeing to defend, indemnify and hold harmless the city, its officers, employees and agents, from any claim, demand or judgment in favor of any persons arising out of the installation, use or maintenance of any newsrack located upon, in or over a public right-of-way or other public property.

(g) Any newsrack placed on private property which directly abuts public property, or is visible from the public right-of-way, shall comply with and be subject to the requirements of this article. (Ord. No. 1998-29, § 1(2), 12-15-1998)

Sec. 7-343. Movable objects.

Any movable object or fixture which rests in whole or in part upon or on any portion of a public right-of-way or which projects onto, into or over

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any part of a public right-of-way shall be located in accordance with the provisions of this article and shall require a certificate of compliance as provided in this article.
(Ord. No. 1998-29, § 1(3), 12-15-1998)

Sec. 7-344. Certificates of compliance.

(a) Within six months from December 15, 1998, no newsrack or movable object shall be placed, maintained or operated on any public right-of-way unless the owner files a signed certificate of compliance accompanied by the appropriate fee, in accordance with the terms of this article.

(b) The distributor shall file a certificate of compliance with the city manager, on a form to be provided by the city, stating the name, address and telephone number of the owner of the newsracks, describing the particular locations shown on a drawing drawn to a legible scale, where the owner's newsracks are to be placed, maintained or operated, and certifying that the newsracks and their sites or locations satisfy and conform to the provisions of this article.

(c) There shall be a one-time only application fee for each newspaper publisher and for each newsrack. Failed inspections are subject to a reinspection fee. Such fees shall be as established and on file in the office of the city clerk's.

(d) Upon submission of the application or certificates, the city manager shall review such application or certificates and may investigate the site and location of the newsracks, to verify that all provisions of this article have been satisfied. Upon finding that the application is in compliance with the provisions of this article, the city manager shall cause a certificate of compliance to be issued for installation and maintenance of the newsracks by the publishing company.

(e) If the city manager determines that the distributor is not in compliance with this article, a letter or other written statement shall promptly be given to the owner specifying the reasons why he is not in compliance with this article. The distributor shall then have 30 days to comply with this article. Failure to comply shall result in the removal of only the noncompliant newsrack as provided for in section 7-345.

(f) Any owner who has been deemed not to be in compliance may appeal to the city commission by filing a written request with the city manager. The city manager shall place the appeal on the agenda of a city commission meeting scheduled to take place within 30 days from the date of filing and shall forward a copy of all material pertaining to the application to each city commissioner, the city clerk and the city attorney. New information and material may be received and considered by the city commission where such information and material are pertinent to the determination of the appeal, and the city commission shall have the authority to override the decision of the city manager if the city commission finds that the subject newsrack will not result in danger to the public or in significant noncompliance with this article. If the city commission so determines, it shall direct that the distributor has complied with this article, or it may grant a waiver for good cause shown. Any owner whose appeal to the city commission has been unsuccessful shall be entitled to recourse in the circuit court as authorized by law.

(g) An annual fee as established and on file in the city clerk's office shall be paid for each newsrack to defray the cost of administering and enforcing the provisions of this article. The period covered by the initial filing shall expire on the next succeeding September 30 and shall be thereafter due for each fiscal year on October 1. There shall be no additional fee charged during the period covered by the annual fee for a change in location or replacement of any newsrack. Amendment forms certifying that a change in location, the addition of a newsrack, or replacement of any newsrack complies with this article shall be furnished by the city and filed by the owner as appropriate.

(h) The initial certificate of compliance and annual filing fee shall be filed by each distributor within five working days after the distributor initially places, operates or maintains a newsrack on any public right-of-way and shall be renewed thereafter no later than January 31 of each year. The amendment form certifying that a change in location or addition or replacement of a newsrack

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complies with this article shall be filed with the city within 30 days after such change in location, or addition or replacement.
(Ord. No. 1998-29, § 1(4), 12-15-1998)

Sec. 7-345. Removal procedure.

(a) Any newsrack installed, used or maintained in violation of the provisions of this article may, after 14 days' written notice, mailed return receipt requested to the person designated pursuant to this article, be removed and stored in any convenient place by the city manager or any person designated by him. The notice shall give the owner the opportunity to first cure the violation or to file a written request for a hearing before the city manager in reference to such alleged violation. A hearing so requested shall be granted as a matter of right. If a written request for a hearing is filed within the 14-day period, the request shall operate as a stay on the 14-day compliance or removal period until such time as the city commission has held a hearing on the alleged violation and rendered a decision. Any owner dissatisfied with the city commission's decision may appeal such decision to a court of competent jurisdiction. After removal of the newsracks, the owner shall again be given written notice. Upon failure of the owner, following such notice, to claim the newsrack and pay the expenses of removal and storage plus administrative expenses within 30 days after notice, except where an appeal of the city commission's decision has been filed, the newsrack shall be deemed unclaimed property in possession of the city and may be disposed of pursuant to law.

(b) In the event of an emergency, where the installation, use or maintenance of any newsrack poses an imminent or immediate health or safety hazard to pedestrians or vehicles, the city manager or any person designated by him shall, when feasible, give telephone notice to the newsrack owner of the nature of the emergency and afford the owner the opportunity to remove or otherwise relocate the newsrack. Where telephone notice is not feasible or where the owner fails to remove or relocate the newsrack following telephone notice of the emergency, the city manager or any person designated by him may summarily and temporarily remove or relocate such newsrack. Immediately following removal or relocation of any newsrack under these emergency procedures, the owner shall be provided written notice of the action and the nature of the emergency necessitating such action. Upon failure of the owner, following such written notice, to claim the newsrack and pay the costs of removal or relocation and storage within 30 days after notice, the newsrack shall be deemed unclaimed property in possession of the city and may be disposed of pursuant to law. The owner of any newsrack may file a written request for a hearing before the city commission after an emergency removal or relocation to dispute the determination of an emergency and/or the costs or removal or relocation sought by the city, and in addition may claim and take possession of the newsrack prior to the hearing. A hearing so requested shall be granted as a matter of right. Any owner dissatisfied with the city commission's decision at such hearing may appeal such decision to a court of competent jurisdiction.

(c) Any newsrack which shall remain empty for a period of more than 30 continuous days for monthly or weekly publications and 15 continuous days for daily publications shall be deemed abandoned. Modular racks shall be deemed abandoned if more than 50 percent of the slots remain empty as applicable. Following 14 days' written notice to the person designated pursuant to this article, the newsrack may be disposed of pursuant to law.

(d) Upon the issuance of a hurricane watch bulletin by the National Hurricane Center covering the city, all newsracks not bolted down in accordance with the South Florida Building Code shall be removed by their owners. Upon the issuance of a hurricane warning covering the city, an emergency, as described in subsection (b) of this section, shall be deemed to exist.
(Ord. No. 1998-29, § 1(5), 12-15-1998)

Secs. 7-346—7-380. Reserved.

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ARTICLE X. NONRESIDENTIAL SUBSTANCE ABUSE FACILITIES

Sec. 7-381. Definitions.

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

Day care center means a facility providing counseling, therapy and referral service to drug-dependent persons on a daily basis.

Educational facility means a facility providing drug-specific information to youth, to the general public and to families of drug-dependent persons in order that a better understanding of the drug culture and problems involved may be gained.

Hotline facility means a facility providing telephone communication to substance abuse victims and the public in the form of information about drugs, treatment facilities, emergency needs, and personal problems.

Methadone maintenance facility means a facility which dispenses methadone as part of the rehabilitation process. In addition, it may provide ancillary rehabilitation services, including counseling to groups and individuals, vocational training and placement, and other appropriate approaches aimed at affecting positive life styles to the opiate addict.

Nonresidential substance abuse facility means a facility established to aid persons involved with excessive or illegal use of drugs, narcotics or other hallucinatory substances, not including alcohol, which have created dependency on such substances. This term includes but is not limited to methadone maintenance facilities, outpatient facilities, day care centers, hotline facilities, educational facilities, and rap houses.

Outpatient facility means a facility providing counseling, therapy and referral service to drug-dependent persons, periodically.

Rap house means a youth-oriented facility acting as a reception center for drug-involved young people. It relies on the supportive service of peer involvement through "rap" sessions. It provides referral to other social services and medical agencies. The facility may be a storefront, house or building located within the social setting of the population served.
(Code 1980, § 18-120)

Cross reference—Definitions generally, § 1-2.

Sec. 7-382. Separate licensing.

No person may operate a nonresidential substance abuse facility without first applying for and receiving a nonresidential substance abuse facility license to engage in such activity from the city. The license required by this section shall be in addition to and not satisfied by any other occupational license which may be held, obtained or required of such persons; nor shall it be satisfied by any other state or county license. The requirements of this section shall not apply to any program conducted by the state, county or city government using only government employees. The license fee shall be established by resolution and on file in the city clerk's office.
(Code 1980, § 18-121)

Sec. 7-383. Zoning district and distance limitations.

Nonresidential substance abuse facilities shall be permitted only in those zoning districts designated in the city's zoning code for the placement of such a facility and shall meet all applicable requirements of the zoning regulation. No substance abuse facility may be situated within 500 feet of a church or other place of religious worship, school, residentially zoned district, or publicly owned or operated park, playground, library or other recreational facility.
(Code 1980, § 18-122)

Sec. 7-384. Waiver or modification of restrictions.

(a) The city commission, after proper application and public hearing, may waive or modify any of the restrictions of this article upon a finding that:

(1) The specific proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this article will be observed;

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(2) The establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation, redevelopment or improvement, either residential or nonresidential; and

(3) All other applicable regulations of this article and any other ordinance or law will be observed.

In granting any such waiver or modification, the city commission may prescribe any conditions that it deems necessary in the public interest. All such waivers or modifications shall be applicable only to the person receiving them, and shall not run with the land. Any transfer of stock, assets, ownership or management control shall require approval of the city commission of continuation of such waivers or modifications, and shall be subject to all applicable licensing requirements as well.

(b) The hearing shall be noticed, posted and advertised in conformity with the requirements of section 32-967 as to variances; except that courtesy letters shall also be sent to all property owners described in section 7-383, including those in residentially zoned districts, churches or other places of religious worship, schools, publicly owned or operated parks, playgrounds, libraries, or other recreational facilities, any of which are located within 500 feet of the nonresidential substance abuse facility seeking waiver or modification of restrictions. An administrative fee, established and on file in the city clerk's office, shall be due at the time application for such a hearing is made.
(Code 1980, § 18-123)

Secs. 7-385—7-410. Reserved.

ARTICLE XI. PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS*

Sec. 7-411. Use of streets restricted.

No peddler, solicitor, hawker, itinerant merchant or transient vendor shall have an exclusive right to any location in the public streets; nor shall they be permitted to operate in any congested area where their operations might impede or inconvenience the public. For purpose of this section, the judgment of a police officer or code compliance officer of the city exercised in good faith shall be deemed conclusive as to whether an area is congested or the public is impeded or inconvenienced.
(Code 1980, § 18-70)

Cross reference—Streets, sidewalks and other public ways, ch. 25.

Sec. 7-412. Doing business from vehicles.

The practice of parking vehicles on the streets or in other public places by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise, taking orders for the sale of goods, wares and merchandise and/or disposing of, and/or peddling or hawking such merchandise, is declared to be a nuisance and punishable as such nuisance and punishable as provided in section 1-8. This section is within the municipal police power of the city and bears a reasonable relationship to public health, safety, morals, welfare and convenience.
(Code 1980, § 18-71)

Cross reference—Traffic and motor vehicles, and boats, ch. 28.

Sec. 7-413. Sale near schools or playgrounds.

The practice of selling, or offering for sale, food products and other wares upon any school or public playground by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise is prohibited and a nuisance punishable as provided in section 1-8.
(Code 1980, § 18-72)

Cross reference—Zoning and land development code, ch. 32.

Sec. 7-414. Solicitors' identification required.

(a) All solicitors shall carry and display upon request an identification card. This subsection shall not apply to such classes of charitable solicitors as shall be exempted from the requirements of this article by the city commission as provided in section 7-415.

*__Cross reference—__Streets, sidewalks and other public ways, ch. 25.

State law reference—Home solicitation sales, F.S. § 501.021 et seq.

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(b) In addition to the identification card required by subsection (a) of this section, any solicitor within the city must wear a shirt or identification tag which states the name of the organization on whose behalf he is soliciting and the purpose of the organization. The shirt or identification tag must be easily observable and readable and shall be in such form and dimensions as prescribed by administrative policy.
(Code 1980, § 18-73; Ord. No. 2006-18, § 1, 10-3-2006)

Sec. 7-415. Exemptions.

The solicitors of any charitable organization meeting the following requirements shall be exempted from the requirement of carrying an identification card as required by subsection (a) of section 7-414, as follows:

(1) Such solicitors must represent a charity with a national office and a local office in Dade County, Broward County or Palm Beach County;

(2) Such charity must be exempt from the payment of federal income taxes by the Internal Revenue Service; and

(3) The purpose of such charity shall be expressly and clearly defined in its charter or other organizational documents, and must be for a scientific, educational, civic, medical, dental, cultural or similar public charitable purpose.

(Code 1980, § 18-74)

Sec. 7-416. Permit to solicit gifts or donations on streets and public places.

(a) It shall be unlawful for any person to solicit gifts or donations for charitable purposes, or for any other purposes, upon the streets or in public places of the city without first having obtained a permit from the city manager.

(b) The city manager, upon receiving an application for a permit, as provided in subsection (a) of this section, shall make a thorough and complete investigation of the reliability of the purpose for which such donations and gifts are to be used, and of the character of the person seeking to make such solicitation. If it appears that such persons are not trustworthy or reliable, or that the purpose for which the activity is to be used is not strictly for a charitable purpose, the city manager shall thereupon refuse to issue a permit.

(c) Any individual who has been turned down by the city manager may thereupon appeal for his right to solicit for a charitable, patriotic or philanthropic organization to the full city commission at its regular meeting.

(d) A charitable organization may obtain a permit to solicit in the streets or intersections within the city only one time per calendar year for a time period of five consecutive days.
(Code 1980, § 18-75)

State law reference—Misleading solicitation of payment, F.S. § 817.061.

Sec. 7-417. Going uninvited on residence premises prohibited.

(a) The practice of going in and upon private residences in the city by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited to do so by the owner or occupant of the private residence for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking goods, wares and merchandise, is declared to be a nuisance and punishable as such nuisance as in section 1-8.

(b) The provisions of this section shall not apply to the sale or soliciting of orders for the sale of milk, dairy products, vegetables, poultry, eggs, and other farm and garden produce so far as the sale of these commodities is authorized by law.
(Code 1980, § 18-81)

State law reference—Trespass, F.S. § 810.08.

Sec. 7-418. Home repair mortgage solicitors.

The practice of going in and upon private residences in the city by solicitors whose principal business is the making of arrangements for financing on behalf of the debtors or creditors with property owners for construction, reconstruction or alterations on real property located within the city and for which services a fee, commission or other compensation is charged the debtor or cred-

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itor, not having been requested or invited to do so by the owner or occupant of such property is declared to be a nuisance and punishable as such nuisance as a misdemeanor unless such person obtains a license under the following terms and conditions:

(1) The required fee for the license for such operation must be paid. Such fee shall be as established and on file in the office of the city clerk.

(2) Application for the license must be by an affidavit sworn to by the individual applicant or a person authorized to make a statement under oath furnishing the following information:

a. Name;

b. Name of business if other than applicant's name;

c. Address;

d. Age;

e. Height;

f. Weight;

g. Color of eyes;

h. Color of hair;

i. Sex;

j. Place of birth;

k. Date of birth;

l. Date and place of previous mortgage experience;

m. If ever convicted of a crime, giving nature, date and place of conviction; and

n. Financial statement prepared within the past 90 days.

If the applicant is a corporation, give this information on the president, secretary, treasurer and each board member.

(3) All persons who apply for a license shall appear personally before the city commission for the purpose of showing their fitness for a license.

(Code 1980, § 18-82)

State law reference—Home Improvement Sales and Finance Act, F.S. § 520.60 et seq.

Secs. 7-419—7-450. Reserved.

ARTICLE XII. RESERVED*

Secs. 7-451—7-454. Reserved.

*__Editor's note—__Ord. No. 2006-09, § 1, adopted April 3, 2006, repealed Art. XII, §§ 7-451—7-454, and enacted a new Art. III, §§ 13-67—13-77, as set out in Ch. 13. The former Art. XII pertained to similar subject matter. See also the Code Comparative Table.

Chapter 8

BUILDINGS, CONSTRUCTION AND CONDOMINIUMS*

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***Cross references—**Fire prevention and protection, ch. 11; health and sanitation, ch. 13; mobile homes and mobile home parks, ch. 17; streets, sidewalks and other public ways, ch. 25; building plans required for construction of substantial building improvements on parcels abutting public streets showing location, § 25-69; utilities, ch. 30; zoning and land development code, ch. 32.

State law reference—State minimum building codes, F.S. § 553.70 et seq.

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Sec. 8-183. Scope of regulations and exemptions.
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Sec. 8-186. Application for certificates of appropriateness and certificates to dig; demolition.
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Sec. 8-202. Definitions.
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ARTICLE I. IN GENERAL

Sec. 8-1. Loose objects; removal required.

(a) Any owner or occupant of a building with a balcony, open terrace, or unenclosed yard area must remove or secure all loose objects in the open area at such time as a hurricane watch advisory is issued by the National Hurricane Center.

(b) Seasonal residents or persons who will be absent from the city for any period in excess of seven days during the hurricane season of June 1 to November 30 of any year must remove or secure such loose objects prior to leaving the premises for an absence in excess of seven days.
(Code 1980, § 19-1)

Sec. 8-2. Mirrors in elevators.

(a) All elevators in residential or commercial structures shall have mirrors firmly affixed in a manner so as to afford those persons entering the elevators an unobstructed view of the interior.

(b) It shall be unlawful for any person to remove interior mirrors from elevators, other than to replace or repair such mirrors.
(Code 1980, § 19-2)

Sec. 8-3. Reserved.

Editor's note—Ord. No. 2005-7, § 1, adopted May 17, 2005, repealed § 8-3 in its entirety. Former § 8-3 pertained to building on pilings; area designated. See also the Code Comparative Table.

Secs. 8-4—8-30. Reserved.

ARTICLE II. BUILDING CODE*

Sec. 8-31. Adopted.

The most recent edition of the Florida Building Code with Broward County Administrative Provisions, as from time to time amended, in force in the city by operation of law, is recognized as the building code for the city by express reference, and made a part of this section as fully as if set out at length in this section.
(Code 1980, § 8-1)

Sec. 8-32. Contractors registration requirements.

To be eligible for issuance of building permits, licensed contractors must file with the building division and annually update:

(1) a. A current license issued by the state department of professional regulation, construction industry licensing board, for the category in which they practice; or

b. A current certificate of competency issued by the county central examining board, for the category in which they practice, along with a copy of their state construction industry licensing board registration card;

(2) A current county occupational license; and

(3) Proof of an active contractor's liability insurance policy, to be supplied directly from the contractor's insurance agent.

An annual fee for the maintenance of these records shall be set by resolution of the city commission.
(Code 1980, § 8-5.2)

Sec. 8-33. Moving of buildings; approval; type of construction.

Before a building permit for moving a building or structure within the city shall be approved or issued, such building or structure shall be inspected by the building official, upon request of the owner or his agent, and the building official shall ascertain that this Code and all other applicable laws or ordinances shall be satisfied. Any building that is moved from one location to another in the city must have approval of the city commission. No wood, wood stucco or frame structure or any type building will be permitted to be moved into the city.
(Code 1980, § 8-7)

Cross reference—Streets, sidewalks and other public ways, ch. 25.

*__Cross reference—__Code enforcement and nuisance abatement, ch. 9.

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Sec. 8-34. Moving buildings into city prohibited.

No building, whether formerly used or intended to be used for residential or commercial purposes, or any other purpose shall be transported or moved into the city, other than in transit through the city.
(Code 1980, § 8-8)

Sec. 8-35. Cleanliness of construction site; requirements.

(a) All prime contractors, subcontractors and the owners of property under improvement by building construction shall be individually and severally responsible for the cleanly maintenance of all areas at building sites, adjacent vacant areas of building sites and abutting streets, avenues or alleys.

(1) During construction, contractors shall keep, at their own expense, the area immediately at the perimeter of the construction site and in the public rights-of-way and surrounding area, clean to a broom sweep daily, and the area within the construction site as clear and clean as possible at all times.

(2) Upon substantial completion through completion of construction, contractors, at their own expense, shall restore the area immediately at the perimeter of the construction site and in the public rights-of-way to its original condition consistent with F.S. § 337.401 et. seq.

(3) A contractor that fails to restore the area to its original condition following notice by the city, may be charged with the costs to restore, and final approvals of the work may be withheld by the city until the contractor complies with this section.

(4) Contractors shall use and exercise due caution, care and skill in performing their work and shall take all reasonable steps to promote safety to the public and to safeguard work site areas pursuant to administrative policy.

(5) Contractors shall take the necessary precautions so as to avoid interference with, displace, damage or destroy any facilities, including but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the city or any other person's facilities lawfully occupying the public rights-of-way of the city.

(6) The city has the right to inspect construction to ensure compliance with this section, and any violation hereof cured by the city may be charged against the contractor, and may be subject to the penalties provided in F.S. § 162.22.

(b) Whenever the proposed building improvement exceeds two stories in height, trash chutes shall be required at all times the construction process is underway.
(Code 1980, § 8-15; Ord. No. 2006-11, § 1, 6-6-2006)

Sec. 8-36. Building moratorium; procedures for establishment.

(a) Wherever it shall appear to the city manager that a specific zoning category or a specific area within the city should be reexamined to determine the effect of development of property as zoned on surrounding areas, or on the entire city's ability to furnish necessary services, or to maintain its existing quality of life, then using the criteria set forth in subsection (g) of this section, the city manager shall immediately issue an administrative order delineating the areas in question and prohibiting the issuance of any building permits within the areas.

(b) Any administrative order issued pursuant to subsection (a) of this section shall be complied with by all city personnel and shall be effective until reversed, modified or superseded by resolution passed by the city commission.

(c) Immediately upon issuance of any administrative order pursuant to subsection (a) of this section, the city manager shall place the matter on the next city commission agenda so that necessary public hearings may be scheduled at the earliest possible time.

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(d) The city commission shall hold one public hearing unless additional hearings are required by general law, by its Charter or otherwise, at the earliest possible time.

(e) In cases in which the proposed moratorium involves less than five percent of the total land area of the city, the commission shall direct the city clerk to notify by mail each real property owner whose land will be under the moratorium and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed moratorium as it affects that property owner and shall set a time and place for one or more public hearings on such moratorium. Such notice shall be given as quickly as practicable and a copy of such notice shall be kept in a separate book which shall be open to public inspection during the regular business hours of the office of the city clerk.

(f) In cases in which the proposed ordinance deals with more than five percent of the total land area of the city, the commission shall provide for public notice and hearings as follows:

(1) The commission shall hold a public hearing on the proposed moratorium after 5:00 p.m. on a weekday.

(2) The required advertisements shall be no less than one-quarter page in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the municipality and of general interest and readership in the community, not one of limited subject matter, pursuant to F.S. ch. 50. The advertisement shall be in the following form:

"NOTICE OF PROPOSED MORATORIUM

The City of Hallandale Beach proposes to impose a moratorium upon the issuance of building permits within the area shown in the map in this advertisement.

A public hearing on the proposal will be held on (date and time) at Hallandale Beach City Hall."

The advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposed moratorium. The map shall include major street names as a means of identification of the area.

(3) In lieu of publishing the advertisement set out in this subsection, the city clerk may mail a notice to each person owning real property within the area to be covered by the moratorium. Such notice shall clearly explain the proposed moratorium and shall notify the person of the time, place and location of both public hearings on the proposed moratorium.

(g) At the public hearing, the city commission shall inquire into the necessity of a building moratorium and may, by resolution, reverse, modify or supersede any moratorium order previously issued. The commission's determination shall be predicated upon the reasonable necessity for a detailed comprehensive analysis of the areas in question and the probability of detriment to the character of the area by the continuation of the existing zoning districts. The commission shall take into account the existence or possible existence subsequent to development of the property as zoned, the following criteria:

a. The existence of schools.

b. Sufficiency of parks, open space and recreational facilities.

c. Effect upon streets and thoroughfares.

d. Availability and deficiency of public transportation facilities.

e. Effect upon air and/or water supplies.

f. Adequacy of wastewater collection and/or treatment.

g. Noise levels.

h. Land use distribution.

i. Adequacy of other utility services.

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j. Drainage.

k. Possible conflict with the land use element of or any other factor which may have a deleterious effect on the quality of life of the residents of the area or of the entire city, or of the city's ability to furnish other municipal services.

(h) Should the city commission, using the criteria set forth in subsection (g) of this section, determine that a building moratorium is reasonably necessary, it shall, by resolution, order the moratorium and direct that no building permits be issued within the affected area. The commission's order shall fix a time within which the city manager shall report back to the commission with his recommendations relating to appropriate zoning districts and regulations for the affected area. This time limitation shall be a reasonable one, predicated upon the time needed for a comprehensive analysis of the area.

(i) If the city manager is unable to report back to the commission within the time prescribed by its moratorium order, upon timely request by the city manager and only after a duly advertised public hearing with notice as set forth in subsections (e) and (f) of this section, on the need for an extension, the commission may reasonably extend the time limitation.

(j) Upon notification by the city manager that he is prepared to submit his recommendations relating to the affected areas, the city commission shall call a public hearing at the earliest practicable time, after notice as set forth in subsections (e) and (f) of this section. After the public hearing has been closed, the commission may make its determination as to whether the zoning districts shall remain the same or whether hearings shall be held to consider rezoning. Should the commission determine that the zoning districts shall remain the same, it shall immediately issue its order terminating the building moratorium. Should the commission determine that hearings shall be held to consider rezoning of the property, or new districts created, it shall issue its order continuing the building moratorium and shall immediately initiate the actions required under the law, the Charter or this Code for such changes.

(k) Upon the completion of all zoning district changes relating to the affected areas, the commission shall issue its order terminating the building moratorium.

(l) Any resident or property owner of the city may, based upon the criteria set forth in subsection (g) of this section, make written application to the city manager for issuance of an administrative order as provided in this section. If the city manager refuses to issue such order, or fails to take action on the order within 30 days, such person may make written application to the city commission for the issuance of a building moratorium by the commission. Such application to the commission shall be filed with the city clerk. The city manager, upon notice from the city clerk, shall place the matter before the city commission as soon as it is reasonably practicable for the commission's determination as to whether a public hearing shall be called. The term "resident or property owner," as used in this subsection, includes but is not limited to any individual, firm, corporation and governmental entity, including the planning and zoning board.

(m) Should the commission determine that one or more public hearings should be held as to whether a building moratorium should be imposed, it shall call the hearing for the earliest practicable date and give notice as set forth in subsections (e) and (f) of this section. Pending the public hearings, but using the criteria set forth in subsection (g) of this section, the commission may issue an order prohibiting the issuance of building permits in the affected area.

(n) Notwithstanding the issuance of any moratorium order, the city commission may authorize the issuance of building permits for nondeleterious items, including but not limited to fences, repairs and like matters, remodeling or refurbishment of an existing single-family or duplex residential structure that does not involve a change in use, where the commission determines that such permit will not affect the outcome of the study, and where the work is done in accordance with all applicable ordinances and laws.

(o) During the existence of any building moratorium, no applications for variances, special exceptions or zoning district changes, within the

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affected area, shall be acted upon by any city department or board except as provided by the city commission in its moratorium resolution.

(p) If a building permit has been issued for any proposed building structure, or other improvement in an area of the city that is subsequently placed under a moratorium, pursuant to the terms of this section, and no actual construction or substantial land scarification has been initiated prior to the initial establishment of the moratorium, the permit shall be suspended at once. The city commission shall hold a public hearing as quickly thereafter as possible to determine what effect allowing the permitted construction to proceed will have on the study of the problems that necessitated the moratorium; and it shall decide whether to reinstate the permit, to modify the permit, or to continue the suspension of the permit for the term of the moratorium. Notice of the public hearing to the permittee shall be by personal service, if possible; and if personal service cannot be effectuated, it shall be by certified mail, return receipt requested. At the public hearing, the commission shall use the standards set forth in subsection (g) of this section, and it shall consider the time and expense actually incurred by the permittee in furtherance of its project. At the conclusion of the moratorium and based upon the findings of the commission, a public hearing may be conducted at the request of the permittee and the commission may revoke, reinstate or modify the suspended permit.
(Code 1980, § 8-16)

Secs. 8-37—8-70. Reserved.

ARTICLE III. FLOOD DAMAGE PREVENTION*

Sec. 8-71. Statutory authorization, findings of fact, purpose and objectives.

(a) *Statutory authorization.* The legislature of the state has in F.S. chs. 125 and 163 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the city commission does ordain as provided in this article.

(b) *Findings of fact.*

(1) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed or protected from flood damages.

(c) *Statement of purpose.* It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion, or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

*Cross references—Mobile homes and mobile home parks, ch. 17; streets, sidewalks and other public ways, ch. 25; utilities, ch. 30; zoning and land development code, ch. 32.

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(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(d) *Objectives.* The objectives of this article are to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

(7) Ensure that potential homebuyers are notified that property is in a flood area.

(Code 1980, § 8-20)

Sec. 8-72. Definitions.

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

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or which is separated by independent perimeter loadbearing walls is new construction.

Appeal means a request for a review of the building official's interpretation of any provision of this article or a request for a variance.

Area of shallow flooding means a designated AO or VO zone on the city's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within the community subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means that portion of a building having its floor subgrade (below ground level) on all sides.

Breakaway walls means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building materials, which are not part of the structural support of the building and which are so designed as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters.

Building means any structure built for support, shelter or enclosure for any occupancy or storage.

Coastal high-hazard area means the area subject to high-velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as zone V1-30, VE or V.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or permanent storage of materials.

Elevated building means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

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Existing manufactured home park or *manufactured home subdivision* means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of the ordinance from which this article is derived.

Expansion to an existing manufactured home park or manufactured home subdivision means 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, either final site grading or pouring of concrete pads, or the construction of streets).

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

Flood hazard boundary map (FHBM) means an official map of the city, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as zone A.

Flood insurance rate map (FIRM) means an official map of the city, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the city.

Flood insurance study means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood hazard boundary-floodway map and the water surface elevation of the base flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor means the top surface of an enclosed area in a building, including basement, i.e., top of slab in concrete construction or top of wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include longterm storage, manufacture, sales or service facilities.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   a. By an approved state program as determined by the secretary of the interior; or

   b. Directly by the secretary of the interior in states without approved programs.

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Mangrove stand means an assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contains one or more of the following species: black mangrove (Avicennia nitida); red mangrove (Rhizophora mangle); white mangrove (Languncularia racemosa); and buttonwood (Conocarpus erecta).

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, mobile homes and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Mean sea level means 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 the purpose of this article, the term is synonymous with National Geodetic Vertical Datum (NGVD).

National Geodetic Vertical Datum (NGVD), as corrected in 1929, means a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance from which this article is derived. The term also includes any subsequent improvements to such structure.

New mobile home park or *mobile home subdivision* means a parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of the ordinance from which this article is derived.

Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Start of construction means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not 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 as part of the main structure. 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.

Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

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

Substantial improvement means any combination of repairs, reconstruction, alteration or improvements to a structure taking place during a ten-year period in which the cumulative cost equals or exceeds 49 percent of the market value of the structure. The market value of the structure should be the appraised value of the structure prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any

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project for improvement of a structure required to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions.

Variance means a grant of relief to a person from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.
(Code 1980, § 8-21)

Cross reference—Definitions generally, § 1-2.

Sec. 8-73. General provisions.

(a) *Lands to which this article applies.* This article shall apply to all areas of special flood hazard within the jurisdiction of the city.

(b) *Basis for establishing the areas of special flood hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study in accordance with most current maps and other supporting data, and any revisions to such study, are adopted by reference and declared to be a part of this article.

(c) *Establishment of development permit.* A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.

(d) *Compliance.* No structure or land shall be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

(e) *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance conflict or overlap, whichever imposes the most stringent restrictions shall prevail.

(f) *Interpretation.* In the interpretation and application of this article, all provisions shall be considered as minimum requirements, liberally construed in favor of the city commission, and deemed neither to limit nor repeal any other powers granted under state statutes.

(g) *Warning and disclaimer of liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or any officer or employee of the city for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.

(h) *Penalties for violation.* Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a violation of this Code. Any person who violates this article or fails to comply with any of its requirements shall upon conviction be punished as provided in section 1-8, 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 contained in this subsection shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.
(Code 1980, § 8-22)

Sec. 8-74. Administration.

(a) *Designation of local administrator.* The city manager or his designee is appointed to administer and implement the provisions of this article. All references to local administrator shall be to the city manager or his designee.

(b) *Duties and responsibilities of the local administrator.* Duties of the local administrator shall include but are not limited to:

(1) Review all development permits to ensure that the permit requirements of this article have been satisfied.

(2) Advise permittees that additional federal or state permits may be required, and if specific federal or state permits are known,

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require that copies of such permits be provided and maintained on file with the development permit.

(3) Notify adjacent communities and the state department of community affairs, technical assistance division, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(4) Ensure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.

(6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.

(7) In coastal high-hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequate anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.

(8) In coastal high-hazard areas, review plans for the adequacy of open lattice work or screening in accordance with section 8-75(b)(3)(h).

(9) When floodproofing is utilized for a particular structure, shall obtain certification from a registered professional engineer or architect.

(10) Where interpretation is needed as to the exact location of the boundaries of the special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.

(11) When base flood elevation data has been provided in accordance with section 8-73(b), obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of section 8-75.

(12) All records pertaining to the provisions of this article shall be maintained in the office of the local administrator and shall be open for public inspection.

(c) *Permit procedures.* Application for a development permit shall be made to the local administrator on forms furnished by him prior to any development activities and may include but are not limited to plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, and storage of materials; drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures.

(2) Elevation in relation to mean sea level to which any nonresidential structure has been floodproofed.

(3) Provide a certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in section 8-74(d).

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(d) *Construction phase.* Provide a floor elevation or floodproofing certification after the lowest floor is completed, or instances where the building is subject to the regulations applicable to coastal high-hazard areas, after placement of the horizontal structural members of the lowest floor. Upon placement of the lowest floor, or floodproofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the building official a certification of the elevation of the lowest floor, floodproofed elevation, or the

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elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. This certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the surveyor or engineer. When floodproofing is utilized for a particular building, certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the engineer or architect. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The building official shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the required corrections shall be cause to issue a stop work order for the project.

(e) *Appeals and variance procedures.*

(1) The city commission shall hear and decide appeals and requests for variances from the requirements of this article.

(2) The city commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this article.

(3) Any person aggrieved by the decision of the city commission or any taxpayer may appeal such decision to the circuit court in and for the county.

(4) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places without regard to the procedures set forth in the remainder of this section.

(5) In passing upon such applications, the city commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and the:

a. Danger that materials may be swept onto other lands to the injury of others;

b. Danger to life and property due to flooding or erosion damage;

c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. Importance of the services provided by the proposed facility to the city;

e. Necessity to the facility of a waterfront location, where applicable;

f. Availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

g. Compatibility of the proposed use with existing and anticipated development;

h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. Safety of access to the property in times of flood for ordinary and emergency vehicles;

j. Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

k. 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, and streets and bridges.

Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing struc-

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tures constructed below the base flood level, providing subsection (e)(5)a.—(e)(5)k. of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

(6) Upon consideration of the factors listed in this subsection and the purposes of this article, the city commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(8) Conditions for variances are as follows:

a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b. Variances shall only be issued upon a:

1. Showing of good and sufficient cause;

2. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.

c. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

d. The local administrator and the city clerk shall maintain the records of all appeal actions and the local administrator shall report any variances to the Federal Emergency Management Agency upon request.

(9) Variances sought under this section shall be advertised, posted and noticed as provided in section 32-961 et seq. relating to variances. An administrative fee, which is established and on file in the city clerk's office, shall be due at the time an application is submitted.

(Code 1980, § 8-23)

Cross reference—Administration, ch. 2.

Sec. 8-75. Provisions for flood hazard reduction.

(a) *General standards.* In all areas of special flood hazard, the following provisions are required:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(5) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

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(6) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(7) Any alteration, repair, reconstruction or improvement to a building which is in compliance with the provisions of this article shall meet the requirements of new construction as contained in this article.

(8) Any alteration, repair, reconstruction or improvement to a building which is not in compliance with the provisions of this article shall be undertaken only if the nonconformity is not furthered, extended or replaced.

(9) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(10) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(b) *Specific standards.* In all areas of special flood hazard where base flood elevation data has been provided as set forth in section 8-73 or section 8-74(b)(11), the following provisions are required:

(1) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation of the current flood insurance rate map.

(2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated to or above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided.

(3) *Coastal high-hazard areas (V zones).* Located within the areas of special flood hazard established in section 8-73(b) are areas designated as coastal high-hazard areas. These areas have special flood hazards associated with high-velocity waters from tidal surge and hurricane wave wash; therefore, the following provisions shall apply:

a. All buildings or structures shall be located landward of the coastal construction control line.

b. All buildings or structures shall be elevated so that the lowest supporting member (excluding pilings or columns) is located no lower than the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water. Open lattice work or screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action.

c. All buildings or structures shall be securely anchored on pilings or columns.

d. All pile and column foundations and attached structures shall be anchored to resist flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Water loading values shall equal or exceed the base flood. Wind loading values shall be in accordance with Florida Building Code with Broward County Administrative Provisions.

e. Compliance with provisions contained in subsection (b)(3)b., c. and d. of this section shall be certified to by a registered professional engineer or architect.

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f. There shall be no fill used as structural support. Noncompacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge (thereby rendering the building free of obstruction) prior to generating excessive loading forces, ramping effects, or wave deflection. The building official shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect and/or soil scientist, which demonstrates that the following factors have been fully considered:

1. Particle composition of fill material does not have a tendency for excessive natural compaction;
2. Volume and distribution of fill will not cause wave deflection to adjacent properties; and
3. Slope of fill will not cause wave runup or ramping.

g. There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.

h. Lattice work or decorative screening shall be allowed below the base flood elevation, providing they are not part of the structural support of the building and are designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are to be used, and provided the following design specifications are met:

1. No solid walls shall be allowed.
2. Material shall consist of lattice or mesh screening only.

i. If aesthetic lattice work or screening are utilized, such enclosed space shall not be used for human habitation.

j. Prior to construction, plans for any structure that will have lattice work or decorative screening must be submitted to the building official for approval.

k. Prohibit the placement of manufactured homes, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of this section and the elevation standards are met.

l. Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the lowest floor, except for lattice work or decorative screening as provided for in subsection (b)(3)h. and i. of this section.

(c) *Standards for subdivision proposals.*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres.

(d) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces of exterior walls.

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(1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

a. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

b. The bottom of all openings shall be no higher than one foot above grade; and

c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit automatic flow of floodwaters in both directions;

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

(3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(e) *Floodways.* Located within areas of special flood hazard established in section 8-73 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:

(1) Encroachments, including fill, new construction, substantial improvements and other developments, are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;

(2) If section 8-73 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article;

(3) The placement of manufactured homes is prohibited except in an existing manufactured homes park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of section 17-25 and the elevation standards of subsection (b)(3) of this section are met.

(Code 1980, § 8-24)

Sec. 8-76. Finished floor elevations in X zones.

In all areas designated X zones on the flood insurance rate map, the following provisions are required:

(1) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to 18 inches above the highest point of the crown of all streets adjacent to the plot upon which such building is located.

(2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to a minimum of six inches above the highest point of the crown of all streets adjacent to the plot upon which such building is located or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

(Code 1980, § 8-25)

Secs. 8-77—8-110. Reserved.

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ARTICLE IV. CONDOMINIUMS

Sec. 8-111. Compliance with city ordinances prior to sale of condominiums.

(a) *Disclosure to proposed purchaser.* It shall be unlawful for any owner of property occupied as a residential rental facility to offer to sell condominium parcels without first disclosing to the existing tenants of the property and to all prospective purchasers, whether the condominium property and the living units comply with existing ordinances of the city and, if not, the nature, extent and location of any such noncompliance, whether the owner proposes to remedy such noncompliance and, if so, the proposed date of completion of action necessary to accomplish such compliance.

(b) *Certificate of compliance required.* Prior to offering an existing rental unit for sale as a condominium parcel, the owner of the condominium property shall apply to the city manager for a certificate of compliance, which shall issue pursuant to the provisions of this section. Disclosure of the information contained in the certificate of compliance shall be prima facie evidence of compliance with this section.

(c) *Application for certificate.* Application for the certificate of compliance shall be accompanied by the information and exhibits required for condominium documents by F.S. §§ 718.104 and 718.503(3)(1), and a statement containing the following information:

(1) The number of living units presently existing in the building.

(2) The number of nonliving units in the building that are either occupied or available for occupancy.

(3) A statement of any change in occupancies that is proposed to be included in the conversion to condominiums.

(4) Whether any structural repairs, roof repairs, or major electrical or plumbing repairs or alterations are to be done prior to sales of units to the public.

(5) Whether any known evidence of foundation cracking, settling of the building, seawall defects or deficiencies, structural concrete defects or other major defects or conditions exist in the building at the time of applications or have existed in the past and have been repaired.

(6) Whether there are any known defects or deficiencies in any existing living unit.

(d) *Certificate of licensed building contractor as to repairs.* If the application contains information referred to in subsection (c)(5) of this section, prior to issuance of a certificate of compliance, the applicant shall furnish a certificate of a licensed building contractor certifying that the repairs made, or a contract of repair, result in the building's being structurally sound and safe for human occupancy.

(e) *Application fee.* This application shall be accompanied by an application fee for the entire property. Such fee shall be established and is on file in the city clerk's office.

(f) *Applicability of section.* The application of this section, the inspections required in this section, and all ordinances and regulations of the city shall be construed and applied with reference to the use of the property without regard for the form of ownership; and all such ordinances and regulations shall be equally applicable to all buildings and improvements of the same kind without regard to the form of ownership.
(Code 1980, § 9-1)

Sec. 8-112. Conversion of rental property to condominiums; right of first refusal to purchase.

(a) *Generally.* Prior to the transfer of title to any rental facility which contains five or more dwelling units, made with the intent to convert to condominiums as defined in this section, the owner of such facility shall give certain organizations designated in this section the right of first refusal to purchase the rental facility within a period of 120 days from the date of notice as provided in this section, on the same terms and conditions, and at the same purchase price, as contained in any contract or agreement to purchase pursuant to which the transfer of title is to be made, or on other mutually agreeable terms

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and conditions. This right of first refusal shall not extend to tenants of nonresidential units within the rental facility.

(b) *Right extends to tenants' organization and city housing authority.* The following organizations shall be entitled to exercise the right of first refusal to purchase the rental facility as specified in this section:

(1) Any bona fide resident tenants' organization representing a minimum of 15 percent, or five units, whichever is the greater number of the rental units occupied by tenants of the rental facility.

(2) The city housing authority.

(c) *Applicability of section.* All contracts and agreements for purchase of a rental facility, as defined in subsection (a) of this section, made with intent to convert, and title obtained pursuant to this section, shall be contingent upon and subject to full compliance with the requirements of this section.

(d) *Notice of proposed transfer.* Prior to the transfer of title to any rental facility with intent to convert to condominium ownership, the contract purchaser shall give written notice of the proposed purchase to each tenant then occupying rental facility and to all organizations then in existence given the right of first refusal to purchase in this section. The notice shall contain the following information in conspicuous form:

(1) A statement that the tenants may form a tenant organization for the purpose of purchasing the building proposed to be converted to condominiums.

(2) A statement that the tenants shall have 30 days to form a tenant organization, after which they shall have 120 days to execute a contract with the owner at the purchase price, terms and conditions set forth in the notice, or such terms as are acceptable to the owner, and must settle on the contract within 180 days from the date of receipt of the notice unless such time is extended by the parties.

(3) A statement that the tenants' organizations or the housing authority shall have the right of first refusal to purchase the rental facility within a period of 120 days from the date of receipt of this notice and in accordance with the provisions of this section.

(4) A statement of the purchase price, and a copy of the sales agreement or a complete statement of the identical terms and conditions contained in the statement. No additional term may be added unless agreed upon by the parties.

The notice shall be deemed an offer to sell to the organizations eligible to exercise the first right of refusal under this section, on the terms contained in this notice. Notice shall be deemed given the day after notices are sent to all tenants by first class mail.

(e) *Exercise of rights by execution of contract.* Either of the organizations stated in subsection (d) of this section may exercise its right of first refusal by executing a contract, and delivering it to the owner, containing the same terms as set forth in the notice within 120 days from the date the notice was given. Tenants shall have an additional 30 days to organize an eligible tenant's organization to purchase the rental facility, commencing with the date of the notice, after which the tenants' organization shall have 120 days to enter into a contract of purchase with the owner.

(f) *Time limitation.* Settlement on any contract between the owner and organization specified in this section shall occur within 180 days from the date of the notice provided in this section, unless extended by written consent of the owner. If settlement does not occur within that time, the owner shall be deemed to have complied with the requirements of this section and may proceed to settlement with the contract purchaser.

(g) *Transfer of title deemed intention to convert unless affidavit stating otherwise is filed.* All transfers of rental facilities which contain five or more dwelling units shall be deemed to be transferred with intent to convert to condominium and subject to the requirements of this section unless the following requirements are met:

(1) The contract purchaser, within 30 days prior to the transfer, files an affidavit

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with the office of the city manager stating that the transfer is not made with intent to convert to condominium.

(2) The contract purchaser does not, within two years from the date of transfer of title, give tenants notice of intention to create a condominium as provided in F.S. ch. 718.

(h) *New owner required to comply with section.* Compliance with the affidavit requirements of subsection (g) of this section shall be sufficient to permit the transfer of title to the contract purchaser without further compliance with the requirements of this section; however, upon the giving of notice of intention to create a condominium within the time limit set forth in subsection (g) of this section, the contract purchaser who is then an owner of the rental facility by the passage of title shall thereupon hold the title in trust subject to the right of first refusal of the organizations specified in this section to purchase the rental facility, and shall be required to satisfy the requirements of this section as an owner and as a contract purchaser of a rental facility with a deemed contract of purchase with identical terms, conditions and purchase price as that contract of purchase by which the contract purchaser became owner of the rental facility.

(i) *Exemptions.* The provisions of this section shall not apply to the transfer of rental facilities as follows:

(1) Any transfer made pursuant to the terms of a bona fide mortgage or deed of trust agreement.

(2) Any transfer to a mortgagee in lieu of foreclosure or any transfer pursuant to any other proceeding, arrangement or deed in lieu of foreclosure.

(3) Any transfer made pursuant to a judicial sale or other judicial proceeding brought to secure payment of a debt or for the purpose of securing the performance of an obligation.

(4) Any transfer of the interest of one cotenant to another cotenant by operation of law or otherwise.

(5) Any transfer made by will or descent or by interstate distribution.

(6) Any transfer made to any municipal, county or state government or to any agency, instrumentality or political subdivision of a municipal, county or state government.

(j) *Certificate of compliance.* The city manager, upon request and upon receipt of satisfactory proof of compliance with this section, shall furnish to the owner of any rental facility, or to the contract purchaser, or to any other party legitimately interested in any particular rental facility, a certificate in a form appropriate for recordation, certifying that the requirements of this section have been satisfied as of the date of the certificate with respect to the rental facility identified in the certificate.
(Code 1980, § 9-3)

Sec. 8-113. Emergency generator and emergency operations plans required.

(a) Any person, firm, or corporation owning or operating residential multi-family dwellings, including condominiums within the city, containing an elevator shall be required to provide the building with an alternate power source. The purpose of such an alternate power source is to provide emergency power for the operation of all pertinent life safety systems and at least one elevator giving all residents daily access for a number of hours each day in accordance with the building's emergency operations plan over a five-day period following the event of a disruption of the regular supply of electricity in the case of a natural disaster or other emergency or other civil disturbance, when the normal supply of electricity furnished is interrupted.

(b) At minimum, one elevator on the premises must be appropriately pre-wired and prepared to accept an emergency generator connected on the line side of the main disconnect. Residential multi-family dwellings must have an available emergency generator and fuel source on the property or have a plan identified in the emergency operations plan affirming the management's process for obtaining such equipment and fuel source to operate the elevator on an on-call basis within 24 hours after a disruption of power. Available fuel

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source shall be no less than the amount necessary to operate the emergency generator for a number of hours each day in accordance with the building's emergency operations plan over a five-day period as per the emergency operations plan following the event of a disruption of the regular supply of electricity. In addition to operating one elevator, the emergency power source shall be sufficient to operate all life safety systems, including emergency lighting, for a number of hours each day over a five-day period as per the emergency operations plan following the event of a disruption of the regular supply of electricity. Such emergency generators shall also provide sufficient water pressure for domestic use for a number of hours each day over a five-day period.

(c) Each person, firm or corporation that is required to maintain an alternate power source under this section shall maintain a written emergency operations plan which shall detail the sequence of operations before, during and after a natural disaster or other emergency situation shall include at a minimum, a life safety plan for evacuation, maintenance of the lighting supply, the water pressure, the electrical supply to the elevators, maintenance of the alternate power source, identify the fuel source to be on-hand and/or procured in case of emergency, and provide for the health, safety and welfare of the residents, and is to include in such plans the contingency that the building may be rendered unsafe for occupancy. In addition, the owner, manager or operator of the residential multi-family dwelling must keep written records of any contracts for alternate power generation equipment. A logbook containing a listing of quarterly inspections to ensure the generator is in good and working condition, as well as the written emergency operations plan, shall be maintained on the premises. The logbook and written emergency operations plans, shall be open for periodic regular inspections by the city, the cost of which inspections shall be provided in accordance with a fee schedule established by the city. The city shall conduct inspections at least once per year. In addition, for emergency purposes, any person, firm, or corporation operating residential multi-family dwellings, including condominiums, shall have a generator key located in a lock box posted at or near the generator. In addition, a copy of the emergency operations plan must be submitted to the fire department to keep on record.

(d) Compliance with the requirements above shall be required on all new construction within the city. Each person, firm or corporation that is required to maintain an alternate power source under this section shall be required to comply with the provisions of the section concerning emergency operations plans by June 1, 2007. Compliance with the remainder of the section shall be required within three years of the adoption.

(e) Failure to comply with this section shall subject residential multi-family dwellings, including condominium owners and/or associations to the penalties prescribed in F.S. § 162.22, as well as code enforcement pursuant to chapter 9 of this Code.
(Ord. No. 2006-01, § 1, 1-17-2006; Ord. No. 2007-06, § 1, 5-2-2007)

Secs. 8-114—8-140. Reserved.

ARTICLE V. PARKING FACILITIES

Sec. 8-141. Illumination installation requirements.

All parking facilities to be developed in the future that serve groups A, E (exclusive of public schools), I, H, S, F, B, M, R (exclusive of single-family, duplex, and triplex units), and A5 (stadiums, reviewing stands, grandstands, enclosed grandstands, arenas, and enclosed domed structures) and open storage yards, including lumberyards and contractors' storage yards of group U occupancies (as described in the Florida Building Code, as amended from time to time) and all parking facilities existing on November 25, 1977, the effective date of the ordinance from which this section is derived, which will be used one-half hour after sundown at any time subsequent to 18 months from that effective date, shall be illuminated according to standards contained in this section.

(1) For the purposes of this section, exterior parking facilities shall include the park-

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ing surface of open parking lots and access to such lots, and parking areas and other nonenclosed areas at grade level for which the parking facilities are a requirement. Garage parking facilities shall include underground, multilevel parking garages, and enclosed grade level parking facilities.

(2) a. For exterior parking facilities, the intensity of illumination shall provide an average of one footcandle equal to one lumen per square foot, and shall be well distributed on the pavement areas; however, at no point shall illumination be less than one-fourth footcandle.

b. Garage parking facilities shall provide an average intensity of illumination of 50 footcandles at the entrance, ten footcandles in traffic lanes and five footcandles in storage areas.

c. The current edition of the "IES Lighting Handbook," published by the Illuminating Engineers Society, is the standard to be used by the architect or engineer as a guide for the design and testing of parking facility lighting. The standards contained in that handbook shall apply unless standards developed and adopted by this section or subsequent amendments are more severe, in which case the more restrictive standards shall apply.

(3) All plans for buildings to be constructed after November 25, 1977, to be used for groups A, E (exclusive of public schools), I, H, S, F, B, M, R (exclusive of single-family, duplex, and triplex units), and A5 (stadiums, reviewing stands, grandstands, enclosed grandstands, arenas, and enclosed domed structures) and open storage yards, including lumberyards and contractors' storage yards of group U occupancies as set forth in the Florida Building Code, as amended from time to time, must contain a parking facility lighting plan submitted by a registered architect or a registered engineer. The lighting plan shall be certified by the registered architect or registered engineer as providing illumination in accordance with the applicable minimum standards set forth in subsection (2) of this section. Subsequent construction must comply with the lighting plan. If there exists a question concerning whether the work was done in accordance with specifications, the building official may require as a prerequisite to the issuance of a certificate of occupancy that the architect or engineer who prepared the plans certify that all work was done in accordance with specifications.

(4) All required illumination shall be controlled by automatic devices.

a. For business uses with exterior or garage parking facilities, the required illumination shall be provided at least 30 minutes after the closing time of any establishment served by the parking facility.

b. Any parking facility that serves a residential use must maintain the minimum levels of illumination established by this section through the use of natural or artificial light 24 hours per day.

(5) All lighting shall be shaded or screened and aimed in such a manner as to minimize offensiveness to any neighboring property.

(Code 1980, § 8-17)

Sec. 8-142. Maintenance of lighting.

All owners or tenants of property with an illuminated exterior or garage parking facility, regardless of the date of installation of the facility, must replace or repair any light that becomes nonfunctional. A city inspector or law enforcement officer shall give the property owner or tenant written notice of any such malfunction which must be corrected within 15 calendar days of such notice.

(Code 1980, § 8-18)

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Sec. 8-143. Temporary use and occupancy in emergencies.

(a) In the event of an emergency, the city manager may authorize the issuance of a permit for the use of temporary structures or occupancy otherwise not permitted by the zoning and land development code for a period of up to 90 days. An additional 90 days may be granted if the city manager determines that reasonable progress has been made in alleviating the emergency. The temporary structure or occupancy must be removed upon expiration of the permit. Any decision of the city manager denying a temporary use or occupancy permit or denying an extension may, upon the payment of a filing fee, which is established and on file in the city clerk's office, be appealed to the city commission. Up to a one-year extension to the time period authorized by the city manager may be considered by the city commission at a public hearing if it is determined that extenuating circumstances warrant the extension. The use of temporary structures for sleeping quarters shall not be permitted except in residential zoning.

(b) In the issuance of a permit, the city manager may impose such reasonable conditions as are necessary for the protection of the occupants and the surrounding properties and he may consider the standards of section 32-704.

(c) An emergency is defined as an unforeseen event, not caused by the individual affected or by natural deterioration, where an existing structure is damaged or destroyed by any means, including fire, flood, wind, explosion, act of God or act of public enemy to an extent that such structure is rendered uninhabitable.
(Code 1980, § 8-19)

Secs. 8-144—8-170. Reserved.

ARTICLE VI. SWIMMING POOLS*

Sec. 8-171. Swimming pool barriers prerequisite to building approval.

No swimming pool final inspection and approval shall be given by the building department, unless there has been erected a safety barrier as provided in this article.
(Code 1980, § 8-9)

Sec. 8-172. Barrier permits and plans.

Before any work is commenced on barriers, permits shall be secured for all swimming pools and for the safety barriers. Plans shall contain all details necessary to show compliance with the terms and conditions of this article. No swimming pool permit shall be issued unless simultaneously a permit is secured for the erection of the required safety barrier; if the premises are already enclosed, a permit for the safety barrier shall not be required if, upon inspection of the premises, the existing barrier is proven to be satisfactory.
(Code 1980, § 8-10)

Sec. 8-173. Withholding approval of barriers.

It shall be within the discretion of the building official to refuse approval of any barrier which, in his opinion, does not furnish the safety requirements in this article, that it is high enough and so constructed to keep the children of preschool age from getting over or through it.
(Code 1980, § 8-11)

Sec. 8-174. Compliance after notice.

The owners of swimming pools heretofore constructed shall be required to comply with the safety precautions of this article as to such existing swimming pools within 60 days after written notice by the building official. This time may be extended for good cause by the city commission.
(Code 1980, § 8-12)

***Cross reference—**Zoning and land development code, ch. 32.

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Sec. 8-175. Barrier specifications generally.

(a) The safety barrier shall take the form of a screened-in patio, a wooden fence, a wire fence, a rock wall, a concrete block wall, or other materials so as to enable the owner to blend with the style of architecture planned or in existence on the property.

(b) The minimum height of the safety barrier shall be not less than four feet and not over five feet.

(c) The safety barrier shall be erected either around the swimming pool or around the premises on which the swimming pool is erected; in either event, it shall enclose the area entirely, prohibiting unrestrained admittance to the enclosed area.

(d) Gates shall be of the spring-lock type, so that they shall automatically be in a closed position at all times.

(e) Gates shall also be equipped with a safe lock and shall be locked when the swimming pool is not in use.
(Code 1980, § 8-13)

Sec. 8-176. Barriers; nonclimbable; materials.

(a) In a wooden type fence, the boards, pickets, louvres or other such members shall be spaced, constructed and erected so as to make the fence nonclimbable and impenetrable.

(b) Walls, whether of the rock or block type, shall be so erected to make them nonclimbable.

(c) Wire fences shall be the two-inch chainlink or diamond weave nonclimbable type, or of an approved equal, with top rail. They shall be of a heavy, galvanized material.
(Code 1980, § 8-14)

Secs. 8-177—8-180. Reserved.

ARTICLE VII. HISTORICAL PRESERVATION

Sec. 8-181. Short title.

This section shall be known as and may be cited as the "City of Hallandale Beach Historic Preservation Ordinance."
(Ord. No. 2005-6, § 2, 5-3-2005)

Sec. 8-182. Declaration of legislative intent and purpose.

(a) The protection, enhancement and perpetuation of properties of aesthetic, archaeological, architectural, cultural, historic, and paleontological merit are in the interests of the health, prosperity, and welfare of the people of Hallandale Beach. Therefore, this section is intended to:

(1) Accomplish the protection, enhancement, and perpetuation of buildings, structures, improvements, landscape features, and archaeological and paleontological resources of sites and districts that represent distinctive elements of the city's architectural, cultural, economic, natural, political, prehistoric, religious, scientific, and social history;

(2) Safeguard the city's architectural, cultural, economic, natural, political, prehistoric, religious, scientific, and social heritage, as embodied and reflected in such individual sites, districts, and archaeological zones;

(3) Foster understanding and civic pride in the accomplishments and events of the past;

(4) Protect and enhance the city's attraction to visitors and residents, encourage appropriate redevelopment, and provide support and stimulus to the city's economy; and,

(5) Promote the use of individual sites and districts for the education, pleasure, and welfare of the people of the city.

(Ord. No. 2005-6, § 2, 5-3-2005)

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Sec. 8-183. Scope of regulations and exemptions.

(a) This section is intended to and shall govern and be applicable to all property located within the city. Nothing contained herein shall be deemed to supersede or conflict with applicable building and zoning codes. Provisions contained herein shall be cumulative and read in conjunction with other provisions of the city Code and any applicable provisions of the county code and laws of the state.

(b) The following are exempt from the regulations of this article:

(1) All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all mechanical and electrical equipment not involving exterior changes or construction visible from the public right-of-way, or navigable waterway.

(2) Any permit which is necessary for both compliance with a lawful order issued by the city's building official, unsafe structures board, or fire marshal for immediate public health, safety, and welfare.

(3) Internment in a designated cemetery.

(Ord. No. 2005-6, § 2, 5-3-2005)

Sec. 8-184. Definitions.

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

(a) *Archaeological materials* means human-manufactured objects or natural objects altered by human activity that are 100 years of age or more. Consistent with state law, unmarked human remains and associated burial artifacts and materials that are 75 years of age or older and discovered during lawful archaeological activities may also be considered archaeological materials for the purposes of this article.

(b) *Archaeological zone* means an area designated by this section that is likely to yield largely subsurface information on the prehistory and history of the city based on prehistoric and historic settlement and land use patterns within the city. These zones will tend to conform to certain natural physiographic features that were the focal points for prehistoric and historic activities.

(c) *Certificate of appropriateness (COA)* means a certificate or permit allowing certain alterations or improvements to a designated individual site or property within a designated site or district;

(1) *Regular certificate of appropriateness.* A regular COA shall be issued by the staff assigned to the Historic Preservation Board, without the need for board approval, based upon certain guidelines, criteria, and or thresholds established and approved by the board.

(2) *Special certificate of appropriateness.* For all applications for a special COA involving the demolition, removal, reconstruction, new construction, or other actions described in the guidelines promulgated by the Historic Preservation Board at an individual site or a site within an historic district, a special COA is required issued directly by the city commission.

(d) *Certificate to dig (CTD)* means a certificate approved by the Historic Preservation Board for certain digging and excavation actions or projects that may involve a known or unknown archaeological or paleontological site or archaeological or paleontological resources within a designated archaeological or paleontological zone, designated individual historic site or designated historic district.

(e) *Contributing structures* mean structures within an historic district that retain aesthetic, archaeological, architectural, cultural, or historical significance and are integral to the identity of the historic district.

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(f) *Demolition* means the complete constructive removal of a building, structure, significant landscape feature, or other significant improvement to real property within a designated archaeological zone, designated individual historic site or designated historic district.

(g) *Designated interior* shall mean the following:

(1) The internal structural system important in defining the overall historic character of the building, such as post and beam systems, trusses, summer beams, vigas, cast-iron columns, above-grade stone foundation walls, or load-bearing brick or stone walls;

(2) The interior spaces that are important in defining the overall historic character of the building, including size, configuration, relationship of rooms and corridors; and

(3) The interior features and finishes including columns, fireplaces, mantles, light fixtures, hardware, flooring, and other decorative materials that are important in defining the overall historic character of the building.

(h) *Districts* means a collection of two or more archaeological zones, buildings, structures, landscape features or other improvements that are concentrated within proximity to one another and have been designated collectively pursuant to this section.

(i) *Exterior* means all outside surfaces of a building or structure.

(j) *Florida master site file* means an archive and database of all known archaeological and historic sites and districts recorded within the state that is maintained by the Florida Department of State Office of Cultural and Historic Properties and is organized alphabetically by county and numerically, as recorded.

(k) *Guidelines for preservation* means, as promulgated and amended, the U.S. Secretary of the Interior's standards for the treatment of historic properties with guidelines for preserving, rehabilitating, restoring, and reconstructing historic buildings and related U.S Department of the Interior standards and guidelines documents.

(l) *Historic Preservation Board* means an advisory board of citizens, as described herein, to administer the historic preservation ordinance, with the assistance of city staff.

(m) *Historic survey* means the body of information contained within the historic properties survey of the city, as well as other historic properties in the city listed by the Broward County Historical Commission and the Broward County Planning Council as local areas of particular concern, and properties listed within the Florida Master Site File, and any other studies within the city that describe properties of aesthetic, archaeological, architectural, cultural, historic, and paleontological merit.

(n) *Individual site* means an archaeological or paleontological zone, historic building, structure, significant landscape feature, place, or other improvement to real property that has been designated as an individual site pursuant to this section. Under provisions of this section, interior spaces may be regulated only where a building or structure is a designated individual site and when so specified in the designation report.

(o) *Landscape feature* means any landscape improvement or vegetation including, but not limited to, courtyards, decorative stone, earthen mounds, exterior lighting, fences, gates, outbuildings, planters, plantings, shrubbery, sidewalks, signage, statuary, street furniture, trees, and walls.

(p) *National Register of Historic Places* means a federal government listing maintained by the U.S. Department of the Interior that catalogues individual archaeological, paleontological, and historical sites, structures, landscape features and districts

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that have attained a quality of significance as determined by the National Historic Preservation Act of 1966, as amended.

(q) *Non-contributing structures* means structures within an historic district that are not historically or architecturally compatible with other contributing structures within the district.

(r) *Ordinary repairs and maintenance* means work done to prevent deterioration of a building or structure or decay or damage to a building or structure or any part thereof by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay, or damage.

(s) *Owner of a designated property* means as reflected on the current county tax rolls or current title holder.

(t) *Paleontological zone* means an area designated by this section that is likely to yield largely subsurface information on the prehistory and fossil history of the city based on prehistoric environmental patterns within the city as determined in consultation with the Broward County Historical Commission. These zones will tend to conform to certain geological features and deposits.

(u) *Reconstruction* means the process of reproducing by new construction, the exact form and detail of a demolished building, structure or object, as it appeared at a certain point in time.

(v) *Undue economic hardship* means the occurrence when the failure to issue one of the several certificates would place an onerous and excessive financial burden upon the property owner that would amount to a taking of the owner's property without just compensation.

(Ord. No. 2005-6, § 2, 5-3-2005)

Sec. 8-185. Designation process and criteria.

(a) *Criteria.* The board shall make recommendations to the city commission who shall have the authority to officially designate areas, places, buildings, structures, interiors, landscape features, archaeological sites, roadways, and other improvements or physical features as individual sites, districts or zones that are significant in the city's archaeology, architecture, culture, and human and natural history and that possess an integrity of location, design, setting, materials, workmanship or association, or:

(1) Are associated with distinctive elements of the agricultural, architectural, artistic, cultural, economic, natural, political, prehistoric, religious, scientific, and social history that have contributed to the pattern of history in the city, the county, South Florida, the state, or the nation;

(2) Are associated with the lives of persons significant in the city's past;

(3) Embody distinctive characteristics of a type, period, style, or method of construction or work of a master; or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinction; or

(4) Have yielded, or are likely to yield, information in history, prehistory, or paleontology.

(b) *Properties not generally considered; exceptions.* Certain properties, such as cemeteries, birthplaces, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, properties commemorative in nature, and properties not at least 50 years old, will not normally be considered for designation. However, such properties will qualify if they are integral parts of sites, areas, periods, or districts that do meet the criteria, or if they fall within the following categories:

(1) A religious property deriving primary significance from architectural or artistic distinction of historic importance.

(2) A building or structure removed from its location but which is primarily significant for its architectural value, or is the surviving structure most importantly associated with an historic event, period, or person.

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(3) A birthplace or grave of an historical figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life.

(4) A cemetery which derives its primary significance from graves of persons of transcendent importance such as original town settlers or early pioneers, distinctive design features, from age, or from association with historic events.

(5) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its historic significance.

(6) A property or district achieving significance within the past 50 years if it is of exceptional importance.

(c) *Investigation and designation report.* Prior to the designation of an individual site, a district or a zone, an investigation and designation report must be filed with the board. The format of the designation report may vary according to the type of designation; however, all reports must address the following:

(1) The aesthetic, archaeological, architectural, cultural, historic, or paleontological significance of the property or properties being recommended for designation;

(2) A recommendation for boundaries for districts and zones and an identification of the boundaries of individual sites being designated; and

(3) If clearly specified, certain identifiable elements of a site, district, or zone may be exempt from the necessity of a certificate of appropriateness or a certificate to dig because of the particular circumstances of the property or properties to be designated.

(4) Properties previously designated by the Broward County Historical Commission, the state, or listed on the National Register of Historic Places may have those reports previously prepared adopted by the board as a city designation report.

(d) All reports shall take into consideration the effect of all projected, proposed, or existing public and private improvements and developmental or renewal plans on the integrity of the historic district or the integrity of archaeological or paleontological zones.

(e) *Procedure.*

(1) *Petition of the owner.* The owner or owners of any property or properties in the city may petition the board for designation of his or her property as an individual site, district, or zone provided that the owner(s) appears before the board with sufficient information to warrant the investigation of the property for future designation and the board finds that the property may be worthy of designation. The board shall, based upon its findings, direct the staff to begin the designation process. Nothing in this subsection shall be deemed to restrict the power of the board to initiate the designation process pursuant to this section.

(2) *Directive of the board.* The board shall, upon recommendations from staff, the city commission, the city manager or the acceptance of a petition pursuant to subsection (e)(1) of this section, direct staff to begin the designation process by preparing a designation report, pursuant to subsection (c) of this section and any other standards and guidelines the board may deem necessary, and submitting the designation report according to the procedures described herein.

(3) *Notification of owner.* For each proposed designation of an individual site, a district, or a zone, the board is encouraged to obtain the permission of the property owner or owners within the proposed designation area, and is responsible for mailing a copy of the designation report to the owner or owners as notification of the Board's intent to consider designation of the proposed site, district, or zone at least 15 days prior to a public hearing held pursuant to this section.

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(4) *Notification of governmental agencies.* Upon filing of a designation report, the staff of the board shall immediately notify the appropriate city departments, with building, demolition, environmental, planning, zoning, and public works powers that may be affected by said filing including but not limited to, the city manager, the building official, the director of development services, and the director of public works.

(5) *Notification of a public hearing.* For each individual site, district, or zone proposed for designation, a public board hearing must be held no sooner than 15 days and within 60 days from the date a designation report has been filed with the board. Owners of record or other parties having an interest in the property or properties proposed for designation, if known, shall be notified of the public hearing by U.S. mail to the last known address of the party being served; however, failure to receive such notice shall not invalidate the same as such notice shall also be published in a newspaper of general circulation at least ten days prior to the hearing. The required advertisements shall be no less than two columns wide by ten inches long in a standard-size or a tabloid-size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the city pursuant to F.S. ch. 50 and shall be published for at least five days. Owners shall be given an opportunity at the public hearing to object to the proposed designation.

(6) *Courtesy letters.*

a. All property owners within 150 feet of the individual site or district proposed for historic designation shall receive a courtesy notice indicating the following:

1. Date and time of public hearing;

2. Address and or legal description of property or properties to be designated; and

3. Place and times application can be reviewed.

b. The names of the property owners shall be as listed in the most current edition of the county tax rolls. Failure of a property owner to receive such courtesy notice shall not void any decision reached on the subject matter.

c. When a residential structure which contains a legally constituted homeowners' or condominium association is located within the distances in subsection (6)(a) of this section, a single notice transmitted to the current president or officer in charge shall satisfy the requirements for all property owners within the structure.

(7) *Requirement of prompt decision and notification.* The board's recommendation for designation shall be forwarded directly to the city commission for decision. The city commission shall by written resolution, state its decision to approve, deny, or amend the proposed designation. Upon designation, the city commission shall direct the city clerk to notify the following of its actions with a copy of the resolution:

a. The appropriate city agencies with building, demolition, environmental, planning, public works, and zoning powers that may be affected by this action including but not limited to, the city manager, the building official, the director of development services, and the director of public works;

b. The Broward County Historical Commission administrator;

c. The owner or owners of the affected property or properties and other parties having an interest in the property or properties, if known; and

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d. The Broward County Property Appraiser.

(8) *Amendment or rescission.* The city commission may amend or rescind any designation provided it complies with the same manners and procedures used in the original designation.

(9) *Moratorium.* Upon the filing of a designation report by the staff, the owner or owners of the real property that is the subject matter of the designation report or any individual or private or public entity shall not:

a. Erect any structure on the subject property;

b. Alter, restore, renovate, move, or demolish any structure or any part of a structure on the subject property until such time as final administrative action, as provided by this section, is completed.

(10) *Recording of designation.* All designations shall be recorded with the records division of the county.

(Ord. No. 2005-6, § 2, 5-3-2005)

Sec. 8-186. Application for certificates of appropriateness and certificates to dig; demolition.

(a) *Certificate required as prerequisite to alteration.* No building, structure, interior, improvement, landscape feature or archaeological or paleontological site within the city that is designated pursuant to section 8-185 of this article shall be altered, constructed, demolished, excavated, moved, rehabilitated, renovated, or restored until an application for a certificate of appropriateness or certificate to dig has been submitted that describes the proposed alteration, construction, demolition, excavation, movement or removal, rehabilitation, renovation, or restoration, or other similar actions, has been submitted to and approved by the city commission or staff, where applicable, pursuant to the procedures in this section. No certificate of appropriateness or certificate to dig shall be approved unless architectural, engineering or other acceptable work plans for the proposed alteration, construction, demolition, excavation, movement or removal, rehabilitation, renovation, or restoration, or other similar actions, are approved by the board or staff pursuant to this section.

(b) *Standards for issuance.* The board shall make recommendations to the city commission from time to time to amend the standards by which applications for any certificate of appropriateness or certificate to dig are to be measured and evaluated. In adopting these guidelines, it is the intent of the board to promote the maintenance, restoration, rehabilitation, renovation, and adaptive reuses appropriate to a property or properties, and compatible contemporary designs that are harmonious with the exterior architectural and landscape features and improvements of neighboring buildings, structures, sites, and streetscapes. These guidelines shall also serve as criteria for staff to make decisions regarding applications for regular certificates of appropriateness and certificates to dig. All certificates of appropriateness shall permit the staff to the board and the representatives of other appropriate governmental agencies to inspect from time to time any work approved pursuant to this section.

(c) *Regular certificates of appropriateness.* Based upon the criteria established in subsection (b) above and staff's review of the originally approved designation report, applications for a regular certificate of appropriateness shall be accompanied by a certified property survey, comprehensive, professionally prepared architectural plans and specifications including professionally prepared landscape plans, civil engineering plans, elevation drawings, material samples and any other information or articles deemed necessary by staff to fully describe the proposed alterations. The staff of the board shall, within 21 days from the date a complete application has been filed, approve or deny the application for a regular certificate of appropriateness by the owner or owners of a designated site or property within a district or zone. The findings of staff shall be sent by regular mail to the applicant within seven days of the staff decision, accompanied by a statement in full regarding the staff's decision.

(d) *Special certificates of appropriateness.* An applicant for a special certificate of appropriateness shall submit his or her application to the

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board accompanied with a certified property survey, comprehensive, professionally prepared architectural plans and specifications including professionally prepared landscape plans, civil engineering plans, structural engineering reports, elevation drawings, material samples and any other information or articles deemed appropriate by staff or the board to fully describe the proposed appearance, color, texture, or materials, and architectural design of the building and any courtyards, decorative stone, earthen mounds, exterior lighting, fences, gates, outbuildings, planters, plantings, shrubbery, sidewalks, signage, statuary, street furniture, trees, and walls or other structures or landscape features.

(1) The applicant shall provide adequate information to enable the board to visualize the effect of the proposed action on the applicant's property and adjacent properties and streetscapes. If such application involves a designated archaeological or paleontological zone, the applicant shall provide full plans and specifications of work that may affect the surface and subsurface of the zone.

(2) The board shall hold a public hearing upon an application for a special certificate of appropriateness affecting any city-designated site, district, or zone. In such instances, notice and procedure of the public hearing shall be given to the property owner or owners by certified mail and to other interested parties by an advertisement in a newspaper of general circulation at least ten days prior to the public hearing in accordance with section 8-185(e)(5) and (6) above.

(3) The board shall act upon an application within 60 days of receipt of application materials adequately describing the proposed action. The board shall recommend approval, denial, or recommend approval upon modification to the city commission, subject to the acceptance of the modification by the applicant, or suspend action on the application for a period not to exceed 31 days in order to seek technical advice from outside the board members, allow the applicant to reconsider and propose revisions or modifications to the application, or for staff to meet further with the applicant to revise or modify the application.

(4) The decision of the city commission shall be issued in writing. Evidence of approval of the application shall be by certificate of appropriateness issued by the city commission or the board's staff to the applicant and, whatever its decision, notice in writing shall be given to the applicant and the appropriate city and county agencies with building, demolition, environmental, planning, public works, and zoning powers that may be affected by this action. When an application is denied, the city commission's notice shall provide an adequate written explanation of its decision to disapprove the application.

(5) Unless otherwise provided in the authorizing language of a particular certificate of appropriateness at the discretion of the city commission, both regular and special certificates of appropriateness shall expire after 365 days. Staff may grant extensions of time of up to an additional 180 days for restoration or rehabilitation work only upon satisfaction that the scope of the work originally approved has not changed and provided that a written request is filed and work is commenced before the expiration of the original certificate.

(6) Applications for special certificates of appropriateness involving demolition will require a structural report prepared by a licensed structural engineer.

(e) *Certificates to dig.*

(1) *When required; how granted.* A certificate to dig shall be required prior to the initiation of any proposal involving the excavation or in the event of any new construction, filling, digging, trenching, boring, tree or shrub removal, or any other activity that may alter or reveal surficial, embedded, or buried archaeological or paleontological material on a designated site or district. The procedure to obtain a

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certificate to dig shall be the same as indicated above for a special certificate of appropriateness and shall require city commission approval.

(f) *Demolition.*

(1) The demolition of a designated building, structure, improvement, site, district, or zone may not occur without the issuance of a special certificate of appropriateness, unless by a superseding order of a court of competent jurisdiction.

(2) The city's building official and the Unsafe Structures Board shall receive notice of designation of individual sites, districts, or zones pursuant to section 8-185. The staff of the Unsafe Structures Board shall consult with the staff of the Historic Preservation Board before entering a demolition order or placing such properties on an official agenda. The Unsafe Structures Board shall not enter a demolition order unless they first determine in writing that there exists no feasible alternative to demolition.

(3) The city commission and the Historic Preservation Board shall be deemed interested parties and shall receive ten days prior written notice of any public hearings conducted by the Unsafe Structures Board regarding the demolition of any designated property within the city. The city commission may make recommendations and suggestions to the Unsafe Structures Board and the property owner or owners relative to the feasibility of and the public interest in preserving the designated property.

(4) At the written request of the city commission, the Unsafe Structures Board shall continue any hearing on any designated property for not less than 30 days to allow consultation with the Historic Preservation Board and the city commission. If the Unsafe Structures Board subjects a designated property to an order providing for demolition, the order shall also, at the written request of the Historic Preservation Board, establish a grace period of no less than 120 days to obtain a permit to repair the property, followed by no less than 180 days to substantially complete such repairs. After entry of such a repair or demolition order, the Unsafe Structures Board shall have the jurisdiction and authority to grant additional extensions of the grace period, provided the agency is satisfied that the repair will be completed within a reasonable time. Nothing in this section shall prohibit the Unsafe Structures Board from entering an order requiring a designated property to be secured.

(5) No permit for voluntary demolition of a designated building, structure, interior, improvement, landscape feature, zone, site, or other protected element of a property shall be issued to the owner or owners thereof until an application for a special certificate of appropriateness has been submitted and approved pursuant to the procedures in this section. Refusal by the city commission to grant a special certificate of appropriateness shall be evidenced by written order detailing the public interest which is sought to be preserved. The city commission shall be guided by the criteria contained in subsection (6) herein. The city commission may grant a special certificate of appropriateness that may provide for a delayed effective date for demolition. The effective date shall be determined by the city commission based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. During the demolition delay period, the city commission may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purposes of this section. Such steps may include, but shall not be limited to, consultation with interested persons and private organizations, civic groups, and other public agencies, recommendations for acquisition of the property by public or private agencies or organizations, and exploration of the possibility of moving subject structures or other features.

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(6) In addition to all other provisions of this section, the Historic Preservation Board and the city commission shall consider the following criteria in evaluating applications for demolition of designated properties:

a. Is the structure of such interest or quality that it would reasonably meet national, state, or local criteria for designation as an archaeological, architectural, or historical landmark?

b. Is the structure of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense?

c. Is the structure one of the last remaining examples of its kind within the city or county?

d. Does the structure contribute significantly to the historic character of a designated district?

e. Would retention of the structure promote the general welfare of the city by providing an opportunity for study of local history, architecture, or design or by developing an understanding of the importance and value of a particular culture or heritage?

f. Are there definite plans for reuse of the property if the proposed demolition is carried out and what will be the effect of those plans on the character of the surrounding area?

(7) The loss of a designated structure or feature within the city, destroyed by fire, natural disaster, or other means may be corrected by efforts to reconstruct the resource. In the event a designated structure or feature is demolished illegally without a required special certificate of appropriateness, reconstruction shall be required. The board and the city commission shall be guided by, but not limited to the following:

a. Is there sufficient evidence (photodocumentation, drawings, and/or physical evidence) to accurately depict the form and detail of the original resource?

b. Are the original construction materials readily available, or are substitute materials sufficiently similar so as to convey the original qualities of construction?

c. Were the interior spaces designated or especially significant to the form and function of the building? If so, the board will define the parameters necessary to adequately convey those interior spatial characteristics as requirements in the reconstruction effort.

d. Has the applicant demonstrated a commitment to the reconstruction effort by making every reasonable effort to preserve or salvage the remaining features of the property?

e. Are there other unique factors or circumstances that would make reconstruction desirable?

The applicant for the reconstruction effort shall provide the board and the city commission with details of the construction project, to include a description of the existing character of the site, and whether or not there is any salvage potential. Every reasonable effort shall be made to incorporate salvaged elements within the reconstructed historic resource.

(g) *Building permit not to issue without a certificate.* No building or other permit that affects any designated property within the city shall be issued by any city, county, or state agency without an approved certificate of appropriateness or certificate to dig.

(h) *Compliance of work with certificate standards; official and staff.* All work performed pursuant to the issuance of any certificate shall conform to the requirements of the certificate. The city manager shall hire an historic preservation professional or designate an appropriate city staff member, along with any other necessary city staff, to assist by making necessary inspections in

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connection with enforcement of this section and shall be empowered to issue a stop work order if performance is not in accordance with the issued certificate. No work shall proceed as long as a stop work order continues in effect. Copies of inspection reports shall be furnished to the city commission and copies of any stop work orders shall be furnished to both the city commission and the applicant. The official selected by the city manager as staff for the board shall be responsible for ensuring that any work not in accordance with an issued certificate of appropriateness or other provisions of this ordinance shall be corrected to comply with the certificate or provision prior to withdrawing the stop work order.

(i) *Emergency and temporary measures.* For the purpose of remedying emergency conditions determined to be dangerous to life, health or property, nothing contained herein shall prevent the making of any temporary construction, reconstruction, or other necessary repairs to a designated building or site within the city, pursuant to an order of a government agency or a court of competent jurisdiction.

(1) The owner of any designated property damaged by storm, fire or other calamity shall be permitted to stabilize the building immediately without board approval and to repair, restore, reconstruct, or rehabilitate the property later under the normal review procedures to this section.

(j) *No action to constitute approval.* If no action upon a completed application is taken within 60 days from the date of its receipt, such application shall be deemed to have been approved and no other evidence of approval shall be needed. This time limit may be waived by mutual written consent of the applicant and the city commission.

(k) *Power of review.* The board shall have the authority to review and make recommendations on applications for certificates and the city commission shall have the authority to approve or deny applications for certificates of all property within the city, however owned, by either public or private parties. The purposes of this section shall apply equally to plans, projects, or work executed or assisted by any private party, governmental body or agency, department, authority or commission or board of the city, county, or state.

(l) *Archaeological sites or districts.* To protect a designated archaeological site, district, or zone (hereinafter "site"), the board may require any of the following:

(1) An archaeological survey at the applicant's expense conducted by a qualified archaeologist approved by the board containing an assessment of the significance of the archaeological site and an analysis of the impact of the proposed activity on the site;

(2) Scientific excavation as an evaluation of the site at the applicant's expense by a qualified, professional archaeologist;

(3) Mitigation measures to offset any potential detrimental effects from activities affecting the site;

(4) Protection or preservation of all or part of the archaeological site for green space; and

(5) Request the oversight, technical guidance, or intervention of the Broward County Historical Commission, as appropriate. The board may also require an archaeological survey or scientific excavation as a precondition to consider further action.

(Ord. No. 2005-6, § 2, 5-3-2005)

Sec. 8-187. Standards for archaeological work; discovery of archaeological sites.

(a) *Archaeological work.* Archaeological surveys, assessments, excavations, and other work required by this section shall be conducted by a qualified, professional archaeologist and be consistent with the guidelines for such work consistent with accepted professional standards and regulations developed by the Florida Department of State Office of Cultural and Historic Properties and the U.S. Department of the Interior, or their successor agencies.

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(b) *Sites discovered during the development process.* In the event that archaeological materials are discovered by ground-disturbing activities on any property within the city, such activities in the immediate vicinity of the archaeological site shall be discontinued and board notified. The board shall review the site of the discovery and may require that the site be assessed by a qualified professional archaeologist at the expense of the property owner.

(c) *Unmarked human graves.* If a discovery is made on any property within the city of an unmarked human grave or graves, then the procedures for notifying the state archaeologist and county medical examiner shall be followed, consistent with F.S. ch. 872, as amended. The disposition of the remains and the preservation of the burial site shall be determined consistent with state law and with the advice and consent of the board.
(Ord. No. 2005-6, § 2, 5-3-2005)

Sec. 8-188. Maintenance of designated properties; demolition by neglect prohibited.

(a) *Ordinary maintenance or repair.* Nothing in this section shall prevent the ordinary maintenance or repair of any interior or exterior elements of any building or structure that does not involve a change of design, appearance or material, and which does not require a building permit or certificate of appropriateness for demolition.

(b) *Affirmative maintenance required.* The owner of a property designated pursuant to this section either individually or as a contributing part of a district or zone shall comply with all applicable codes, laws and regulations governing the maintenance of property. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of such properties and the interior portions thereof when maintenance is necessary to prevent deterioration and decay of the property. All such properties shall be preserved against such decay and deterioration and shall be free from structural defects through prompt corrections of any of the following defects:

(1) Facades that fall and injure the subject property, adjoining property, or members of the public;

(2) Deteriorated or inadequate foundations, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;

(3) Members of ceilings, roofs, ceiling and roof supports or other structural members that may rot, sag, split or buckle due to defective material or deterioration;

(4) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken, unsecured or missing windows or doors; or

(5) Any fault or defect in the property that renders it structurally unsafe, insufficiently protected from weathering, or not properly watertight.

(c) *Undue economic hardship.* Where, by reason of particular site conditions and restraints, or because of unusual circumstances applicable solely to the particular applicant's property, strict enforcement of the provisions of this section would result in serious undue economic hardship to the applicant, the city commission shall have the power to vary or modify adherence to this section; provided always that its requirements ensure harmony with the general purposes hereof and will not adversely affect the city.

(d) *Enforcement.*

(1) *Notice of administrative enforcement.* When a city code compliance specialist or building inspector determines a violation of subsection (b) above, chapter 14 of this Code, or any other code violation, that officer or inspector shall provide written notice of the violation to the owner in writing in accordance with section 14-84 and/or 14-85 of this Code. The property owner shall be granted a reasonable amount of time to perform the corrective action per section 14-84 and/or 14-85 of this Code. Upon neglect, refusal, or failure to comply, the code compliance specialist or building inspector may pursue Code Enforcement Board or Unsafe Structure Board action in accordance with section 14-84 and/or 14-85 of this Code.

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(2) *Action for injunction and remedial relief; lien on property.* If the property owner fails to take corrective action pursuant to a final order issued by the Code Enforcement Board or the Unsafe Structures Board, the city may file liens against the property pursuant to sections 14-85 and 14-86 of this Code.

The city may also file an action seeking: (1) An injunction ordering the property owner to take corrective action; (2) An order authorizing the city to enter onto the property to make corrective actions; and (3) civil penalties.

The court shall order an injunction providing such remedies if the city proves that the owner has violated this section and such violation threatens the integrity or existence of an individual site or a contributing structure within a district. Such civil action may be initiated in the name of the city at the discretion of the city manager upon an affirmative vote of a majority of the city commission.

Settlements of such lawsuits may be obtained in the same manner. Nothing herein shall prevent the city commission from initiating or assuming direction of the lawsuit, at its discretion. In the event that the court authorizes the city to enter onto the property to take required corrective action, the court shall also order that the cost of the corrective action shall constitute a lien against the property, accruing interest at the statutory rate for judgments until satisfied.

(3) *Civil penalties.* Violation of this section shall be punished by a civil penalty of $500.00. After expiration of the reasonable time period provided in subsection (d)(1), each day that the corrective action is not taken shall constitute a separate violation.

(Ord. No. 2005-6, § 2, 5-3-2005)

Sec. 8-189. Appeals.

(a) A party aggrieved by a staff decision regarding a regular certificate of appropriateness shall have an opportunity to challenge the staff decision by applying to the board through a written request within 31 days of the staff's findings. The city commission may affirm, modify or reverse any decision of the board. Nothing contained herein shall preclude the city commission from seeking additional information prior to rendering a final decision. The decision of the city commission shall be in writing and a copy of the decision shall be forwarded to the board and the appealing party within the time prescribed by the appropriate Florida Rules of Appellate Procedure.

(b) A party aggrieved by a decision of the city commission may appeal directly to the circuit court of the county.

(Ord. No. 2005-6, § 2, 5-3-2005)

Sec. 8-190. Penalties.

Failure by an owner of record or any individual, corporation, public or private entity to comply with any provisions of this section shall constitute a violation of section 1-8 of this Code and shall be punishable by civil or criminal penalties including a fine not more than $500.00 per day for each day the violation continues and including a requirement that any work performed contrary to this section must be removed and the property returned to its condition prior to commencement of said action.

(Ord. No. 2005-6, § 2, 5-3-2005)

Secs. 8-191—8-200. Reserved.

ARTICLE VIII. FALSE CLAIMS ORDINANCE*

Sec. 8-201. Short title; purpose.

(a) This article shall be known and may be cited as "The City of Hallandale Beach False Claims Ordinance."

(b) The purpose of the city false claims ordinance is to deter persons from knowingly causing or assisting in causing the city to pay false claims,

*__Editor's note—__Ord. No. 2004-07, § 1, adopted April 20, 2004, set out provisions intended for use as Art. VII, §§ 8-1—8-10. For purposes of classification, and at the editor's discretion, these provisions have been included as Art. VIII, §§ 8-201—8-210.

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and to provide remedies for obtaining damages and civil relief for the city when the false claim is sought or obtained from the city.

(c) The provisions of this chapter are to be liberally construed to effectuate its remedial and deterrent purposes, the public interest and are not exclusive, and the remedies provided for in this chapter shall be in addition to any other remedies provided for under law.
(Ord. No. 2004-07, § 1, 4-20-2004)

Sec. 8-202. Definitions.

The following terms and phrases shall have the meanings ascribed to them in this section:

(a) *Bid takeoff* means the final estimate, tabulation, or worksheet prepared by the contractor in anticipation of the bid submitted, and which shall reflect the final bid price.

(b) *Claim* means any invoice, statement, request, demand, lawsuit, or action under contract or otherwise, for money, extension of contract time, property, or services made to any employee, officer, or agent of the city, or to any contractor, grantee, or other recipient if any portion of the money, time extension, property, or services requested or demanded was or will be issued from, or was provided by, the city.

(c) *Claimant* means any person who brings, submits, files, maintains, or pursues a claim.

(d) *city* means the government of the City of Hallandale Beach.

(e) *Extended overhead* means the amount of a claim relating to an increase in overhead costs resulting from a delay in contract performance that is not compensated by a markup of direct costs.

(f) *Knowing* or *knowingly* means that a person, with respect to information:

(1) Has actual knowledge of the information;

(2) Acts in deliberate ignorance of the truth or falsity of the information; or

(3) Acts in reckless disregard of the truth or falsity of the information.

(g) *Overhead per diem* means the amount calculated by dividing the total overhead costs set forth in the final bid takeoff by the number of days for substantial completion of the work set forth in the contract.

(h) *Person* means any natural person, corporation, firm, association, organization, partnership, agency, limited liability company, business, or trust.

(i) *trustee* means the person bringing suit under section 8-205.
(Ord. No. 2004-07, § 1, 4-20-2004)

Sec. 8-203. Certification of claims.

(a) Upon the request of the city, the person submitting a claim to the city shall, within 30 days, including Saturdays, Sundays, and legal holidays, submit a certified claim as defined by this section. A "certified claim" shall be made under oath by a person duly authorized by the claimant, and shall contain a sworn statement that:

(1) The claim is made in good faith;

(2) The claim's supporting data are accurate and complete;

(3) The amount of the claim accurately reflects the amount that the claimant knowingly believes is due from the city; and

(4) The certifying person is duly authorized by the claimant to certify the claim.

(b) Failure to provide the requested certification within the prescribed 30-day period shall constitute a waiver of the entire claim.
(Ord. No. 2004-07, § 1, 4-20-2004)

Sec. 8-204. Liability for false claims; penalties.

(a) The following action(s) shall constitute a false claim and a violation of this chapter:

(1) Any person who knowingly presents or causes to be presented to the city, or to

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any officer, employee, agent, or consultant of the city, a false or fraudulent claim for payment or approval;

(2) Any person who knowingly makes, uses, or causes to be made or used, a false record or statement to get a false, fraudulent, or inflated claim paid or approved by the city;

(3) Any person who knowingly conspires to defraud the city by facilitating the payment of a false, fraudulent, or inflated claim allowed or paid by the city;

(4) Any person who knowingly delivers, with the intent to defraud the city, goods or services of different quality or quantity than that specified in the applicable contract or specification;

(5) Any person who is authorized to make or deliver a document certifying receipt of property received, used, or to be used, by the city and, who knowingly defrauds the city, by delivering the receipt without knowing that the information on the receipt is true;

(6) Any person who knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer, employee, consultant, or agent of the city who lawfully may not sell or pledge the property; or

(7) Any person who knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the city.

(b) Any beneficiary of a submission of a false claim to the city, who subsequently discovers submission of the claim violates subsection 8-204(a), if the beneficiary fails to disclose the falsity of the claim to the city within 30 days of its discovery, shall also be found to have submitted a false claim to the city.

(c) Any person found to have submitted a false claim to the city shall:

(1) Be liable to the city for an amount equal to three times that part of the claim which is knowingly false, fraudulent, or inflated;

(2) Immediately, fully, and irrevocably waive the entire amount of the claim;

(3) Be liable to the city for all costs and fees (including, without limitation, reasonable legal, expert, and consulting fees) incurred by the city to review, defend, and evaluate the claim;

(4) Be subject to debarment from city contracting for a period not to exceed five years; and

(5) Be subject to criminal and civil city penalties under section 1-8 of this Code.

(d) Liability under this section shall be joint and several for any act committed by two or more persons.
(Ord. No. 2004-07, § 1, 4-20-2004)

Sec. 8-205. Civil actions for false claims.

(a) All suits under this section shall be filed in the 17th Judicial Circuit in and for Broward County and shall be governed by the Florida Rules of Civil Procedure.

(b) The city manager or designee may investigate a violation under section 8-204. If the city manager or designee finds that a person has violated or is violating section 8-204, the city manager may authorize a civil action against that person on behalf of the city.

(c) A trustee may bring a civil action for violations of section 8-204 and shall be brought in that person's name on behalf of the city, with a certification that all papers in the action are delivered to the city. The city shall not be bound by the trustee's actions.

(1) When a trustee files an action under this section, the city may intervene or bring an action under this section based on the facts underlying the pending action, and the city shall not be bound by the trustee's actions.

(2) If the city intervenes in the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by the acts of the trustee in bringing or participating in the action. The trustee shall have the right to continue as a party

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to the action, subject to the city's right to dismiss or settle the suit notwithstanding the trustee's objections. If the city does not intervene, the trustee has the right to conduct the action on its own, subject always to the city's right to intervene.

(d) Only the city or a trustee or both may file suit based on the same allegations and intervene in the action of the other. No other person may intervene or bring suit based on same.
(Ord. No. 2004-07, § 1, 4-20-2004)

Sec. 8-206. Awards to plaintiffs bringing action.

(a) If a trustee, not joined by the city under this article prevails, the court shall order the distribution to the trustee of not more than 20 percent of the proceeds recovered under any judgment obtained or out of the proceeds of any settlement with the remainder to be distributed to the city.

(b) If the city proceeds with an action and the trustee joins, the trustee shall in no case be awarded more than ten percent of the proceeds recovered under a judgment or settlement of a claim under this article with the remainder to be distributed to the city, taking into account the significance of the information and the role of the trustee in bringing the action and in advancing the case, with the remainder to be distributed and paid to the city.

(c) If the city joins in an action with the trustee, the trustee bringing the action or settling the claim shall receive not more than 15 percent of the proceeds recovered under a judgment rendered or in settlement of a claim under this article with the remainder to be distributed to the city, taking into account the significance of the information and the role of the trustee in bringing the action and in advancing the case, with the remainder to be distributed and paid to the city.

(d) Whether or not the city proceeds with the action, if the court finds that the action was brought by a person who is in violation of section 8-204, the person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the city to continue the action.
(Ord. No. 2004-07, § 1, 4-20-2004)

Sec. 8-207. Expenses; attorney's fees and costs.

(a) In an action by the city or trustee who prevail in such action, the trustee and the city shall be awarded its reasonable attorney's fees, expenses, and costs.

(b) No liability shall be incurred by the city for any expenses, attorney's fees, or other costs incurred by the trustee in bringing or defending an action under this article.
(Ord. No. 2004-07, § 1, 4-20-2004)

Sec. 8-208. Exemptions to civil actions.

(a) No action shall lie under this article against a member of the city commission or city employee.

(b) In no event may a trustee bring an action under this article based upon allegations or transactions that are the subject of a civil action or an administrative proceeding in which the city is already a party, unless same were brought pursuant to this article.

(c) The trustee cannot bring an action brought under this article based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing; in a legislative, administrative, or inspector general report, hearing, audit, or investigation; or from the news media, unless the action is brought by the city, or unless the trustee bringing the action is an original source of the information. For purposes of this subsection, the term "original source" means a person who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the city manager or designee before filing an action under this article based on the information.

(d) No action under this article by the trustee can be brought by an employee or former employee of the city, upon information obtained in the course or scope of city employment.
(Ord. No. 2004-07, § 1, 4-20-2004)

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Sec. 8-209. Burden of proof; presumption of false claim.

(a) Whenever practicable, bid specifications for city contracts shall contain a requirement that the successful bidder maintain, as a condition precedent to submitting a claim against the city, a final bid takeoff. In any event, contractors shall have performed a final bid takeoff, as a condition precedent to submitting a claim against the city. The final bid takeoff shall contain a line item for allocation of overhead costs.

(b) Upon request from the city, a contractor making a claim against the city shall submit, within 20 days, a copy of the final bid takeoff, certified pursuant to this article. Failure to provide the requested certification shall constitute a waiver of the entire claim. The certification shall be submitted under oath by a person duly authorized by the claimant and shall contain a statement that:

(1) The final bid takeoff was prepared contemporaneously with the bid and in anticipation of the bid for the project;

(2) The contractor relied on the final bid takeoff to prepare the bid and the original schedule of values; and

(3) The final bid takeoff has not been altered in any way.

(c) Any claim for extended overhead costs that exceeds, on a per diem basis, more than ten percent of the overhead per diem contained in the final bid takeoff shall be presumed to be a false claim. The contractor shall have the burden of proving that any such claim for extended overhead is not false.
(Ord. No. 2004-07, § 1, 4-20-2004)

Sec. 8-210. Innocent claimant affirmative defenses.

The provisions of this article shall not apply if the claimant can demonstrate by a preponderance of the evidence each of the following facts:

(a) The claimant submitted or caused to have submitted the claim to or against the city reasonably believing that such claim was not a false claim, was free of any material misstatements, or of any exaggerated, inflated, or unsubstantiated assertions or damages;

(b) The claimant had no reasonable basis to doubt the truth, veracity, or accuracy of such claim at the time it was submitted;

(c) Prior to submitting the claim, the claimant diligently investigated the facts underlying such claim and prepared the claim in a reasonable manner given all the relevant information available; and

(d) When information indicating that any element, statement, or allegation in the claim was false or misleading first became available, such claimant, within 30 business days of discovering the falsity of the claim, took immediate steps to modify, correct, or withdraw such claim and provided the city with immediate notice thereof.

(Ord. No. 2004-07, § 1, 4-20-2004)

Chapter 9

CODE ENFORCEMENT AND NUISANCE ABATEMENT*

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***Cross references—**Code enforcement board, § 2-141 et seq.; nuisance abatement board, § 2-201 et seq.; building code, § 8-31 et seq.; fire prevention code adopted, § 11-8; minimum property maintenance and occupancy code, ch. 14.

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ARTICLE I. IN GENERAL

Sec. 9-1. Definitions.

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

Board means the Hallandale Beach Code Enforcement Board or the Nuisance Abatement Board.

Citation means a notice served by a code inspector to a violator who has committed a civil infraction by violating a city ordinance. It subjects the violator to a fine in accordance with the schedule set forth in this chapter.

Clerk means the person who performs the clerical duties necessary to carry out the activities of the nuisance abatement board.

Code means any of the several chapters of the Code of Ordinances of the city or any other code or ordinance duly adopted by the city commission, which ordinances may be cited either by the original ordinance numbers or the section numbers from the Hallandale Beach Code of Ordinances, or by section numbers in the various building codes, fire codes or other technical codes. "HCO" means the Code of Ordinances of the City of Hallandale Beach.

Code inspector means any employee or other agent of the city designated by law, ordinance or the city manager, whose duties are to ensure compliance and enforce city codes or ordinances and to present code violations to the board.

Criminal penalty means a penalty which is not civil in nature. For the purposes of this definition, fines or forfeitures are considered civil penalties.

Notice means any notice or citation authorized by this chapter or applicable law.

Notice of violation means a written notice to an alleged violator notifying the violator of a violation of an ordinance, law or regulation.

Notice to appear means a written order issued by a code inspector in lieu of physical arrest requiring a person accused of violating an ordinance to appear in a designated court at a specific date and time.

Operator means the tenant, lessee or person having control or possession of the premises.

Probable cause means that a reasonable belief exists that a code provision has been violated and that the violator committed, or is the person responsible for maintaining, the violation.

Public nuisance means any place or premises within the city which has been used on more than two occasions as the site of the unlawful sale or delivery of controlled substances as defined in F.S. ch. 893, or as the site of prostitution, lewdness or assignation in violation of F.S. § 796.07, or any place or building used by a youth and street gang for the purpose of conducting a pattern of youth and street gang activity.

Repeat violation means a violation of an ordinance by a person whom the code enforcement board has previously found to have violated the same ordinance within five years prior to the violation. However, in finding a repeat violation, the board shall consider the control of the violator over the violation and the responsibility of third persons who may be responsible for the violation.

Special magistrate means the person who shall conduct code enforcement hearings pursuant to F.S. ch. 162, Municipal Code Enforcement, and chapter 9 of this Code, who shall be either a Florida-registered architect, a Florida-registered engineer, an attorney who is a member in good standing with the Florida or other qualified and/or certified person as approved by the city manager. Any reference to the term code enforcement board also defined as "board" and also referred to as "code board," used in articles I and II of chapter 9 shall mean the "special magistrate" as the context permits.

Violator means any person or persons or any one of them responsible for a code violation, or the person in charge of the business premises at the time of the violation, or the owner of the real property on which the violation occurred, or all of the foregoing persons.

(Ord. No. 2006-06, § 1, 3-7-2006)

Cross reference—Definitions generally, § 1-2.

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Sec. 9-2. Code inspector; creation of position.

(a) The position of code inspector is established. The code inspector shall work under the supervision of the person designated by the city manager.

(b) The city manager may assign the performance of the duties of code inspector to any city employee, whether or not that employee has a different job title or other positions or assignments.

Cross reference—Administration, ch. 2.

Sec. 9-3. Duties of code inspector.

(a) The code inspector shall have the authority and responsibility to inspect any land, water, buildings, structures or other improvements in the city, as frequently as may be necessary, to determine whether there is compliance with the city ordinances or any other applicable laws, ordinances or regulations that the city has jurisdiction to enforce.

(b) The code inspectors have the primary duty of enforcing the various codes, and initiating enforcement proceedings before the board. No board member shall have the power to initiate such proceedings.

Sec. 9-4. Emergency action.

(a) Whenever the code inspector finds that an emergency exists which requires immediate action to protect the public health, safety or welfare, the city may, upon approval of the city manager, without notice or hearing, take such action as is necessary to eliminate the emergency, alternatively.

(b) A special or emergency hearing may be called of the board and the hearing may proceed, either without notice to the violator or after such notice as is reasonably practicable under the circumstances. If circumstances permit written notice, at least one day in advance of the hearing should be given the alleged violator; however, that urgent situation posing a clear and present danger to the public health, safety and welfare shall result in the absolute minimum feasible time being specified.

Sec. 9-5. Penalties.

(a) The code enforcement board, upon notification by the code inspector that a previous order of the code enforcement board has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the code enforcement board for compliance, or in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the inspector. If a finding of a violation or a repeat violation has been made as provided in this article, a hearing shall not be necessary for issuance of the order imposing the fine.

(b) If after due notice and hearing the code board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection (c)(3) of this section.

(c) Fines imposed pursuant to this section shall be as follows:

(1) A fine not to exceed $250.00 per day for a first violation, and may include all costs of repair pursuant to section 9-55.

(2) A fine not to exceed $500.00 per day for a repeat violation, and may include all costs of repair pursuant to section 9-55.

(3) A fine not to exceed $5,000.00 per violation, if the code enforcement board finds a violation to be irreparable or irreversible in nature.

(d) A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to section 9-61, whichever occurs first.

(1) A person who receives a citation from a code inspector for the violation of a city ordinance has committed a civil infraction and shall be subject to a fine in accordance with the following schedule:

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Violation	*Payment Received Within 15 Days of Issuance*	*Payment Received After 15 Days*
First	$ 30.00	$ 60.00
Second	60.00	80.00
Subsequent	125.00	150.00

(2) Any person who fails to pay the appropriate civil penalty within the time allowed or who fails to appear in court to contest the citation shall be deemed to have waived his right to contest the citation, and judgment may be entered against the person for an amount not to exceed $500.00, as prescribed by the county court.

(3) Violations of any ordinance is punishable as provided in section 1-8.

Sec. 9-6. Article deemed supplemental to other remedies.

(a) The provisions and procedures contained in this chapter shall be in addition and supplemental to any other remedies now existing or subsequently provided for by law, regarding violations of municipal ordinances.

(b) Nothing in this chapter shall prevent the city from enforcing its ordinances by any other means; and the code inspector may, at his option, elect to seek code enforcement in any court of competent jurisdiction, or by any other enforcement procedure available under F.S. ch. 162, or as provided in this Code.

Sec. 9-7. Special magistrate.

(a) The city hereby establishes the use of special magistrate(s) who shall conduct code enforcement hearings. The special magistrate(s) shall be selected by the city attorney and the city manager and the city shall establish a budgeted line item to pay for special magistrate services.

(b) To process a matter before the special magistrate, the special magistrate and the city shall comply with F.S. ch. 162, Municipal Code Enforcement, and chapter 9 of this Code.

(c) The special magistrate shall have jurisdiction to enforce the various codes and ordinances which have no criminal penalty, including but not limited to occupational license, fire, building, zoning and sign codes. The jurisdiction shall also be as provided by state law and include such county ordinances as are in effect in the city.

(d) In each case prosecuted before the special magistrate wherein the city is the prevailing party, in addition to fines imposed, the special magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs of repairs to be paid to the city.
(Ord. No. 2006-06, § 2, 3-7-2006)

Secs. 9-8—9-40. Reserved.

ARTICLE II. ABATEMENT OF NUISANCES

Sec. 9-41. Notice of violation.

(a) Whenever the code inspector has reasonable cause to believe that a violation of city ordinances or any other applicable law, ordinance or regulation has occurred or exists, the inspector shall issue and serve upon the alleged violator a notice of violation.

(b) The inspector should set a reasonable time for compliance, based upon the time necessary to complete the acts required, and may, for good cause, extend the time period; however, any urgent situation posing a clear and present danger to the public health, safety and welfare shall result in the absolute minimum feasible time being specified for compliance.

(c) After issuance of a notice of violation, if the violation continues beyond the time specified for correction, the inspector may elect the alternative enforcement procedures provided in this article.

Sec. 9-42. Citations.

(a) A code inspector may issue a citation to a person when the inspector, upon personal investigation, has a reasonable cause to believe that the person has committed a violation of a city ordinance.

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(b) The form of citation shall be a notice to appear in county court, in a form prescribed by the city or the county, and shall contain the requirements of state law.

Sec. 9-43. Notice to appear.

(a) A code inspector, as an alternative, may issue and serve a notice to appear at any hearing conducted by a county court.

(b) If the alleged violator signs the notice to appear and agrees to appear in court at the time and place specified, the code inspector shall immediately deliver the original of that notice, together with the necessary affidavit of complaint and other documentation to the city prosecutor, who shall review the documents and determine whether to file a municipal information or other appropriate charging document. If the prosecutor files charges, he shall forward to the clerk of the court the necessary documentation for filing of the case and setting of arraignment on the date indicated on the notice to appear.

(c) If the municipal prosecutor declines to prosecute the case, he shall file the appropriate documentation with the clerk and notify the alleged violator not to appear in court.

(d) If a notice to appear has not been issued, the municipal prosecutor shall determine whether or not to file charges and, if charges are filed, the prosecutor shall file documentation necessary to cause the issuance of an arrest warrant for the alleged violator.

(e) When a person signs a written notice to appear and fails to respond to that notice and to appear in county court at the time and place specified in the notice, the prosecutor shall file the necessary documentation to cause the issuance of an arrest warrant for the violation of the charges specified in the notice to appear. Mere failure to respond to the notice to appear shall not constitute a violation of this Code, nor cause the issuance of an arrest warrant for mere failure to appear, but may, as specified in this section, cause the issuance of an arrest warrant for the violations specified in the notice.

(f) The procedures specified in this section may be modified or amended by the municipal prosecutor where necessary to comply with any applicable rule of criminal procedure, statute or regulation.

Sec. 9-44. Code board.

The inspector may request a hearing before the board, and the board shall provide written notice to the alleged violator of the hearing. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the code enforcement board even if the violation has been corrected prior to the board hearing.

Cross reference—Boards, committees, districts and authorities, § 2-71 et seq.

Sec. 9-45. Hearing procedure.

(a) Written notice of the time, date and place of the hearing and a reference to the ordinance violated shall be mailed to the violator at least seven days prior to the hearing.

(b) All hearings of the board shall be open to the public and any person whose interests may be affected by the matter before the board shall be given an opportunity to be heard. Official minutes of all board hearings shall be kept.

(c) Hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. They shall, however, be conducted in accordance with accepted parliamentary procedures relative to motions, votes and decisions. Fundamental due process shall be observed and shall govern all hearings and the alleged violator has the right to be represented by an attorney at the hearing.

(d) All relevant evidence shall be admitted if, in the opinion of the board, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make such evidence inadmissible over objections in civil actions. The chairman of the board may exclude irrelevant or unduly repetitious evidence.

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(e) Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not, in and of itself, be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.

(f) Each party to the hearing shall have the right to call and examine witnesses, introduce exhibits, cross examine opposing witnesses, impeach witnesses and rebut evidence.

(g) All testimony before the board shall be under oath and shall be recorded. The alleged violator or the city may cause the proceedings to be recorded by a certified court reporter or by a certified recording instrument.

(h) The burden of proof shall be with the code inspector, to show by the greater weight of the evidence that a code violation exists and that the alleged violator committed, or was responsible for maintaining, the violation.

(i) If written notice of the formal hearing has been provided, the hearing and any continuances of the hearing may be conducted and an order rendered in the absence of the violator.

(j) The board may, for good cause shown, postpone or continue a formal hearing upon a majority vote of those members present and voting.

(k) After the conclusion of the hearing, the board shall issue findings of fact and conclusions of law in a written order affording the proper relief consistent with the powers granted in this article. In determining the amount of the fine, if any, the enforcement board shall consider the following factors:

(1) The gravity of the violation;

(2) Any actions taken by the violator to correct the violation; and

(3) Any previous violations committed by the violator.

Such order may command a violator to take whatever steps are necessary to bring a violation into compliance by the time announced at the meeting and subsequently placed in the order. The findings, conclusions and order shall be by motion approved by a majority of those present and voting, except that at least four members of the board must affirmatively vote in favor of the action for the action to be official. The order shall be announced orally at the meeting and shall be reduced to writing and mailed to the violator within ten working days after the formal hearing.

(l) Every enforcement order of the board shall have the force of law, shall be in writing, shall include findings of fact and conclusions of law, and shall indicate the vote upon the order.

(m) Every enforcement order of the board shall be signed by the chairman or, in his absence, the vice-chairman, and shall be filed in the office of the city clerk. A copy of the signed order shall be mailed to the violator or, where mailing would not be effective, by hand delivery by the code inspector, to the violator.

(n) The board shall in every proceeding make a decision without unreasonable or unnecessary delay.

Sec. 9-46. Repeat violators.

If a repeat violation is found, the code inspector may immediately issue a citation or a notice but is not required to give the violator a reasonable time to correct the violation. The code inspector may notify the code enforcement board and request a hearing. The board, through its clerical staff, shall schedule a hearing and shall provide notice to the alleged violator. The case may be presented to the code enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state. If the repeat violation has been corrected, the code enforcement board retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his rights to this hearing and pay such costs as determined by the code enforcement board.

Sec. 9-47. Notices.

The notice shall contain, where the information is available, the name and address of the alleged violator, the date of issuance, the address or other location of the violation, the nature of the

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alleged violation, including, where applicable, citation to the specific ordinance, law or regulation alleged to be violated, and the period of time within which compliance must be obtained, a short and plain statement summarizing the incidents complained of, the name, address and place to appear before the board or court, name of person issuing, and signature of the alleged violator.

Sec. 9-48. Service.

Service of any notice in this article shall be by:

(1) Hand delivery to the alleged violator by any law enforcement officer, code inspector or other person designated by the city;

(2) Leaving the notice at the violator's usual place of residence with any person residing there who is above 15 years of age and informing such person of the contents of the notice;

(3) Certified mail, return receipt requested, to such person at his last known business or residential address or to the address shown on the public records of the county;

(4) Personal service upon the respondent, if a natural person, or, if other than a natural person, service upon the appropriate person, officer or agent as provided by law; or

(5) If service of the notice is attempted and unsuccessful, notice may be served as follows:

a. Publication as provided in state law; or

b. Posting as provided in F.S. § 162.12.

Sec. 9-49. Refusal to sign notice.

(a) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as prescribed by state law.

(b) If a person issued a notice to appear under this section refuses to sign such notice, the code inspector has no authority to arrest the person.

(c) Failure of a person to sign the notice to appear and to agree to appear in court at the time and place specified in the notice shall not be a violation of this Code, but may result in the filing of an arrest warrant application and other appropriate documentation necessary to cause the arrest or issuance of a summons by the county sheriff's office commanding the alleged violator to appear in court.

Sec. 9-50. Mitigation or amendment of an order.

An aggrieved party may by written application submitted to the city manager within six months of the date of service of the final order of the special magistrate may petition the city manager to waive an accumulated fine or to settle and compromise the fine for a lesser amount or otherwise amend or modify the order, subject to ratification or rejection by the city commission. Such application shall set forth such fact and circumstances in favor of the application as the petitioner shall deem appropriate, as well as the amount, if any, offered in such compromise or settlement. A copy of such application shall be served on the city attorney at the time the original is filed. At the time of hearing, the city manager shall consider such application, sworn testimony and information or documents submitted by either party and after due deliberation, the city manager shall have the right, duty, power, authority and jurisdiction to make such other order of compromise, mitigation, amendment or modification as appropriate.
(Ord. No. 2006-06, § 3, 3-7-2006)

Sec. 9-51. Appeals; final order.

An aggrieved party or the city may appeal a final administrative order of the code enforcement board or the nuisance abatement board to the circuit court. Such appeals shall not be a hearing de novo but shall be limited to appellate review of the records created before the boards. An appeal shall be filed within 30 days of the execution of the order to be appealed.

Sec. 9-52. Appeal of city abatement.

(a) Upon notice of the city's intent to abate a violation, the respondent may appeal the decision to a hearing officer provided that such appeal is filed in writing within ten days after the notice is served.

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(b) Upon receipt of a written notice of appeal, the inspector shall schedule an informal hearing before the hearing officer and shall serve a notice of hearing, as provided in subsection (a) of this section, not less than five days before the hearing.

(c) The hearing officer shall be the city manager or his designee.

(d) At the hearing, the hearing officer shall review all pertinent evidence and hear all testimony from the inspector, the respondent and their respective witnesses.

(e) The hearing officer may modify, rescind or uphold the decision of the inspector and may order the respondent to abate the violation within a specified time period.

Sec. 9-53. Enjoining of nuisances.

(a) When any nuisance, as defined in F.S. § 823.05, exists, the city attorney or any citizen of the county may sue in the name of the state on his relation to enjoin the nuisance, the person maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

(b) Any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a public nuisance and may be, by the city, abated as provided by law.

Sec. 9-54. General definition of sanitary nuisance.

A sanitary nuisance is declared to be the commission of any act by an individual, organization or corporation, or the keeping, maintaining, propagation, existence or permission of anything by any person by which the health or life of an individual or the health or lives of individuals may be threatened or impaired or by which or through which, directly or indirectly, disease may be caused.

Cross reference—Definitions generally, § 1-2.

State law references—Similar provision, F.S. § 386.01; enumeration of nuisances injurious to health, F.S. §§ 386.041, 823.05; creation constitutes misdemeanor, F.S. § 386.051.

Sec. 9-55. Abatement of nuisance generally; collection of cost.

A code officer or the county health department, upon receiving information or obtaining knowledge of the existence of anything declared in this article to be a nuisance by law, shall notify the persons committing, creating, keeping or maintaining the nuisance, to remove or cause to be removed the nuisance within 24 hours, or such other reasonable time as may be determined by such officer or department after such notice is duly given; and if the nuisance is not removed by such persons within the time prescribed in the notice, the code officer or county health department shall remove or cause to be removed such nuisances; and the cost or expenses of such removal shall be paid by the persons committing, creating, keeping or maintaining such nuisances; and if the costs and expenses thus accruing shall not be paid within ten days after such removal, the costs and expenses shall be collected from the persons committing, creating, keeping or maintaining such nuisances, by suit at law.

State law references—Notice by division of health, F.S. § 386.03; abatement, F.S. §§ 386.041, 823.05.

Sec. 9-56. Abatement of nuisances.

In addition to the penalties provided in this article, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a public nuisance and may be abated by the city as provided by law.

Sec. 9-57. Abatement by the city.

(a) Whenever a respondent fails to take the specified compliance action after having been served with a notice of violation, pursuant to this Code, the inspector may issue and serve upon the respondent a notice of the city's intent to abate the violation. This notice shall explain the right to appeal.

(b) If no timely appeal is filed, or if the violation is not abated within the time specified in the order of the hearing officer, the city may take such action as is necessary to abate the violation.

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Sec. 9-58. Nuisance abatement board.

(a) *Filing complaints; written notice to owner of premises.* Any employee, officer or resident of the county or of the city may file a complaint with the board regarding the existence on premises located in the city of a public nuisance, as defined in section 9-1, after first giving not less than three days' written notice of such complaint to the owner of the place or premises complained of at his last known address.

(b) *Hearing; written notice to owner.* The nuisance abatement board, through its clerk, shall schedule a hearing, and written notice of such hearing shall be served on the owner of the premises complained of at his last known address at least 14 days prior to the scheduled hearing. If an attempt to reach the owner by hand delivery or certified mail is unsuccessful, notice of the hearing may be by publication as provided in F.S. ch. 49.

Cross reference—Boards, committees, districts and authorities, § 2-71 et seq.

Sec. 9-59. Conduct of hearings; abatement board.

(a) The chairman of the board may call hearings of the board. Hearings may also be called by written notice signed by at least three members of the board. The board, at a hearing, may set a future hearing date. The board shall convene as the demand necessitates. The board shall adopt rules for the conduct of its hearings. Minutes shall be kept of all hearings, and all hearings shall be open to the public. The city shall provide clerical and administrative personnel as may be reasonably required for the proper performance of the board's duties.

(b) All parties shall have an opportunity to present evidence and argument on all issues involved, to conduct cross examination and submit rebuttal evidence, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross examine or challenge or rebut it. The board may consider any evidence, including evidence of the general reputation of the place or premises. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Orders of the board shall be based on competent and substantial evidence.

(c) After considering all evidence, the board may declare the place or premises to be a public nuisance as defined in section 9-1 and may enter an order immediately prohibiting the:

(1) Maintaining of the nuisance;

(2) Operating or maintaining of the place or premises; or

(3) Conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.

All orders of the board shall be, by motion, approved by a majority of those members present and voting; except that at least three members of the board must vote in order for the action to be official.

(d) An order entered under subsection (c) of this section shall expire after one year or at such earlier time as stated in the order. The board shall retain jurisdiction to modify its orders prior to the expiration of such orders.

(e) The board or city may bring a complaint under F.S. § 60.05, seeking a permanent injunction against any public nuisance.

Sec. 9-60. Rights preserved.

This article does not restrict the right of any person to proceed under F.S. § 60.05 against any public nuisance.

Sec. 9-61. Recovery of costs; liens.

(a) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the real or personal property of the violator.

(b) In addition, should the city prevail in prosecuting a case before the code enforcement board, it shall be entitled to recover all costs incurred in

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prosecuting the case and such costs may be included as a lien under subsection (a) of this section.

(c) All expenses incurred by the city in causing a violation to be abated or an emergency to be eliminated, plus related administrative charges, shall constitute a lien on the property superior in dignity to all other liens, except county tax liens and liens of equal dignity with county tax liens.

Sec. 9-62. Legal counsel.

The city attorney may either be counsel to the boards or shall represent the city by presenting cases before the boards, but in no case shall the city attorney serve in both capacities. The commission may appoint an attorney to serve in either capacity and fix his compensation.

Sec. 9-63. Subpoena powers.

The code inspector, on behalf of the city, the board or the alleged violator, may request that witnesses and records, including surveys, plats and other materials, be subpoenaed to any formal hearings. Subpoenas may be served by officers of the police department of the city or any person authorized by law. The chairman of the board shall provide the clerk of the board with sufficient signed and blank witness and document subpoenas to be provided to alleged violators and the code inspector for the purpose of subpoenaing witnesses and records. The violator shall pay to the city a fee equal to the fees set by general law for each subpoena served.

Sec. 9-64. Administration by city manager.

The city manager shall take all necessary steps to implement the administrative provisions necessary for board functions and shall arrange for clerical services to the boards. He shall also promulgate such administrative rules, procedures and forms as may be necessary to implement the provisions of this article.

Cross reference—Administration, ch. 2.

Secs. 9-65—9-100. Reserved.

ARTICLE III. NOISE

Sec. 9-101. Declaration of necessity.

The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city; and the necessity in the public interest for the provisions and prohibitions contained and enacted in this article, is declared as a matter of legislative determination and public policy; and it is further declared that the provisions and prohibitions contained and enacted in this article are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.
(Code 1980, § 13-40)

Sec. 9-102. General prohibition.

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the city.
(Code 1980, § 13-41)

Sec. 9-103. Enumeration of prohibitions.

(a) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Code; but this enumeration shall not be deemed to be exclusive, namely:

(1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other

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device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(2) *Radios, phonographs, etc.* The using, operating or permitting to be played, used or operated any radio or television receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners. The operation of any such set, instrument, phonograph, machine or device at any time in such a manner as to be plainly audible at a distance of 100 feet from the building, structure, vehicle or place where it is located shall be prima facie evidence of a violation of this subsection.

(3) *Loudspeakers; amplifiers for advertising.* The using, operating or permitting to be played, used, or operated of any radio or television receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public street, particularly between the hours of 11:00 p.m. and 8:00 a.m. or any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel or other type of residence or of any persons in the vicinity.

(5) *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort or repose of any persons in the vicinity.

(6) *Steam whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.

(7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises.

(8) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(9) *Loading, unloading, opening, etc., of boxes; trucks idling.* It shall be unlawful for any person to load or unload any vehicle at commercial establishments located within 300 feet of a residential area between the hours of 8:00 p.m. and 8:00 a.m. The creation of a loud and excessive noise in connection with loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers is prohibited at all times. No person may allow a truck to stand or park with its engine running nor may a person allow the motor of a trailer attached or capable of being attached to a truck to run within 300 feet of a residential unit for a period exceeding five minutes between the hours of 8:00 p.m. and 8:00 a.m.

(10) *Construction or repairing of buildings.* The erection, including excavating, demolition, alteration or repair of any building other than between the hours of 8:00 a.m. and 6:00 p.m. on any day except Sundays, when such activity shall be prohibited other than between the hours of 1:00 p.m. and sunset, subject to the limitations set out below except in cases of urgent necessity in the interest of public health and safety and then only with a permit from the building official, which permit may be granted for a period not to

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exceed three days or less while the emergency continues; and such permit may be renewed for periods of three days or less while the emergency continues. If the building official shall determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the prohibited hours; and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours prohibited above upon application being made at the time the permit for the work is awarded or during the progress of the work. The activities regulated by this subsection may be performed between 1:00 p.m. and sunset on Sundays by the owner or occupant of the premises on which such activities are to be performed but this exception shall not permit the use of heavy equipment or use of hired help, between 1:00 p.m. and sunset on Sundays, which may be permitted by the building official only in cases of urgent necessity in the interest of public health and safety.

(11) *Schools, courts, churches, and hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while they are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the area is a school, hospital or court street.

(12) *Hawkers, peddlers and vendors.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(13) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(14) *Metal rails, pillars and columns; transportation.* The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(15) *Pile drivers, hammers, etc.* The operation between the hours of 6:00 p.m. and 8:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance or operation, such as the use of explosives, which is attended by loud or unusual noise.

(16) *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

(b) There shall be no private or commercial collection of garbage and/or trash in the city between the hours of 8:00 p.m. and 7:00 a.m.

(c) The city manager is authorized to issue temporary permits to permit noise produced by temporary uses or activities which do not significantly endanger the health, safety or welfare of the community, but which may be in technical violation of the requirements of this section.
(Code 1980, § 13-42)

Sec. 9-104. Permit; test or measurement.

(a) In addition to the requirements of section 9-103, the making and creating of an excessive or unusually loud noise is declared to be unlawful, except when made under and in compliance with a permit, as provided in this section. Although a violation may occur without a measuring test, for the purpose of determining and classifying any noise as excessive or unusually loud, the following test or measurement may be applied:

(1) The noise shall be measured at a distance of at least 25 feet from a noise source in the public right-of-way, or if the noise

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source is located on private property, or public property other than a right-of-way, at least 25 feet from the property line of the property upon which the noise source is located.

(2) The noise shall be measured on a decibel or sound level meter of standard design or quality, operated on the A-weighted scale.

(3) A noise measured or registered as provided in this section of more than 60 decibels on the A-weighted scale in intensity shall be and is declared to be excessive and unusually loud, and is unlawful.

(4) A noise measured or registered as provided in this section from a motor vehicle above 88 decibels on the A-weighted scale shall be and is declared to be excessive and unusually loud, and is unlawful.

(b) Applications for a permit for relief from the noise level designated in this section as unlawful, on the basis of undue hardship, may be made to the city manager. Any permit granted by the city manager shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that such permit shall be effective. The city manager may grant such a permit if he finds that additional time is necessary for the applicant to alter or modify his activity or operation to comply with this section; or that the activity, operation or noise source will be of temporary duration and cannot be accomplished without exceeding the noise level provided in this section; and that no other reasonable alternative is available to the applicant; and the city manager has prescribed such conditions or requirements deemed necessary to minimize adverse effects upon the community and the surrounding neighborhood.

(c) The requirements of this section shall not apply to any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency, or to those activities of a temporary duration, licensed and permitted by law, including but not limited to parades and fireworks displays.
(Code 1980, § 13-43)

Sec. 9-105. Prohibition on sounding railroad train horns and whistles between the hours of 10:00 p.m. and 6:00 a.m.

It shall be unlawful and it is prohibited for any engineer, firefighter, conductor or other person in charge of or control of any locomotive or train of cars to sound any railroad train horn or whistle within the city between the hours of 10:00 p.m. and 6:00 a.m., where the crossing involved has train-activated automatic traffic control devices, which shall include flashing lights, bells and crossing gates, and where signs have been erected at the crossing involved announcing that railroad train horns and whistles will not be sounded during these hours and such signs conform with the uniform system of traffic control devices as specified in F.S. § 316.0745.
(Code 1980, § 13-44)

Chapter 10

FINANCE AND TAXATION*

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ARTICLE I. IN GENERAL

Secs. 10-1—10-30. Reserved.

ARTICLE II. BUDGET TRANSFERS*

Sec. 10-31. Authority for budget transfers.

(a) The city manager is authorized to make the following budget transfers without further approval of the city commission:

(1) To utilize lapsed salary funds to finance temporary filling of a position to include but not be limited to utilizing outside services.

(2) To transfer from an account for non-departmental meetings and seminars in the approved budget to any departmental account for meetings and seminars in accordance with a program for conferences as approved by the city commission.

(3) The city manager is further authorized to transfer moneys to or from all programs, categories and accounts within any designated fund set forth in the adopted annual budget. This provision does not authorize the city manager to make transfers to or from the account categories for contingencies, debt service and equity service respectively given line numbers 3701, 7000 and 8000.

(4) The city manager is authorized to make changes in the numeric assignment of approved line items set forth in the annual budget. The city manager is further authorized to establish new accounts within the adopted budget and transfer funds into the new account subject to his transfer authority; however, he shall notify the city commission, in writing, of any new account or transfer in excess of the city manager's purchasing authority level upon initiation of the transfer or establishment of the new account.

(b) Within each of the budgeted expenditure categories currently numbered the 3000 series, the approved line items may be overexpended by the responsible department head as long as sufficient funds are available in the total appropriation for that expenditure category.
(Code 1980, § 10-2.1; Ord. No. 2007-12, § 1, 8-1-2007)

Sec. 10-32. Budget and budget message.

(a) On or before the end of the first week of September of each year, the city manager shall submit to the commission a budget for the ensuing fiscal year, and a budget message.

(b) The budget message shall explain the budget in fiscal terms and describe programs. It shall outline the financial policies of the city for the fiscal year, indicate major changes in policy, expenditure and revenue, together with the reasons for such changes, and summarize the city's debt position.

(c) The commission shall adopt the annual budget by ordinance pursuant to the provisions of the Charter, § 3.15.
(Ord. No. 80-44, § 1(c), 12-2-1980/3-10-1981; Ord. No. 2007-08, § 1, 6-20-2007)

State law reference—Mandatory procedure for adoption of budget, F.S. § 200.065.

Sec. 10-33. Capital program.

(a) The city manager shall prepare and submit with the regular budget a five-year capital program, which the city commission may adopt by resolution.

(b) The capital program shall include a general summary, a list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, cost estimates, methods of financing and recommended time schedules for such improvements, and the estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

(c) The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.
(Ord. No. 1057, 1-9-1976/3-9-1976)

*__State law reference—__Budget adoption procedure, F.S. § 200.065.

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Secs. 10-34—10-60. Reserved.

ARTICLE III. COSTS, FEES AND PAYMENT

Sec. 10-61. Fees.

Service or user charges or fees shall be set or amended by resolution of the city commission, or the city commission may give administrative authority to the city manager to set specific fees in accordance with specific standards set by the commission.
(Code 1980, § 10-16)

Sec. 10-62. Fees for copies of city documents.

(a) Copies of city documents will be provided upon payment of the required fee, which is established and on file in the city clerk's office.

(b) If the nature or volume of documents requested to be copied is such as to require clerical or supervisory assistance by city personnel of more than 15 minutes, the city shall charge, in addition to the fees set forth in subsection (a) of this section, a special service charge, which shall be equal to the labor costs, including wages and other benefits, actually incurred by the city or attributable to the city for the clerical and supervisory assistance required.

(c) There shall be no charge to bona fide members of the press for copies of city commission meeting agendas with included backup material.

(d) The city attorney's office is authorized to furnish copies of material to other attorneys for no fee.

(e) There will be no charge for copies furnished to other governmental bodies—state, federal or local—which do not charge the city for copies requested by the city from those governmental bodies.

(f) The city manager is authorized to adopt such rules and regulations as he may deem necessary to carry out the purposes of this section.
(Code 1980, § 10-17)

Sec. 10-63. Burial service fees; wooden boxes prohibited.

(a) As used in this section, the term "infant burial space" means a burial space located in that certain area of the city cemetery specifically designated for the exclusive burial of children not more than one year of age at death.

(b) The burial service fees in this section are established and on file in the city clerk's office.

(c) For burial in infant burial spaces, the city shall provide no setup except grass mats.

(d) Burial in wooden boxes in the city cemetery is prohibited.
(Code 1980, § 10-18)

Sec. 10-64. Interim services fee.

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

Interim services fee means the annual charge applicable to structures certified for occupancy by the city building division but not appearing on the county tax rolls as an improvement to real property.

Interim services fee rate means the cost, as set by resolution of the city commission, of providing the requisite city services. The rate is set according to the use of the structure as determined by chapter 32.

Owner means that person or legal entity reflected on the public records of the county as the owner of real property upon which a structure has been completed.

Structure means any building or improvement, for which a certificate of occupancy is required, constructed upon real property located within the municipal limits of the city.

(b) *Interim services fee levied.* As of the date a certificate of occupancy is issued by the city building division, every structure located within the city shall be subject to an interim services fee. This interim services fee shall be in effect until that date when the structure in question appears

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on the assessment rolls of the tax assessor's office of the county and is subject to the assessment of ad valorem taxes. This fee shall be set by resolution of the city commission.

(c) *Fee determination; proration.* The fee set by the commission shall be prorated on a per month basis for structures certified for occupancy subsequent to January 1 of each calendar year. For example, a single-family dwelling certified for occupancy in May would pay the rate shown on the schedule for the month of May.

(d) *Procedure.* The city manager shall be charged with the collection of the interim services fee, which fee shall be collected as a condition prior to the issuance of a certificate of occupancy by the building division. Upon request for a certificate of occupancy, the city manager shall determine, according to the schedule, the interim services fee due and payable for the structure in question.

(e) *Creation of nonlapsing trust fund.* The finance director of the city shall deposit all fees collected into a nonlapsing trust fund established and maintained by the city. The use of such funds will be restricted and limited to expenditures for public safety services, code enforcement and building inspection functions, engineering and planning functions, and to public services for parks and recreation, streets and building maintenance. The city manager shall provide the city commission with recommendations for expenditure of these funds during the annual budget process or from time to time as needed. Such expenditures of funds shall be limited to the percentile of total fees collected for each of the services as identified in this section.

(f) *Adjustment.* The interim services fee rate may be adjusted by resolution of the city commission to account for changes in the cost of providing the requisite services.
(Code 1980, § 10-18.1)

Sec. 10-65. Debts owed to city constitute lien on property.

Any debt or other obligation owed to the city that is directly related to a particular parcel of real property within the city shall constitute a lien, superior in dignity to all other liens, except county tax liens and liens of equal dignity with county tax liens, until paid; and the city may elect to foreclose such lien in accordance with the practice, pleading and procedure for the foreclosure of mortgages on real property.
(Code 1980, § 10-19)

Sec. 10-66. Late charges.

(a) Where any charge which is included on a bill for city services has not been paid in full on or before the 15th day after the billing date, a late charge equal to ten percent of the amount of the bill, or ten percent of the unpaid balance if part of such bill shall have been paid, shall be added to the bill and shall be due and payable as if such amount had been a part of the bill as rendered.

(b) Nothing contained in this section shall supersede or repeal existing provisions for late charges contained in other provisions of this Code.
(Code 1980, § 10-19.1)

Sec. 10-67. Priority of payments.

Moneys received for payment of bills shall be applied first to the oldest outstanding portion of any bill and shall be applied to current balances only after such previous balances have been satisfied; however, the city may apply moneys received in a different order if written application has been made by the person owing such moneys and the reason given for such request establishes invalidity of the past-due charges.
(Code 1980, § 10-19.2)

Sec. 10-68. Recovery of reasonable attorney's fee; retroactivity.

(a) If the city files an action to collect a debt or other obligation or to enforce a statute, ordinance, regulation or other law, the city shall be entitled to recover a reasonable attorney's fee.

(b) This section shall apply to every action filed.
(Code 1980, § 10-20)

Sec. 10-69. Cable television franchise licensing fees.

Any application for an initial license, the renewal of an existing license, the transfer of a

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license, the modification of a license, or the expansion of a license shall be accompanied by the required nonrefundable fee to offset the city's costs in processing and evaluating the application. The fee amounts shall be set or amended by resolution of the city commission. If out-of-pocket costs are incurred by the city in connection with the renewal or issuance of a license, the applicant shall be liable for and reimburse the city for all such costs up to the amount of $100,000.00.
(Code 1980, § 10-21)

Secs. 10-70—10-100. Reserved.

ARTICLE IV. SPECIAL ASSESSMENTS*

Sec. 10-101. Authority of city to make improvements and assess benefits.

(a) The city commission shall have power to order the paving, grading, curbing, repaving, macadamizing, remacadamizing, laying out, opening, widening, beautifying, and otherwise improving and maintaining streets, alleys, avenues, boulevards, lanes, sidewalks and other public highways or any of their parts; to order the construction of sanitary sewers, storm sewers, drains, including the necessary appurtenances; to provide for emergency medical services; to provide for fire protection services; and to provide for the payment for the whole or any part of the cost of such improvements or services by levying and collecting special assessments upon abutting, adjoining and contiguous or other specially benefited property.

(b) Before any improvement or service shall be authorized pursuant to this article, the city commission shall require estimates of maximum cost of such improvement or service to be made by a competent engineer, city employee or consultant and placed on file in the office of the city clerk. The total amount assessed against the properties benefited shall not exceed the estimate.

(c) Authority is given the city to contract for the services of such engineer or consultant, whose fees and other incidental costs of such improvement or services, including attorney's fees, shall be added to the costs and included in the assessments.

(d) The special assessments, installments thereof, interest and penalties, shall be a first lien against the lots and tracts of land so assessed, from the date of the publication of the ordinance levying such special assessments, coequal with the lien of other taxes, and prior and superior to all other liens, claims and titles, and such liens shall continue as to unpaid installments, interest and penalty until such assessments, interest and penalties shall be fully paid. All purchasers and encumbrancers of such lots and tracts of land shall hold the same subject to such lien so created.

(e) The city commission shall have the power and duty to provide for the time and terms of payment for such assessments, and installments thereof, which term shall not exceed ten years, and the rate of interest on deferred payments, which rate shall not exceed eight percent per annum, and to fix penalties at the rate of one percent per month to be collected upon delinquent payments. No sale of such property to enforce any general taxes or other lien shall extinguish the perpetual lien of such assessment.
(Code 1980, § 10-4(a); Ord. No. 2000-16, § 3, 9-14-2000)

Sec. 10-102. Certificates and bonds.

(a) The city commission shall have power to issue, in the name of the city, assignable certificates declaring the liability of the property for the payment of such assessments, installments, interest and penalties and to fix the terms and conditions of such certificates.

(b) The city commission shall have the power to issue, in the name of the city, improvement bonds in an amount not exceeding the total assessments levied to pay the cost of such improvements. Such bonds shall be payable out of the moneys collected from such assessments, installments, interest and penalties and shall bear interest at a uniform rate to be fixed by the com-

*Cross reference—Streets, sidewalks and other public ways, ch. 25.

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mission, which rate shall be at least one percent less than the rate of interest on such deferred installments. Such bonds may be issued to the contractor in payment for the total cost of such improvements.

(c) Such certificates and bonds shall not be a charge on, or payable out of, the general revenues of the city, but shall be payable solely out of such assessments, installments, interest and penalties.
(Code 1980, § 10-4(b))

Sec. 10-103. Advertisement for bids.

Contracts for such improvement shall be let to the lowest and best bidder, after the advertisement provided for by law. The aggregate amount of such contract shall not exceed the aggregate estimate of cost submitted by the engineer. The city commission shall provide for the execution by the contractor of a performance bond, to the city, in the total amount of the contract and such other bonds, including maintenance bonds in such amounts and with such terms as may be deemed necessary by the city commission.
(Code 1980, § 10-4(c))

Sec. 10-104. Lien book; collection of assessments and enforcement of liens.

(a) As soon as practicable after the passage of the assessing ordinance or resolution, the assessment roll, as corrected, shall become the basis of a permanent record to be kept in a book, kept for that purpose, to be known as the "Improvement Lien Book."

(b) Such assessments, installments, interest and penalties shall be collectible in the same manner on the same dates and under the same provisions as to sale and forfeiture as city taxes are collectible. Collection of such assessments may also be made by the city, or the holders of any securities issued hereunder, by proceedings in a court of equity to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the state, and it shall be lawful to join in any bill for foreclosure, any one or more lots or parcels of land. The failure to pay any installment, or interest when such installment shall become due, shall, without notice, cause all installments, interest and penalty, at the rate of one percent per month, to be forthwith due and payable.
(Code 1980, § 10-4(d))

Sec. 10-105. Additional powers.

In addition to the powers conferred by the Charter or law, the city shall have the following additional powers:

(1) To provide for such hearings, notices and proceedings as may be necessary or expedient to comply with all constitutional requirements.

(2) To cause the preparation and filing of assessment rolls, and to enact assessing ordinances, by reference to such rolls.

(3) To act as trustee, or appoint a trustee, for the funds from which certificates or bonds are to be paid. Such trustee may become a purchaser of the property sold at foreclosure sales, and may bid, in lieu of cash, the full amount of principal, interest, penalty, costs and attorneys' fees.

(Code 1980, § 10-4(e))

Sec. 10-106. Limitation.

(a) No action or suit to question the findings of the city commission which determines to make any improvement or which determines the benefits to be assessed shall be maintained if commenced later than 15 days after the making of such finding.

(b) No action or suit shall be sustained to set aside any assessment, or to contest the area of assessment, or to enjoin the city commission from levying or collecting any such assessment, or installment thereof, or interest or penalty thereon, or issuing the bonds, or certificates, or providing for their payment or contesting the validity thereof on any ground or for any reason unless such action or suit shall be commenced not more than 15 days after the publication of the ordinance levying assessments. If any special assessment shall be found to be invalid or insufficient, in whole or in part, for any reason whatsoever, the city commission may, at any time in such manner provided for levying an original assessment, pro-

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ceed to cause a new assessment to be made and levied which shall have like force and effect as an original assessment.

(c) The determination by the city commission of the area to be assessed and of the amount of benefits shall be conclusive upon the owners of the property assessed and shall not be subject to review by any court.
(Code 1980, § 10-4(f))

Secs. 10-107—10-130. Reserved.

ARTICLE V. TAXATION

DIVISION 1. GENERALLY

Secs. 10-131—10-150. Reserved.

DIVISION 1.1. ADDITIONAL HOMESTEAD EXEMPTION FOR PERSONS 65 AND OLDER

Sec. 10-151. Definitions.

As used in this division, the term:

Household means a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.

Household income means the adjusted gross income, as defined in Section 62 of the United States Internal Revenue Code, of all members of a household.
(Ord. No. 2001-27, § 1, 12-18-01)

Sec. 10-152. Additional exemption.

In accordance with Section 6(f), Art. VII of the Florida Constitution, and F.S. § 196.075, the city authorizes an additional homestead exemption of $25,000.00 to any person who has attained the age of 65 and who has the legal or equitable title to real estate located within the city and maintains thereon his or her permanent residence, and whose household income does not exceed the amount established by F.S. § 196.075. The additional exemption, if granted, applies only to taxes levied by the city and its dependent special districts.
(Ord. No. 2001-27, § 1, 12-18-01)

Sec. 10-153. Exemption procedure.

Every person claiming the additional exemption pursuant to this division must file an application with the Broward County Property Appraiser by March 1 of each year for which the additional exemption is claimed. The application must include a sworn statement of household income on a form prescribed by the Florida Department of Revenue. By June 1 of each year every applicant must file supporting documentation with the Broward County Property Appraiser. The documentation must include copies of federal income tax returns for the prior year, wage and earnings statements (W-2 forms), and any other documentation required by the Broward County Property Appraiser, including documentation necessary to verify the income received by all of the members of the household for the prior year. The Broward County Property Appraiser may not grant the exemption without the required documentation.
(Ord. No. 2001-27, § 1, 12-18-01)

Sec. 10-154. Availability.

The additional exemption is only available beginning in the tax year 2002.
(Ord. No. 2001-27, § 1, 12-18-01)

Secs. 10-155—10-170. Reserved.

DIVISION 2. DOG AND HORSE RACING*

Sec. 10-171. Dog race meetings; tax levied.

There is imposed and assessed by the city upon every person engaged in holding or conducting a dog race meeting in the city a license tax of $50.00 per day for each day that dog racing is held or conducted in the city. It is the intent of this division that a separate license shall be obtained

*__Cross reference—__Animals, ch. 6.
State law reference—Authority, F.S. § 550.105(9).

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and a separate license tax imposed and assessed for each day that a dog race meeting is held or conducted in the city.
(Code 1980, § 18-20)

Sec. 10-172. Issuance of dog racing license; payment in advance.

No person shall engage in holding or conducting a dog race meeting in the city on any day until after a license for that day shall have been issued by the city clerk, who is authorized, empowered and directed to issue such a license upon receipt of the license tax. Any such person shall have the privilege of paying for in advance and receiving as many separate licenses as desired.
(Code 1980, § 18-21)

Sec. 10-173. Horse race; tax levied.

There is imposed and assessed by the city upon every person engaged in holding or conducting a horse race meeting in the city a license tax of $150.00 for each day that horse racing is held or conducted in the city.
(Code 1980, § 18-22)

Sec. 10-174. Issuance of horse racing license; payment in advance.

No person shall engage in holding or conducting a horse race meeting in the city on any day until after a license for that day shall have been issued by the city clerk, who is authorized, empowered and directed to issue such a license upon receipt of the required license tax. Any such person shall have the privilege of paying for in advance and receiving as many separate licenses as desired.
(Code 1980, § 18-23)

Secs. 10-175—10-200. Reserved.

DIVISION 3. INSURANCE PREMIUM TAX*

Sec. 10-201. Property.

(a) There is assessed, imposed and levied on every insurance company, corporation or other insurer who now engages in or carries on or which shall hereafter engage in or carry on the business of property insurance, as shown by the records of the department of insurance of the state, an excise or license tax in addition to any license tax or excise tax now levied by the city, which tax shall be in the amount of 1.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the city.

(b) The license tax or excise tax levied in this section shall be due and payable on March 1 of every year.
(Code 1980, § 18-8)

State law reference—Authority for above section, F.S. § 175.101.

Sec. 10-202. Casualty.

(a) There is assessed, imposed and levied on every insurance company, corporation or other insurer now engaging in or carrying on, or which shall hereafter engage in or carry on the business of insuring with respect to casualty risks, as shown by the records of the department of insurance of the state, an excise or license tax in addition to any license tax or excise tax now levied by the city, which tax shall be in the amount of 0.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on casualty insurance policies, covering property within the city.

(b) The license or excise tax levied in this section shall be due and payable annually on March 1 of each year.
(Code 1980, § 18-9)

State law reference—Authority for above section, F.S. § 185.08.

Secs. 10-203—10-220. Reserved.

DIVISION 4. PUBLIC SERVICE TAX†

Sec. 10-221. Levy.

(a) There is levied by the city against every purchaser or person using electricity, water service or metered or bottled gas (natural, liquefied petroleum gas or manufactured) or fuel oil within

*__State law reference—__Insurance premium tax authority, F.S. §§ 175.101, 185.08.

†__State law reference—__Authority, F.S. §§ 166.231—166.235.

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the city, a tax based upon the charge made by the seller of ten percent of the total amount charged. The fuel oil tax shall be the maximum as provided in state law.

(b) There is levied by the city, on each and every purchase within the city of telecommunications service as defined by F.S. § 203.012 which originates and terminates in this state, a tax of seven percent of the total charge for such service, excluding public telephone charges collected on-site, access charges and any customer access line charges paid to a local telephone company. Purchases of telecommunications services as defined in F.S. § 203.012(5)(b) shall be taxed only on the monthly recurring customer service charges, excluding variable usage charges. A purchase is within the city if the communication originates or terminates within the city and is billed to a purchaser, telephone, or telephone number, or telecommunication number or device within the city.

(c) Such tax shall in every case be paid by the purchaser, for the use of the city, to the seller of such electricity, water service or metered or bottled gas (natural, liquefied petroleum gas or manufactured), fuel oil and telecommunications service at the time of paying the charge to the seller, but not less often than monthly.
(Code 1980, § 30-70)

Sec. 10-222. Exemptions.

(a) Purchases by the United States government, the state, all counties, school districts and municipalities of the state, all public bodies exempted by law or court order and all purchases by any recognized church in the state for use exclusively for church purposes are exempted from the taxes imposed by this article.

(b) Any religious institution in this city which possesses a consumer certificate of exemption issued under F.S. ch. 212 is exempted from the tax imposed by section 10-221(b).
(Code 1980, § 30-71; Ord. No. 1998-11, § 1, 5-5-1998)

Sec. 10-223. Collection and payment by seller.

(a) It shall be the duty of every seller of electricity, water service, metered or bottled gas (natural, liquefied petroleum gas or manufactured), fuel oil, and telecommunications service to collect from the purchaser, for the use of the city, the tax levied in this division, at the time of collecting the selling price charged for each transaction, and to report and pay over, on or before the 20th day of each fiscal month, to the city, all such taxes levied and collected during the preceding fiscal month. It shall be unlawful for any seller to collect the price of any purchase of electricity, water service, metered or bottled gas (natural, liquefied petroleum gas or manufactured) fuel oil, and telecommunications service without, at the same time, collecting the tax levied by this division in respect to such purchases, unless such seller shall elect to assume and pay such tax without collecting the tax from the purchaser. Any seller failing to collect such taxes at the time of collecting the price of any purchase, where the seller has not elected to assume and pay such tax, shall be liable to the city for the amount of such tax in like manner as if the tax had been actually paid to the seller, and the city shall cause to be brought all suits and actions and to take all proceedings in the name of the city as may be necessary for the recovery of such tax; the seller shall not be liable for the payment of such tax upon uncollected bills. If any purchaser shall fail, neglect or refuse to pay to the seller, the seller's charge, and the tax imposed and as required by this division, on account of the purchase for which such charge is made, or either, the seller shall have and is vested with the right, power and authority to immediately discontinue further service to such purchaser until the tax and the seller's bill shall have been paid in full.

(b) For the purpose of compensating the seller of telecommunications services, the seller shall be allowed one percent of the amount of the tax collected in the form of a deduction from the amount collected.
(Code 1980, § 30-73)

Sec. 10-224. Records of purchases.

Each seller of electricity, water service, metered or bottled gas (natural, liquefied petroleum gas or manufactured), fuel oil, and telecommunications service shall keep complete records showing all purchases in the city of such commodities or service. Such records shall show the price

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charged upon each purchase, the date and the date of payment; and the records shall be kept open for inspection by the duly authorized agents of the city during business hours on all business days. Duly authorized agents of the city shall have the right, power and authority to make such transcripts during such times as they may desire. Providers of telecommunications services shall additionally be subject to audit as provided by law.
(Code 1980, § 30-74)

Sec. 10-225. Computation monthly.

In all cases where the seller of electricity, water service, metered or bottled gas (natural, liquefied petroleum gas or manufactured), fuel oil, and telecommunications service collects the price at monthly periods, the tax levied in this division may be computed on the aggregate amount of purchases during such period, provided that the amount of tax to be collected shall be the nearest whole cent to the amount computed.
(Code 1980, § 30-75)

Sec. 10-226. Use of proceeds.

All revenues received, collected and derived from the taxes levied by this division shall be deposited in the general fund; and the city commission is authorized and empowered to pledge any part or all of the revenues received, collected and derived from such utility tax for the payment of all or any part of any issue of revenue certificates or bonds that may be authorized and issued by the city and any part of the fund not so pledged may be expended for any municipal purpose.
(Code 1980, § 30-76)

Sec. 10-227. Penalties; interest.

(a) Any purchaser willfully failing or refusing to pay the tax imposed in this division where the seller has not elected to assume and pay the tax, and any seller violating the provisions of this division or any officer, agent or employee of any seller violating the provisions of this division, shall, upon conviction, be punished as provided in section 1-8.

(b) Interest will accrue on any unpaid taxes at a rate of one percent per month of the delinquent tax from the date due until paid.

(c) If the failure to pay the taxes imposed by this division, or the failure to file any required return, is the result of willful neglect, willful negligence or fraud, a penalty will also be assessed at a rate of five percent per month of the delinquent tax, not to exceed a total penalty of 25 percent. In no event, however, will the penalty for failure to file a required return be less than $15.00.

(d) In the event of a fraudulent return being filed or if there is a willful attempt to evade payment of the taxes, a specific penalty of 100 percent of the tax will be assessed.
(Code 1980, § 30-77; Ord. No. 1998-11, § 2, 5-5-1998)

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Chapter 11

FIRE PROTECTION AND PREVENTION*

Article I. In General

Sec. 11-1. Definitions as used in the Florida Fire Prevention Code.
Sec. 11-2. Control of equipment; reports.
Sec. 11-3. Illegal use of warning devices.
Sec. 11-4. Amendments to code.
Sec. 11-5. Appeals.
Sec. 11-6. Throwing hot or burning substances.
Sec. 11-7. Placing lighted objects close to combustible matter.
Sec. 11-8. Fire lane signage.
Sec. 11-9. Permit for outdoor fires.
Sec. 11-10. Violation by persons having control.
Sec. 11-11. Installation, inspection and protection of fire hydrants and fire control/protection systems.
Sec. 11-12. Backflow protection for fire sprinkler systems.
Sec. 11-13. Fire department connections.
Sec. 11-14. Fire flow calculations.
Sec. 11-15. Fire flow requirements.
Sec. 11-16. Emergency fire watch.
Sec. 11-17. Places of assembly, special outdoor events, carnivals, and fairs fire watch required.
Sec. 11-18. Marking of ocean side buildings.
Sec. 11-19. Violations.

Article II. Removal Of Hazardous Substances

Sec. 11-20. Recovery of costs.

***Editor's note—**Ord. No. 2009-01, § 1, adopted Jan. 21, 2009, amended Ch. 11, §§ 11-1—11-20, to read as herein set out. Section 2 of Ord. No. 2009-01 repealed §§ 11-21—11-28, 11-61—11-67, and 11-101. See also the Code Comparative Table.

Cross reference—Buildings, construction and condominiums, ch. 8.

State law references—Fire prevention and protection, F.S. ch. 633; interference with extinguishment of fire, F.S. § 806.10.

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ARTICLE I. IN GENERAL

Sec. 11-1. Definitions as used in the Florida Fire Prevention Code.

(a) Wherever the term "Florida Fire Prevention Code" is used in this article, it shall be held to mean the most currently adopted edition by the state fire marshal.

(b) Wherever the word "municipality" is used in the Florida Fire Prevention Code adopted in this article, it shall be held to mean this the City of Hallandale Beach.

(c) Wherever the term "corporation counsel" is used in the Florida Fire Prevention Code, it shall be held to mean the attorney for the city.

(d) Wherever the term "fire department" is used in the Florida Fire Prevention Code, it shall be held to mean the fire rescue department of the city.

(e) Wherever the term "bureau of fire prevention" is used in the Florida Fire Prevention Code, it shall be held to mean the division of fire prevention and public education of the city.

(f) Wherever the term "fire access road" is used in the Florida Fire Prevention Code, it shall be held to mean fire lane.
(Code 1980, § 11-1; Ord. No. 2009-01, § 1, 1-21-2009)

Cross reference—Definitions generally, § 1-2.

Sec. 11-2. Control of equipment; reports.

The chief of the fire rescue department shall have charge of all equipment of the fire rescue department and shall make an inventory annually and report to the city manager the amount of equipment on hand and the condition of such equipment, and shall report annually to the city manager, the needs of the department. The chief of the fire rescue department shall have authority to have repairs made upon equipment belonging to the department when they may be necessary.
(Code 1980, § 11-2; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-3. Illegal use of warning devices.

It shall be unlawful for any person to use in any manner a warning or signaling device of the sort and/or character as used by the employees of the fire rescue department within the city.
(Code 1980, § 11-3; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-4. Amendments to code.

The chief of the fire rescue department shall recommend any amendments to the code which, in his judgment, shall be desirable.
(Code 1980, § 11-4; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-5. Appeals.

Whenever the chief of the fire rescue department or fire marshal shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Florida Fire Prevention Code adopted in this article do not apply or that the true intent and meaning of the code has been misconstrued or wrongly interpreted, the applicant may appeal to the Broward County Board of Rules and Appeals. Items specific to this code may be appealed through the chief of the fire rescue department to the city manager within 30 days from the date of the disapproval or refusal.
(Code 1980, § 11-5; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-6. Throwing hot or burning substances.

It shall be unlawful for any person to throw hot or burning substances, or objects such as cigars, cigarettes, papers, matches and ashes from windows, balconies or doors on any building, or public place, or from any moving vehicle.
(Code 1980, § 11-6; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-7. Placing lighted objects close to combustible matter.

It shall be unlawful for any person to throw or place hot or burning substances or objects such as cigars, cigarettes or the contents of a burning pipe

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in, upon or in close proximity to any public or private premises, object or structure, or in any public street or place where there is any material or condition which is combustible, or liable to damage by heat, fire or explosion.
(Code 1980, § 11-7; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-8. Fire lane signage.

Signs shall be provided by the property owner following these guidelines: 24 inches (height) by 18 inches (width), white background with red letters, stating "No Parking Immediate Tow-Away Zone". These signs shall be seven feet in height from the roadway to the top of the sign.
(Code 1980, § 11-8; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-9. Permit for outdoor fires.

No person shall kindle, maintain or assist in maintaining a bonfire or other exposed fire within the city, or store or cause to be stored any highly flammable or combustible material without first obtaining a written permit from the chief of the fire rescue department.
(Code 1980, § 11-9; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-10. Violation by persons having control.

It shall be unlawful for any person, or his agent, having control of any premises or place to knowingly permit a violation of this chapter.
(Code 1980, § 11-10; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-11. Installation, inspection and protection of fire hydrants and fire control/protection systems.

(a) All new fire hydrant installations or replacements shall be fitted with an approved internal check valve device which prevents accidental backflow or intentional tampering with the public drinking water supply through the fire hydrant.

(1) All new buildings and all existing buildings being altered to increase the area, height or occupancy shall have available required number of fire hydrants as specified in Florida Fire Prevention Code NFPA-1 Annex I Fire Hydrant Locations and Distribution.

(2) All new fire hydrants shall be compression type with the bottom valve opening to be five and one-fourth inches in diameter. They shall be erected so as to have the center of the steamer connection a minimum of 18 inches above the crown of the nearest roadway or 18 inches above the surrounding ground and with the steamer opening of four and one-half inches (maximum height) in size with four National Standard Threads per inch. All fire hydrants shall be "traffic type" to breakaway upon impact. The fire hydrant main body valve shall open against the flow and shall close with the flow.

(b) Visibility and access to fire hydrants.

(1) One blue double-reflective department of transportation type road marker is to be adhered to the hard surfaces roadway in the middle of the lane nearest to, and directly in front of the newly installed or replaced fire hydrants.

(2) The city is authorized to have removed, at the violators expense, any obstruction of the fire hydrant that might impede or hinder fire rescue department or utility department operations.

(3) All pavement markings shall be of thermoplastic paint.

(c) Fire hydrant location.

(1) The maximum space between fire hydrants:

(2) Every street intersection shall have one fire hydrant on at least one corner of the intersection unless situated at four-lane or more divided traffic way where two hydrants will be required. This requirement may be waived by the fire chief or designee where deemed unnecessary or impractical for the safety of the public.

(3) In high value or high life hazard districts, the intermediate distance between hydrants shall not exceed 300 feet with

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hydrants so located that all buildings in the complex can be reached by comparatively short hose lines from more than one hydrant. In single-family residential districts, the intermediate distance between hydrants cannot exceed 500 feet.

(4) In all new commercial buildings, a hydrant shall be installed within 300 feet of any portion of the exterior of the structure.

(5) Fire hydrants shall be located within three feet of the curb line of fire lanes, streets, or private streets when installed along such access ways. Exception: This requirement may be waived by the fire chief or designee where deemed unnecessary or impractical for the safety of the public.

(6) The distance for measure shall be by centerline of traffic way as the fire apparatus would normally travel and/or driveway access on the property where additional hydrants are to be located on private property where the apparatus would normally travel.

(d) Fire hydrant protection. Permanent barrier. Fire hydrants located in parking areas shall be protected by a permanent barrier approved by the fire chief that will prevent physical damage from vehicles.
(Code 1980, § 11-11; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-12. Backflow protection for fire sprinkler systems.

(a) All backflow preventors shall be of reduced pressure type with a relief vent to the atmosphere.

(b) The use of a backflow preventor for more than one building is prohibited.

(c) All backflow preventors shall be installed above ground.

(d) All backflow preventors must be protected by a permanent barrier as approved by the fire chief.
(Code 1980, § 11-12; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-13. Fire department connections.

(a) *Definition.* A connection through which the public fire department can pump water into the automatic sprinkler, standpipes or other system furnishing water for fire extinguishment.

(b) *Location.*

(1) Fire department connections for automatic sprinkler systems, standpipes or other systems furnishing water for fire extinguishment shall be located within 15 feet of a fire hydrant.

(2) The fire department connection and the nearest fire hydrant shall be located on the same side of the roadway or fire lane.

(3) Fire department connections and the nearest hydrant shall be located within three feet of the curb line of fire lanes, streets.

Exception: This requirement may be waived by the fire chief or designee where deemed unnecessary or impractical for the safety of the public.

(c) The area in front of the fire department connection shall be designated by yellow painting, striping, or markings on the curbs and roadways. Signs shall be provided by the property owner following these guidelines: 24 inches (height) by 18 inches (width), white background with red letters, stating "Fire Department Connection No Parking Immediate Tow-Away Zone". These signs shall be seven feet in height from the roadway to the top of the sign.

(d) The city is authorized to have removed, at the violator's expense, any obstruction of the fire department connection that might impede or hinder fire department or utility department operations.

(e) All pavement markings shall be of thermoplastic paint.
(Code 1980, § 11-13; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-14. Fire flow calculations.

(a) Fire flow calculations shall be prepared by a professional engineer currently licensed in the state for each newly constructed building in excess of 5,000 square feet in size. All calculations

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must be in accordance with the Guide for Determination of Required Fire Flow, published by the Insurance Services Office (ISO), most current edition.

(b) The city has adopted within the Florida Fire Prevention Code, the National Fire Protection Association's Uniform Fire Code (NFPA 1) Annexes H, I , and J for all fire flow requirements. (Code 1980, § 11-14; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-15. Fire flow requirements.

(a) *Intent.* The intent of this section is to assure an adequate water supply for fire suppression by establishing minimum flow rates required to control and extinguish fires that may occur within prescribed occupancy classifications. The requirements of this section shall be applicable to public and private water systems, including individual properties and land development projects.

(b) *Required fire flow.*

(1) The "required fire flow" is the rate of flow needed for firefighting purposes to confine a major fire to the buildings within a block or other contiguous group. The determination of this flow depends upon the size, construction, occupancy and exposure of buildings within and surrounding the block or group of buildings, and upon the existence of automatic sprinkler protection. The determination of required fire flow in each case shall be made by the fire chief according to the criteria established by this section and by the Guide for Determination of Required Fire Flow, published by the Insurance Services Office (ISO), most current edition, which are adopted and incorporated herein by reference, copies of which shall be maintained in the office of the fire chief and the city clerk, and which shall be available for public inspection during normal business hours of the city.

Note: Buildings located in commercial, industrial or multi-unit residential districts may reduce fire flow requirements by up to 50 percent for complete automatic sprinkler protection. Automatic sprinkler installations must be in accordance with the Florida Fire Prevention Code.

(2) The minimum required fire flow in the various zoning district classifications shall be listed in accordance with Florida Fire Prevention Code, National Fire Protection Association's Uniform Fire Code (NFPA 1), Annex H. All required fire flow rates shall be in addition to the water flow rates necessary to supply the needs of normal flow demands.

(3) Supplemental flow systems. If the minimum fire flow requirements set out in this section cannot be met by the water supply utility, then the applicant for a building permit shall be responsible for installing the necessary provisions to improve the system to an acceptable level as determined by the city engineer.

(c) *Normal flow demands.* Flow demands for design shall be calculated on the basis of full ultimate development as known or projected. The average daily flow for domestic use shall be calculated pursuant to normal flow demand criteria as determined by the city engineer.

(d) *Water main sizes.* Water main sizes and system patterns shall be subject to approval of all applicable agencies pursuant to fire and normal flow demand criteria.

(e) *Distribution systems.* The supply mains shall be of adequate size and have properly arranged connections to the arterial mains which shall extend throughout the systems and have numerous connections to the secondary feeders that supply the minor distribution. All distribution systems shall be designed to reduce dead-end mains and provide a loop for new and existing mains.

Note: Dead-end mains shall not exceed 600 feet in length. This requirement may be waived by the fire chief or designee where deemed unnecessary or impractical for the safety of the public.
(Code 1980, § 11-15; Ord. No. 2009-01, § 1, 1-21-2009)

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Sec. 11-16. Emergency fire watch.

(a) When the fire rescue department finds it necessary to station fire rescue personnel at an occupied building with a disabled fire alarm and/or fire suppression system, the owner of the building shall pay the city the cost as determined by current fire rescue department policy. The fire rescue department shall station fire rescue personnel on a fire watch detail only after reasonable attempts to contact the owner and/or the owner is unable to provide their own fire watch. Fire rescue personnel will continue the fire watch until either private security services or other responsible persons as determined by the fire chief arrive on site to maintain the fire watch.
(Code 1980, § 11-16; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-17. Places of assembly, special outdoor events, carnivals, and fairs fire watch required.

Any temporary gathering or special event with 1,000 or more people may require a fire watch or as otherwise required by the fire chief. The chief of the fire rescue department, and the fire marshal, or their designees, shall determine the total amount of firefighters/fire inspectors to be assigned to said gathering/event. The number of firefighters/fire inspectors to be assigned to said gathering/event shall be based on the projected need as determined by the fire chief. Compensation for such fire watch shall be the responsibility of the promoter and the fire watch shall have no other duties to perform during the time of assembly.
(Code 1980, § 11-17; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-18. Marking of ocean side buildings.

All structures directly on the ocean side shall provide signage indicating the address of said building. This signage shall be unimpeded from view at the water's edge with numbers being no less than 12 inches in height and meet the design and placement approval of the fire rescue department.
(Code 1980, § 11-18; Ord. No. 2009-01, § 1, 1-21-2009)

Sec. 11-19. Violations.

Any violation of this Code shall be punishable as provided in section 1-8 of this Code.
(Code 1980, § 11-19; Ord. No. 2009-01, § 1, 1-21-2009)

ARTICLE II. REMOVAL OF HAZARDOUS SUBSTANCES

Sec. 11-20. Recovery of costs.

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

Costs means those necessary and reasonable costs incurred by the city in connection with investigating, mitigating, minimizing, removing or abating discharges of hazardous substances, including but not limited to the following:

(1) Actual labor costs of city personnel or its authorized agents;

(2) Cost of equipment operation and rental;

(3) Cost of expendable items, including but not limited to firefighting foam, chemical extinguishing agents, absorbent material, sand, recovery drums, acid suits, acid gloves, goggles, and protective clothing;

(4) Cost for removing contaminants from soil and/or groundwater; and

(5) Cost of disposing of hazardous substances.

Discharge means any intentional or unintentional action or omission resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of a hazardous substance upon public or private property located within the corporate limits of the city.

Hazardous substances means any substances or materials in a quantity or form which, in the determination of the fire chief or his authorized designee, poses an immediate or future risk to the life, health, safety or welfare of persons or property within the city, and shall include but is not limited to those hazardous substances listed in the "NFPA Guide on Hazardous Materials"; the

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EPA's list of extremely hazardous substances; the "Florida Substances List," promulgated by the department of labor and employment security; EPA list of toxic chemicals subject to section 313 under title III; and any biological hazards, including but not limited to medical wastes, sewage, radiological hazards and explosives.

Person means one or more individuals, partnerships, corporations, joint ventures, associations or any other entities in any combination.

(b) *Cleanup, removal or abatement.* The city manager is authorized to take such steps as necessary to clean up, remove or abate the effects of any hazardous substances discharged upon or into public or private property or facilities including contracting with private hazardous waste management companies for such cleanup, removal or abatement.

(c) *Emergency action.*

(1) Any person responsible for causing or allowing an unauthorized discharge of hazardous substances that requires emergency action by the city or its authorized agents in order to protect the public health, safety or welfare shall be jointly and severally liable to the city for the costs incurred by the city in investigating, mitigating, minimizing, removing and abating any such discharge.

(2) When responding to the emergency caused by the unauthorized discharge of hazardous substances, the city shall keep a detailed record of the costs attributable to the emergency.

(3) The authority to recover costs under this section shall not include costs incurred for actual fire suppression services which are normally or usually provided by the city's fire department or its authorized agents except where it can be determined that the fire is a direct result of a hazardous substance discharge.

(d) *Responsibility for unauthorized discharge; lien.* Any person responsible for causing or allowing an unauthorized discharge of hazardous substances shall reimburse the city for the full amount of all costs associated with the investigating, mitigating, minimizing, removing and abating any such discharge within a period of 45 days after receipt of an itemized bill for such costs from the city. Costs of abatement, cleanup or removal of hazardous substances shall constitute a lien against property of the person responsible for allowing or causing the release of hazardous substances, superior in dignity to all other liens except county tax liens and liens of equal dignity with county tax liens until paid; and the city may elect to foreclose such lien in accordance with the practice, pleading and procedure for the foreclosure of mortgages on real property.

(e) *Fines.* Any person responsible for causing or allowing an unauthorized discharge of hazardous substances and who fails to reimburse the city within the time set forth in subsection (d) of this section shall be subject to a fine equal to the greater of $100.00 per day or ten percent of the total amount of the bill for each additional day that the bill for such costs remains unpaid.

(f) *Provisions supplemental.* The remedy provided for in this section shall be supplemental to and in addition to all other available remedies at law and equity.

(Code 1980, § 11-20; Ord. No. 2009-01, § 1, 1-21-2009)

Chapter 12

ELECTIONS

Sec. 12-01. Definition of "residence."
Sec. 12-02. Manner of qualification.
Sec. 12-03. Criminal background checks of candidates.
Sec. 12-04. Qualification of candidates.
Sec. 12-05. City clerk's responsibilities.

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Sec. 12-01. Definition of "residence."

For purposes of this section and section 3.01 of the Charter, "residence" shall require all of the following:

(a) A place of abode within the city;

(b) A declaration of intent of making that place of abode the person's permanent home;

(c) Registration to vote at the address of that place of abode; and

(d) A Florida driver's license (or, if the person does not possess a driver's license, an official Florida state identification) that reflects the address of that place of abode.

The terms "resident," "resided," and "residing" shall be based upon this definition.
(Ord. No. 2006-05, § 1, 1-17-2006)

Sec. 12-02. Manner of qualification.

(a) For regular and special elections, it shall be the duty of any person desiring to become a candidate for election to the office of mayor-commissioner or commissioner to file: (1) a written notice of candidacy in the form set forth in subsection (c) below; (2) a copy of their voter registration card indicating the address of the candidate's place of abode; (3) a copy of their Florida driver's license (or, if the person does not possess a driver's license, an official Florida state identification) that reflects the address of such place of abode; (4) the qualification fee required by section 4.05 of the Charter; and (5) the additional election assessment imposed by state statutes (F.S. § 99.093).

(b) Candidates must meet the applicable residency requirements set forth in section 3.01 of the Charter and other provisions of the Charter.

(c) *Notice of candidacy.* The form of notice of candidacy shall be as follows:

I, _____, currently reside in Hallandale Beach. At all times during the prior twelve months, I have resided, and have had the intent to permanently reside, in Hallandale Beach. I am a registered voter in Hallandale Beach. My residence address is _____, Hallandale Beach, Florida, ____. I hereby announce my candidacy for the office of (Mayor-Commissioner) (Commissioner) [cross out inapplicable provision] to be voted for at the election to be held on the ____ day of ____, ____. I hereby agree to obey all the laws relating to my candidacy and to serve if elected.

/s/ _____
Signature of Candidate

Sworn to and subscribed before me this ____ day of _____, at Broward County, Florida.

/s/ _____
Notary Public, State of Florida
at Large

DATE AND HOUR OF FILING:

_____

RECEIVED BY:

/s/ _____
CITY CLERK/ELECTION
OFFICIAL
(Ord. No. 2006-05, § 1, 1-17-2006)

Sec. 12-03. Criminal background checks of candidates.

All candidates for mayor-commissioner and commissioner shall, simultaneously with or prior to the filing for such office, be fingerprinted by the police department, which will assure that a criminal history background check is undertaken. The results of the background check will be public records filed with the city clerk, available to the extent allowed by Chapter 119, Florida Public Records Law, and the rules and regulations of the Florida Department of Law Enforcement, but will not disqualify a candidate from office so long as the candidate is otherwise qualified to run for the position sought.
(Ord. No. 2006-05, § 1, 1-17-2006)

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Sec. 12-04. Qualification of candidates.

The time and manner for qualification of candidates for election to the office of mayor-commissioner and commissioner shall be as follows:

(1) *Time for qualification.*

a. *Regular election.* Candidates shall qualify to file to run for the office of mayor-commissioner or commissioner as follows:

1. *Elections held in March.* For any election held in March of a calendar year, the qualifying period for candidates to file shall begin at noon on the first regular business day in January, and shall end at noon on the seventh day following the first regular business day in January of the calendar year in which the election is to be held.

2. *Elections held in November.* For any election held in November of a calendar year, the qualifying period for candidates to file shall begin at noon on the first regular business day in September, and shall end at noon on the seventh day following the first regular business day in September of the calendar year in which the election is to be held.

b. *Special elections.* In circumstances in which a vacancy on the city commission in the office of mayor-commissioner or city commissioner is filled by special election, the qualifying period for candidates to file shall begin at noon on the first Monday after the adoption of a city commission resolution calling the special election, or if it shall be a legal holiday, on the first regular business day thereafter, and shall end at noon on the fifth regular business day thereafter.

(Ord. No. 2006-05, § 1, 1-17-2006)

Sec. 12-05. City clerk's responsibilities.

The city clerk is hereby authorized and directed to take all appropriate actions necessary to carry out the provisions of this chapter.
(Ord. No. 2006-05, § 1, 1-17-2006)

Chapter 13

HEALTH AND SANITATION*

Article I. In General

Sec. 13-1. Prohibitions against water and air pollution generally.
Sec. 13-2. Pollution from farming activities.
Sec. 13-3. Fencing of rock pits and land excavated areas.
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Article II. Cleanliness and Safety of Public and Private Premises

Division 1. Generally

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Sec. 13-32. Report to city commission; notice to remedy; public hearing.
Sec. 13-33. Authority of city to clear, clean, fill, drain when owner fails to do so; assessment of costs against property; costs to constitute lien.
Sec. 13-34. Information to be shown in notice to remedy; service of notice; when notice to be published in newspaper.
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ARTICLE I. IN GENERAL

Sec. 13-1. Prohibitions against water and air pollution generally.

It is prohibited and shall be unlawful for any person to:

(1) Throw, drain, run or otherwise discharge into any of the waters of the city, or to cause, permit, suffer or allow to be thrown, run, drained, allowed to seep or otherwise discharged into such water any organic or inorganic matter that shall cause or tend to cause water pollution.

(2) Discharge sewage, industrial wastes, cooling water, or any other wastes into the surface water, tidal saltwater, or groundwater in such quantities and of such characteristics as may cause or tend to cause the receiving of waters, after thorough mixing with the waste streams, to be of poorer quality than the water quality standards established by the county or state or which may tend to cause water pollution.

(3) Cause, let, permit, suffer or allow to be discharged into the atmosphere from any source of emission whatsoever any air contaminant, particulate matter, or sulfur dioxide, which exceeds the limits for time, total quantities and ground level concentrations as are established in the rules and regulations of the county or the state.

(4) Operate any motor vehicle, machinery, internal combustion engine or other device which discharges into the atmosphere visible emissions of air contaminants or particulate matter of such opacity as to obscure an observer's view, or which exceeds the limits for time, total quantities and ground level concentrations as are established in the rules and regulations of the county or state.

(Code 1980, § 13-6)

Sec. 13-2. Pollution from farming activities.

It shall be unlawful for any person to conduct any farming activities within the city in such a manner as to disseminate dust, obnoxious odors or cause any nuisance or menace to the health, comfort and safety of any person of the city.
(Code 1980, § 13-7)

Sec. 13-3. Fencing of rock pits and land excavated areas.

(a) Any rock pit or other land excavated area abutting a public right-of-way shall be enclosed with a fence of a height of not less than six feet nor more than eight feet. The fence shall in all respects comply with existing ordinances of the city but in any event shall be as neat as possible, nonclimbable and impenetrable.

(b) It is the specific intent of this section to enclose all rock pits or other land excavated areas entirely, prohibiting unrestrained admittance to the enclosed area.

(c) A rock pit or any land excavated area shall be defined and shall include those areas where materials are removed from the area for use at another area.
(Code 1980, § 13-8)

Sec. 13-4. Filling land to grade.

(a) Whenever it shall appear necessary or expedient for the preservation of the public health, or for other clear and cogent reasons, that any lot, plot or vacant land is lower than the grades of any streets adjoining such lot, plot or vacant land, or the established grade, is subject to overflow or to the accumulation of ponds of water, the city commission shall enact an appropriate resolution which shall set forth with particularity the following:

(1) That the city has preliminarily found and determined that the lands are low lying.

(2) That a copy of the resolution, including a hearing date, shall be published in a newspaper for two weeks in some newspaper published in the city and a copy served by certified U.S. mail on the owner of the land and a copy posted on the land.

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(b) At the time, date and place of the hearing as indicated in the resolution, the city commission shall hear and consider such evidence as may be presented relating to the issues of the elevation of such lands and the public health.

(c) After the hearing and after due consideration of the evidence, the city commission shall find that either the lands are not low lying as contemplated in this section or that such lands are low lying. In the latter event, the city commission shall order and direct the owner of the land to fill in the land to the grade established by the adjoining streets within 30 days from the hearing date.

(d) If the owners shall not within 30 days fill in the land or drain or ditch the land, it shall be lawful for the city to cause the action to be done and to charge and collect the expenses from the owners, which shall give the city a lien on such land to be enforced as provided by law.
(Code 1980, § 13-9)

Secs. 13-5—13-30. Reserved.

ARTICLE II. CLEANLINESS AND SAFETY OF PUBLIC AND PRIVATE PREMISES

DIVISION 1. GENERALLY

Sec. 13-31. Unsafe, unsanitary or dangerous property, structures and premises generally; duty of city manager to investigate.

It shall be the duty of the city manager to investigate property, structures or premises within the city, from time to time, and to make a written report to the city commission of any property, structures or premises found to be unsafe, unsanitary or dangerous to the public sanitation, health, welfare or safety from the lack of clearing, cleaning, filling, drainage or otherwise, together with his recommendations.
(Code 1980, § 13-20)

Cross reference—Minimum property maintenance and occupancy code, ch. 14.

Sec. 13-32. Report to city commission; notice to remedy; public hearing.

(a) Upon the approval by the city commission of any report of the city manager that any property, structure or premises within the city is in such a condition from the lack of clearing, cleaning, filling, drainage or otherwise, so as to be unsafe, unsanitary or dangerous to public sanitation, health, safety or welfare, the city clerk shall give written notice to the owner of each parcel of property involved. Such notice shall inform such owner that unless each property, structure or premises within the city which is in an unsafe, unsanitary and dangerous condition resulting from lack of clearing, cleaning, filling, drainage or otherwise are placed in a safe and sanitary condition, the city will take such steps as may be necessary to place such property, structure or premises in a safe, sanitary and healthful condition and assess all costs, fees and expenses of such steps against such property, structure or premises as may be placed in a safe, sanitary and healthful condition by the city.

(b) Each owner of any such property shall have the right to appear before the city commission at a public hearing called for that purpose, and show cause, if he has any, why the property involved should not be subject to the provisions of this article. The written notice provided for in this section shall also state the time and place fixed for the public hearing.
(Code 1980, § 13-21)

Sec. 13-33. Authority of city to clear, clean, fill, drain when owner fails to do so; assessment of costs against property; costs to constitute lien.

If after public hearing required in section 13-32 the city commission shall determine that the property involved shall be subject to the provisions of this article, and if such property, structure or premises is not placed in a safe, sanitary and healthful condition by the owner of such as required by the notice under the provisions of section 13-32, the city, at the direction of the city commission, shall have the right to clear, clean, fill, drain and otherwise place such property, structure or premises in a safe, sanitary and

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healthful condition; and the cost of such work shall be assessed against such property, structure or premises and shall immediately become a lien against the property, structure or premises prior to all other liens except taxes and liens of equal dignity with assessments made for other municipal improvements. Such lien may be enforced in accordance with the general laws of the state applicable to cities generally or in accordance with the provisions of the city's Charter.
(Code 1980, § 13-22)

Sec. 13-34. Information to be shown in notice to remedy; service of notice; when notice to be published in newspaper.

The notice required by section 13-32 shall direct the owner involved to commence within 30 days after date of such notice and thereafter complete with due diligence such clearing, cleaning, filling, drainage or other work, or to show cause why such property is not subject to the provisions of sections 13-32—13-35 at a public hearing before the city commission to be held at the time and place stated in the notice. Such notice shall be mailed by registered mail to the address of each such owner, if the address is known to or by reasonable diligence can be obtained by the city clerk; if the address is unknown or cannot be obtained by reasonable diligence or if such notice is returned unclaimed, a copy of such notice, directed to the owner, shall be published in a newspaper of general circulation in the city once each week for two consecutive weeks (two publications being sufficient), directing the owner to commence within 30 days after the last publication of such notice and thereafter complete with due diligence such clearing, cleaning, filling, drainage and other work.
(Code 1980, § 13-23)

Sec. 13-35. When costs due and payable; discount; collection.

The sum assessed under the provisions of section 13-34 shall become due and payable on November 1 next succeeding the completion of such work; shall be entitled to discounts in the same manner and to the same extent as city taxes; shall become delinquent on April 1 next succeeding the due date; shall thereafter be subject to penalties and interest to which city taxes are subject; and the collection may be enforced in the same manner as liens for other municipal improvements may be enforced.
(Code 1980, § 13-24)

Sec. 13-36. Accumulation or storage of junk.

(a) It shall be unlawful for any person to cause or permit junk, scrap metal, scrap lumber, wastepaper products, discarded building materials, any unused abandoned vehicle, or abandoned vehicle parts, machinery or machinery parts, or other waste materials to be in or upon any yard, garden, lawn, outbuilding or premises in the city. Any business enterprise must obtain a special license or permit to store or stock any such items of this nature, the license or permit to show the items to be stored.

(b) It shall be unlawful to permit any accumulation of any such waste materials to be in or upon any yard, lawn, garden, outbuilding or premises in the city if the accumulation constitutes a fire hazard, a hazard to the safety of persons or property, or an unsanitary condition.

(c) It shall be unlawful for any person to discard or abandon any of the waste materials mentioned in subsection (a) of this section upon premises not owned or occupied by such person with or without the consent of the owner or the person occupying the premises.
(Code 1980, § 13-25)

Sec. 13-37. Duty of owner of real property to maintain property; notice; abatement by city; assessment of costs.

(a) The owner, lessee or person in charge or control of any real property within the city shall keep such property free from any accumulation of trash, weeds, filth, noxious plants, rubbish and debris.

(b) The owner, lessee or person in charge or control of any real property, vacant or improved, within the city shall cut down and remove all weeds, grass and undergrowth on such property

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when weeds, grass and undergrowth exceed a height of 18 inches on vacant property or a height of six inches on improved, occupied property.

(c) Upon notification that a condition exists that is in violation of subsection (a) or (b) of this section, the city shall notify the owner, lessee or person in charge or control of the property that a violation exists and must be corrected within ten days. Failure to comply with the ten-day notice shall constitute a violation of this section and may be punished as provided by law.

(d) (1) The notice required by subsection (c) of this section shall be accomplished by mailing or otherwise delivering a notice of violation to the owner, lessee or person in charge or control of the property at that person's last known address. The notice shall state the date by which compliance with the terms of this section is required, and the name and telephone number of the director serving the notice.

(2) If no owner, lessee or person in charge or control of the property can be located, the required notice may be given by conspicuously posting the subject property with a notice setting out the date of posting, the date of required compliance, and the name and telephone number of the director who caused such notice to be posted.

(e) If the owner, lessee or person in charge or control shall fail to comply with the notice required in subsection (c) of this section, the city may cause such cutting and/or removal to be done and charge the cost of doing the work against the property involved. The charges shall be calculated on a square footage basis, and either city staff or the contractor may accomplish the work in accordance with the following procedure:

(1) The director shall contact the city staff and identify the property to be cut to determine whether or not the city can do the job. If the city cannot accomplish the task, the vendor/contractor will be contacted and notified of the property to be cut and/or cleaned and cut.

(2) Upon completion of the task, the city staff or the vendor shall submit a bill, based on square footage of the property, for services performed to the appropriate director.

(3) The director, upon receipt of the bill or statement, shall make a personal inspection of the property to determine if the work had been performed.

(4) The director shall then forward the bill or statement to the finance department for payment.

(5) If the vendor is used, the finance department will pay the vendor's bill and will prepare and send an invoice to the property owner. The invoice prepared by the finance department shall be based on the amount of the vendor's bill, plus a $125.00 administrative charge added to cover the city's overhead expenses. If city forces are used, the invoice prepared by the finance department shall be based on a charge equal to the rate charged by the private vendor for comparable work on a comparable lot, plus a $125.00 administrative charge added to cover the city's overhead expenses.

(6) Charges for cutting and/or removal, plus the administrative charges, shall be a lien upon such real property and whenever a bill for such charges remains unpaid by the owner, lessee or person in charge or control of the property for 60 days after it has been rendered, the finance director shall file with the clerk of the circuit court for the county a claim of lien statement. An interest rate of ten percent per annum, compounded annually, will be imposed upon all unpaid charges from the date of the recording of the lien. This claim of lien statement shall contain a legal description of the premises, the expenses and costs incurred, the date of such expenses, and a notice that the city claims a lien for this amount. A copy of the claim shall be mailed to the owner of the property if his address is available.

(7) If the lien for unpaid charges incurred pursuant to this section is not paid in full,

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the lien may be foreclosed by the city in the same manner as provided by law for the foreclosure of mortgages upon real estate. The city shall in such case be entitled to recover a reasonable attorney's fee.

(Code 1980, § 13-26)

Sec. 13-38. Rapid removal and destruction of abandoned property.

F.S. § 705.101, which pertains to abandoned property, and which provides a procedure for removal and destruction of such property, is adopted by reference as a part of this Code.

(Code 1980, § 13-27)

Sec. 13-39. Uncovered storage of tires.

It shall be unlawful to store automobile tires within the city, outside of a building, unless they are in a covered enclosure, shielded from rainwater and kept in a sanitary and orderly manner.

(Code 1980, § 13-29)

Sec. 13-40. Abandoned vehicles on public ways or grounds.

It shall be unlawful for any person to place or permit to be placed any abandoned, wrecked or dismantled motor vehicle or parts upon any of the public streets, highways, parks, parkways, alleys or public grounds of the city.

(Code 1980, § 13-30)

Cross references—Streets, sidewalks and other public ways, ch. 25; traffic and motor vehicles, and boats, ch. 28.

Sec. 13-41. Parking or storage of wrecked or junked motor vehicles.

(a) Except in connection with such permitted uses as service stations, automobile repair shops and towing service storage facilities, it shall be unlawful to park or store any wrecked or junked motor vehicle, motor vehicle without wheels and tires mounted, or motor vehicle not in a movable condition, unless such vehicle is within a completely enclosed building.

(b) In any prosecution or action under this section, the parking or storage of a motor vehicle without a currently valid license tag registered and affixed to the vehicle shall be prima facie evidence that the vehicle is not in a movable condition.

(Code 1980, § 13-31)

Cross reference—Traffic and motor vehicles, and boats, ch. 28.

Sec. 13-42. Abandoned or derelict vessels and floats in public waters.

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

Float means anything that stays or causes something else to stay on the surface of the water, including rafts, floats, davits, docks and buoyant combinations.

Owner means the record owner of a vessel, float, dock or adjacent property, and any person in possession or control, or entitled to possession or control, of the property in violation.

Public waters means rivers, streams, lakes, navigable waters and associated tributaries, canals, and any bodies of water that are accessible to the public or surrounding property owners.

Vessel means any boat, watercraft, pleasure craft or device employed in the water.

(b) *Abandonment of vessels prohibited.*

(1) It is unlawful for any person to place, dump or abandon or cause to be placed, dumped or abandoned in the public waters of the city any vessel or float, or portion in a wrecked, derelict, junked or substantially dismantled condition without the consent of the governmental entity having jurisdiction.

(2) It is unlawful for any person to store or leave any vessel or float of any kind in a wrecked, derelict, junked, substantially dismantled or submerged condition, or abandoned upon or in any public waterway within the jurisdiction of the city.

(3) It is unlawful for any person to moor, place, leave or tie up in any waterway within the city any vessel, float or water-

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craft of any kind which is found to be of unsightly appearance or in badly deteriorated condition, or which is likely to cause damage to private or public property, or which may be a menace to navigation, or which poses a threat to the environment; except that such boat, vessel or watercraft may moor at licensed marine facilities for the purpose of repair.

(c) *Enforcement.*

(1) If any vessel or float shall be found in violation of this section, the owner of the vessel or float and the owner of the adjacent property shall, upon notice, cause the immediate removal of the vessel or float for the purposes of repair or disposal.

(2) It shall be a defense to this section for any owner of adjacent property to show that the vessel or float came to be on or adjacent to his property without his consent or without his knowledge.

(3) If any vessel or float shall be declared in violation of this section, the city shall have the immediate right to have the vessel removed and impounded or destroyed. All costs for towing and storage will be assessed to the owner.

(4) If the vessel or float is of unsightly appearance, badly deteriorated, whether afloat or sunken, and poses no hazard to navigation, and is no threat to the environment, the city through its agents shall notify the owner or authorized person in writing and shall also post a notice, if practicable, upon the vessel or float and give the owner or authorized person a 15-day period to correct the violation. If the violation is not corrected within 30 days, the city shall have the right to have the vessel removed and impounded.

(5) If any vessel or float is towed or impounded due to violation of this section and if after 90 days, is unclaimed, it will be sold with the proceeds paying for charges incurred and the remainder shall be held for a period of 90 days to be claimed by the rightful owner and thereafter forfeited to the city if not claimed. Failure to act on the part of the owner waives all liability on the part of the city from any damage resulting from towing and storage.

(6) Storage fees may be assessed by the city if the storage facility is a city garage or docking facility, or if active storage fees are incurred.

(7) All costs incurred by the city shall be a lien on the property as provided in section 10-65.

(d) *Other means of abatement.*

(1) The city, upon determining that a vessel has been abandoned in the public waters and that such vessel is not a derelict vessel, may remove such vessel pursuant to the procedures set forth in F.S. ch. 705, "Lost or Abandoned Property." As set forth in F.S. § 705.103, the rightful owner of such vessel shall be liable for the costs of removal of the abandoned vessel.

(2) In addition, the city may invoke any remedy provided by state statute or rule, county ordinance, or by general law. This section shall be in addition to and supplemental to such other laws and regulations.

(e) *Jurisdiction.* This section may be enforced by the code enforcement board of the city, by civil citation, or in any court having jurisdiction.
(Code 1980, § 13-32)

Cross reference—Traffic and motor vehicles, and boats, ch. 28.

Secs. 13-43—13-60. Reserved.

DIVISION 2. UNSIGHTLY, UNSANITARY CONDITIONS

Sec. 13-61. Definitions.

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

Litter means all garbage, rubbish, garden trash and all waste materials, including but not limited

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to bottles, glass, cans, scrap metal, junk, paper, disposable packages or containers and all other similar materials, and further including any substance of any kind or nature whatsoever that creates a public health, safety or fire hazard or a public nuisance.

Public way means any street, road, alley, boardwalk, lane, trail, water, or other public way where the public has the right to travel or which is open to the use of the public, and any public park, square, beach, park and any recreational facilities operated by the city, state, county or federal government or special governmental districts.
(Code 1980, § 13-33)

Cross reference—Definitions generally, § 1-2.

Sec. 13-62. Acts prohibited.

A person commits the violation of offensive littering if he creates an objectionable stench or degrades the beauty and appearance of property or detracts from the natural cleanliness or safety of property by:

(1) Discharging or depositing, or causing to be discarded or deposited, any litter upon the property of another or upon public property or upon any public way except in the manner permitted by law.

(2) Permitting any litter to be so discarded or deposited from any boat or vehicle of which he is the registered owner or operator; however, this subsection shall not apply to a person owning or operating a vehicle transporting passengers for hire subject to regulation by any governmental entity, or any public school bus transporting children to and from the public schools.

(Code 1980, § 13-34)

State law reference—Florida Litter Law, F.S. § 403.413 et seq.

Sec. 13-63. Litter receptacles; required placement and emptying.

(a) The proprietors of all privately owned establishments which serve the public, including but not limited to drive-in restaurants, retail shopping centers, grocery stores, convenience stores, gasoline service stations, commercial parking lots, campgrounds, trailer parks and all other such establishments shall be required to place litter receptacles of a size and nature suitable to the city and bearing in large print the label "TRASH."

(b) The nature of such receptacles, their size, composition, number and place of location shall be determined by the city, based on the size, location and circumstances of the establishment and the need for such litter receptacles caused by the nature and type of business and customers of such establishments.

(c) Proprietors shall be responsible for the removal of litter from such litter receptacles when necessary.

(d) Proprietors shall, within 30 days of notification by the city of the required information with reference to such litter receptacles, comply with the terms of this section.
(Code 1980, § 13-35)

Sec. 13-64. Presumption of continued possession or ownership.

Any litter discarded or deposited in violation of this division which can be established to have been in the possession or ownership of any person shall be presumed to have been discarded or deposited by such person. This presumption may be rebutted by competent evidence or testimony establishing that such item of litter had left the ownership or possession of such person prior to being deposited or discarded in violation of this division. Convictions obtained under this section shall not be eligible for the reward provisions, if any, of this division.
(Code 1980, § 13-36)

Sec. 13-65. Maintenance of private premises; adjacent rights-of-way.

(a) The owner, lessee or person in charge or control of any private property shall at all times maintain the premises and any adjacent unpaved public right-of-way or any paved right-of-way that is not part of the main-traveled roadway and sidewalks free of litter.

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(b) The owner, lessee or person in charge or control of any private establishment shall have the responsibility of conducting an inspection of the premises each business day to determine that the premises are being maintained as required by this section.

(c) The presence of litter on the premises of any private establishment, and any adjacent unpaved public right-of-way or any paved right-of-way that is not part of the main-traveled roadway and sidewalks, on any business day, shall subject the person in charge or control of that private establishment to the issuance of a notice of violation of this section for which the owner, lessee or person in charge or control of the premises shall be held responsible. If after three notices of violation have been issued concerning the required inspection or maintenance within any one calendar month, any subsequent violation of this provision shall result in immediate prosecution in county court without any further required notice of violation.
(Code 1980, § 13-36.1)

Sec. 13-66. Penalty.

Any person violating the provisions of this division shall be punished as prescribed in section 1-8.

ARTICLE III. SHOPPING CARTS

Sec. 13-67. Purpose.

It is the primary purpose of this article to provide for the prompt retrieval of lost, stolen or abandoned shopping carts in order to promote public health, safety and welfare and improve the image and appearance of the city. It is the purpose of this article to have the owners and operators of businesses providing shopping carts to use the means available to them to deter, prevent or mitigate the removal of shopping carts from their business premises. It is further purpose of this article to prevent the illegal removal of shopping carts from the business premises.
(Ord. No. 2006-09, § 1, 4-3-2006)

Sec. 13-68. Declaration of public nuisance.

Shopping carts that have been removed from the premises of businesses and left abandoned on public or private property throughout the city constitute a public nuisance and a potential hazard to the health, safety and welfare of the public. They create conditions of blight in the community, obstruct free access to sidewalks, streets and other public rights-of-way, interfere with pedestrian and vehicular traffic, impede emergency services, and create impediments to the flow of water in drainage systems and other waterways when abandoned within drainage culverts and easements. It is for these reasons such lost, stolen, or abandoned shopping carts are hereby declared to be a public nuisance which shall be subject to abatement in the manner set forth in this article, or as provided by law.
(Ord. No. 2006-09, § 1, 4-3-2006)

Sec. 13-69. Definition.

For the purposes of this article, the term "shopping cart" as defined in F.S. § 506.502, means a basket mounted on wheels or a similar device which is generally used in a retail establishment by a customer for the purpose of transportation of goods of any kind.
(Ord. No. 2006-09, § 1, 4-3-2006)

Sec. 13-70. Retrieval plan.

Each retail establishment furnishing shopping carts to patrons to transport items purchased from the establishment, is hereby required to develop and implement a specific plan to retrieve its shopping carts that are found throughout the city. Two or more retail establishments may collaborate and submit to the city a single plan. Plans must be submitted to the city within 60 days of the effective date of this article, and must include an effective and specific method of retrieving the retail establishment's shopping carts found throughout the city.
(Ord. No. 2006-09, § 1, 4-3-2006)

Sec. 13-71. Abandoned cart prevention plan.

The city shall determine whether a retail establishment's plan for retrieving its shopping carts submitted pursuant to this article is reason-

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ably calculated to result in the prompt removal of the retail establishment's shopping carts found throughout the city on property other than that of the retail establishment furnishing the shopping carts to patrons. The shopping cart retrieval plan shall identify the number of employees who will be assigned such cart retrieval duties, the number of total hours per week that each assigned employee will perform such retrievals, and extent of training each of such personnel has received or will receive concerning the retrieval of lost, stolen or abandoned shopping carts. The shopping cart retrieval plan shall include a copy of each contract with a cart retrieval service or indicate that the cart retrieval will be performed in-house. The shopping cart retrieval plan shall identify the streets and bus stops which will be patrolled as required by this article as well as the manner, frequency, and times of such patrols.

Based on the above referenced criteria, the city shall approve, reject or modify a plan, within 30 days of when the plan is submitted. If the plan is approved, the proposed measures shall be implemented no later than 30 days after approval. If the plan is rejected, the retail establishment shall modify the plan and re-submit it to the city no later than 30 days after the date of its rejection.

Following the approval of a plan, a retail establishment may file a written request with the city manager to amend its plan. The proposed amended plan is subject to the same criteria and review process as an original plan.

If a retail establishment's original or amended plan is approved by the city and subsequently, the city manager determines that the retail establishment's plan for retrieving its shopping carts found throughout the city is ineffective, the city manager shall notify the establishment in writing and a new or modified plan to correct any deficiencies identified by the city shall be submitted within 30 days. The city manager shall provide the retail establishment with written notice of such, along with the city manager's recommendation.
(Ord. No. 2006-09, § 1, 4-3-2006)

Sec. 13-72. Signage.

(a) *Signs on carts required.* Every shopping cart made available for use by customers shall have a sign permanently affixed to include identification of the owner of the shopping cart or the name of the business establishment, or both and the current telephone number to report abandoned carts.

(b) *Notice to customers.* Written notice shall be provided to customers as described herein that removal of shopping carts from the premises is prohibited.

(c) *Employee training.* The owner of the retail establishment shall implement and maintain a periodic training program for new and existing employees designed to educate such employees of the requirements of the abandoned cart prevention plan and the provisions of state and city law prohibiting the unauthorized removal of shopping carts from the premises of the retail establishment.

(d) *[Compliance.]* Within 60 days of the effective date of this article, each retail establishment that utilizes shopping carts in the operation of its business shall affix on each shopping cart, and maintain thereon, information identifying the name, address and telephone number of the retail establishment.
(Ord. No. 2006-09, § 1, 4-3-2006)

Sec. 13-73. Shopping carts to be maintained on-site.

The following are required measures to contain shopping carts on-site. The owner of the retail establishment may install specific physical measures on the carts or implement other measures to prevent cart removal from business premises. These measures may include, but are not limited to:

(1) Installing disabling devices on all carts;

(2) Posting store personnel to deter and stop customers who attempt to remove carts from business premises;

(3) Installing bollards and chains around business entrances/exists to prevent cart removal;

(4) Requiring security deposits for use of all carts;

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(5) Providing carts for rental or sale that can be temporarily or permanently used for the purpose of transporting purchases; or

(6) Providing personnel for the purposes of the retrieval of lost, stolen or abandoned shopping carts. Such personnel may be either employees of the business or one or more independent contractors hired by the owner to provide shopping cart retrieval services, or combination of both.

(7) The city manager shall have the authority to require businesses of 35,000 square feet or more to install systems or devices to contain shopping carts on-site.

(Ord. No. 2006-09, § 1, 4-3-2006)

Sec. 13-74. Penalty for failure to submit, modify or implement plan.

Any retail establishment that fails to timely submit a plan, implement a plan approved by the city, resubmit a rejected plan or make required modifications to a plan shall constitute a violation of this article, and subject to the penalties in F.S. § 162.22.

(Ord. No. 2006-09, § 1, 4-3-2006)

Sec. 13-75. Posting of signs.

Within 60 days of the effective date of this article, each retail sales establishment that utilizes shopping carts in the operation of its business shall post a minimum of two signs not less than one and one half feet by three feet in a conspicuous location on the inside of the retail sales establishment building and not visible from any public street. Such signs shall state the following:

"NOTICE—It is a violation of F.S. § 506.513 to remove a shopping cart, without written authorization, from its owner or from the premises or parking area on any retail establishment."

(Ord. No. 2006-09, § 1, 4-3-2006)

Sec. 13-76. Penalties for violation.

Any violation of this article by persons other than the owner of the shopping cart, shall be prosecuted pursuant to F.S. § 162.22. Each conviction for violation of this article shall be punished by a fine not to exceed $500.00 or by imprisonment in the jail not to exceed 60 days or by both such fine and imprisonment. A shopping cart owner, as provided by law, shall be subject to the costs incurred by the city in retrieving its shopping carts, as established yearly in the city's fee booklet.

(Ord. No. 2006-09, § 1, 4-3-2006)

Sec. 13-77. Shopping cart theft.

It shall be unlawful to do any of the following acts, if a shopping cart has a permanently affixed sign as provided in this article:

(1) To remove a shopping cart from the parking area of a retail establishment with the intent to deprive the owner of the shopping cart the use of the cart; or

(2) To be in possession of any shopping cart that has been removed from the parking area of a retail establishment with the intent to deprive the owner of the shopping cart the use of the cart.

This section shall apply only when a shopping cart:

a. Has a sign permanently affixed to it that identifies the owner of the cart or the retailer, or both;

b. Notifies the public of the procedure to be utilized for authorized removal of the cart from the premises;

c. Notifies the public that the unauthorized removal of the cart from the premises or parking area of the retail establishment, or the unauthorized possession of the cart, is unlawful; and

d. Lists a telephone number or address for returning carts removed from the premises or parking area to the owner or retailer.

Any person who violates any provision of this section is guilty of a misdemeanor.

(Ord. No. 2006-09, § 1, 4-3-2006)

Chapter 14

MINIMUM PROPERTY MAINTENANCE AND OCCUPANCY CODE*

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*__Cross references—__Code enforcement and nuisance abatement, ch. 9; unsafe, unsanitary or dangerous property, structures and premises generally, § 13-31; property and purchasing, ch. 23; land improvement on public property, § 25-31 et seq.

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ARTICLE I. IN GENERAL

Sec. 14-1. Title.

The title of this chapter shall be "The Minimum Property Maintenance and Occupancy Code for the City of Hallandale Beach, Florida."
(Code 1980, § 14-1)

Sec. 14-2. Definitions.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. In construing the provisions of this chapter, where the context will permit and no definition is provided in this section, the definitions provided in chapter 4 of the South Florida Building Code shall apply.

Abandoned building or structure means a building or structure which is not maintained or used to such an extent as to evidence a voluntary relinquishment of the possession of the building or structure by the owner, with the intention of relinquishing ownership and with no expectation or intention of recovering the building or structure.

Accessory structure means a structure the use of which is incidental to that of the main building and which is attached to or located on the same premises as the main building.

Alteration means any change, addition or modification in construction or occupancy.

Approval means approved by the head of the enforcement agency or his authorized representative. (See also "Other standards.")

Basement means that portion of a building having less than half of its clear floor-to-ceiling height below the average finished grade of the grade of the ground adjoining the building and its ceiling not more than six feet above the grade.

Blighting influence means any physical condition of property which due to poor maintenance directly or indirectly causes a reduction in the value of surrounding properties.

Brush means any accumulation of the following, but not limited to, grass clippings, hedge and tree trimmings, palm fronds, leaf rakings, and other such debris resulting from the maintenance of lawns and yards.

Building means a combination of materials to form a construction adapted to permanent or continuous occupancy for use for public, institutional, residential, business, industrial or storage purposes.

Building code means the Florida Building Code with Broward County Administrative Provisions, as amended from time to time.

Cellar means that portion of a building having half or more than half of its clear floor-to-ceiling height below the average finished grade of the ground adjoining the building.

Cooking facilities means any equipment, machinery or appliances used in the preparation of food.

Deterioration means the condition or appearance of a building, or parts of a building, characterized by holes, breaks, rotting, crumbling, cracking, peeling, rusting or other evidence of physical decay, neglect or lack of maintenance.

Dilapidated means in a condition of structural disrepair or deterioration to the extent requiring rehabilitation, reconstruction or demolition.

Disrepair means in a deteriorated or dilapidated state.

Dwelling means any building or mobile home which is wholly or partly used or intended to be used for living, sleeping, cooking and eating; however, temporary housing shall not be regarded as a dwelling.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities used or intended to be used for living, sleeping, cooking and eating.

Electrical means all work, materials and/or system of electrical wiring for use of light, heat or power, and all connected appurtenances, apparatus or equipment, inside of or attached to any building or structure, lot or premises.

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Enforcing agency means the city.

Enforcing officer means any employee of the enforcing agency charged with the responsibility of making inspections of buildings and premises and issuing violation notices when necessary. The term shall be synonymous with inspecting officer.

Extermination means the control of insects, rodents, vermin and/or other pests by destroying their harborage places; by removing or making inaccessible those materials that may serve as their food; by poisoning, spraying, fumigating and trapping; or by any other recognized and legal means.

Fire hazard means anything or any act which violates the prevailing fire codes of the city.

Garbage/rubbish means the animal and/or vegetable waste resulting from the handling, preparation, cooking and/or consumption of food, and wastepaper, plastic or related materials used in the packaging and preparation of foods. All combustible and noncombustible waste materials, including but not limited to nonoperating toys, bicycles, mechanical equipment and machines or parts thereof. The term shall include residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, metal cans, metal, mineral matter, glass and crockery.

Good state of repair means that a building or structure is safe and habitable for its ordinary and intended use, and that the materials used in any structure or fixture are sound and stable and performing the function for which intended.

Good working condition means that the item is fully operable and functional for the use for which it is intended.

Habitable area means two or more habitable rooms.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets and storage spaces.

Head of enforcement agency means the minimum housing enforcement officer designated by the city manager.

Hotel means any dwelling or commercial building, or any part of any dwelling or commercial building, containing one or more hotel units in which space is let by the owner or operator on a predominantly temporary basis to three or more persons who are not husband or wife, son or daughter, mother or father, sister or brother of the owner or operator. Motels and buildings offering dormitory-type sleeping accommodations shall be included in this category.

Hotel unit means any room or group of hotel rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking and eating purposes. Motel units and dormitory-type sleeping accommodations shall be included in this category.

Infestation means the presence of any insects, rodents, vermin or other pests.

Inspecting officer is synonymous with the term "*Enforcing officer.*"

Maintenance means the upkeep of a structure, property or building in a safe condition and equipment in working order.

Mobile home means a manufactured, detached, transportable, single-family dwelling unit, designed for longterm occupancy and arriving at the site where it is to be occupied as a complete dwelling unit, containing all conveniences and facilities, with plumbing and electrical connection provided for attachment to approved utility systems. To retain mobility, undercarriage and axles must remain attached to the unit.

Multiple dwelling means any structure containing two or more dwelling units.

Nuisance means everything that endangers life or health, or obstructs reasonable use of any property or any condition prohibited by general, special or local laws.

Occupant means any person having possession of a dwelling, dwelling unit, hotel unit, or rooming unit or a commercial structure.

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Operator means any person who has charge, care or control of a building or structure.

Other standards, reference to, means any reference in this chapter to the term "approved," "adequate," "adequately," "properly installed," "properly connected" or "properly constructed" shall have reference to those standards set out in the South Florida Building Code, the rules of the state division of health, and any other enactment of law applicable to the structure or particular portion or system of the structure under inspection by the enforcing agency.

Owner means any person who individually or jointly holds the legal equitable or beneficial title to any building or structure subject to the provisions of this chapter. The term shall include the owner's duly authorized agent, a purchaser, devicee, fiduciary, property holder, operator or any other person having a vested or contingent interest, or, in the case of leased premises, the legal holder of the lease, or his legal representative. It is intended that this term shall be construed to include any person responsible for the construction, maintenance and operation of a building, facilities or premises involved.

Part of building, etc. Whenever the terms "dwelling," "dwelling unit," "hotel," "hotel unit," "roominghouse," "rooming unit" and "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

Plumbing includes all the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closet, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machine, catchbasins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines, and water pipes and lines utilized in connection with air conditioning equipment.

Premises means any occupied or unoccupied building, accessory structure, lot or parcel of land.

Repair means the replacement or renewal of existing work with the same kind of material, or similar, not including additions or new work, for the purpose of maintenance of such building, structure, device or equipment.

Replace means to put something new or in working condition in place of worn, deteriorated or broken material, devices or equipment and to restore it to its former condition.

Rooming unit means any room or group of rooms, forming a single habitable unit, used or intended to be used for living and sleeping but not for cooking or eating purposes.

Roominghouse means any dwelling containing one or more rooming units in which space is let by the owner or operator on a permanent basis to three or more persons who are not husband or wife, son or daughter, mother or father, sister or brother of the owner or operator. For the purpose of this chapter, boardinghouses are included in this category.

Rubbish means all combustible and noncombustible waste materials, except garbage. The term shall include residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass and crockery.

Structurally sound means free of imperfections which affect the intended use of the structure so as not to endanger the health, safety and welfare of the occupants or neighbors.

Structure means anything constructed, installed or portable, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on a parcel of land or which is attached to something having a permanent location on a parcel of land. The term "structure" also includes all buildings, dwellings, fences or walls, swimming pools, and advertising signs.

Supplied means paid for, furnished, or provided by or under control of the owner or operator.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not permanently attached to the ground, to another

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structure, or to any utilities system on the same premises for more than the time period as approved by the city manager.

Vacant means any structure, building or premises which is not used or occupied.

Watertight means of such tight construction or fit as to be impermeable to water except when under sufficient pressure to produce structural discontinuity.

Weathertight means the same as "*Watertight*."

(b) The definitions specified in subsection (a) of this section do not supersede or change the definitions in any other chapters of the city ordinances. These definitions are only for the clarification and enforcement of this chapter but may be applied in enforcing this Code in the event of ambiguity or absence of definition.
(Code 1980, § 14-2; Ord. No. 2001-3, § 1, 3-20-2001)

Cross reference—Definitions generally, § 1-2.

Sec. 14-3. Legislative intent.

(a) The intent and purpose of this chapter is to protect the public health, safety, morals and welfare of the city by:

(1) Establishing minimum standards governing the condition, occupancy and maintenance of vacant and occupied residential and nonresidential buildings, structures and premises;

(2) Establishing minimum standards governing utilities, facilities and other physical components and conditions essential to make such buildings, structures and premises safe, sanitary and fit for human habitation;

(3) Fixing certain responsibilities and duties of owners, operators, agents and occupants of such buildings, structures and premises;

(4) Authorizing and establishing procedures for the inspection of vacant and occupied residential and nonresidential buildings, structures and premises and the condemnation and vacation of those residential and nonresidential buildings, structures and premises unfit for human habitation or occupancy; and

(5) Prohibiting human habitation in vacant buildings and structures found unsafe and ordered secured.

(b) The standards, provisions and requirements contained in this chapter are deemed to further the goals, objectives and policies contained in the city's comprehensive plan. It is the intent of the city to remove those conditions which contribute to being a nuisance; adversely affect the health, safety and welfare of both the residents and business community of the city; depress and reduce property values; and contribute to the decline and deterioration of neighborhoods and business districts.

(c) It is also the intent of the city that the maximum possible number of safe, adequate and affordable housing units and nonresidential structures in the city are kept available by encouraging and requiring that vacant units be reconditioned and made fit for occupancy rather than permitting them to be abandoned or neglected, thereby removing them from the housing market and commercial real estate market.

(d) It is also the intent of this chapter to establish minimum standards which shall govern upkeep, maintenance, rehabilitation, repair or improvement of all buildings and structures within the city limits. Standards shall regulate, govern and be binding on the owner/occupant to ensure that minimum maintenance of both structures and premises shall be met. Such maintenance standards shall apply to the exterior and interior of all structures.

(e) This chapter is declared to be remedial and essential to the public interest, and it is intended that this chapter be liberally construed to effectuate the purposes as stated in this section.
(Code 1980, § 14-3)

Sec. 14-4. Construction and applicability.

The provisions of this chapter shall be applicable solely within the territorial limits of the city. Every portion of a building or premises, whether vacant or occupied, except temporary housing in

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times of local emergency, disaster or necessity, shall comply with the provisions of this chapter, irrespective of when such building shall have been constructed, altered or repaired and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises, for the construction or repair of the building, or for the installation or repair of equipment or facilities, prior to the effective date of this chapter. This chapter is intended and shall be construed as establishing minimum standards for the initial and continued occupancy of all buildings and structures, as establishing minimum standards for the maintenance and appearance of all structures, whether occupied or vacant, and as establishing minimum interior and exterior standards for the maintenance of all residential and nonresidential structures in the city. It is not intended to replace, modify, supersede or diminish the standards established for the construction, repair, alteration or use of buildings, equipment or facilities by the building code. In any case where any provision of this chapter as to building construction or repair is found to be in conflict with a material and controlling provision of the building code, such code shall prevail. In all other respects, in any conflict with other ordinances or regulations, the highest standard shall prevail. All municipal departments, officials and employees who have the duty, responsibility or authority to issue permits or licenses in regard to the use and occupancy of buildings and structures, dwellings, dwelling units, roominghouses or rooming units, or similar facilities shall conform to the provisions of this chapter, as a minimum standard.
(Code 1980, § 14-4)

Sec. 14-5. General standards.

General requirements for all residential and nonresidential properties shall be as set out in sections 14-6—14-11.
(Code 1980, § 14-5)

Sec. 14-6. Structural specifications.

No person shall occupy, or let to another for occupancy, any residential or nonresidential property which does not comply with the following requirements:

(1) Foundations, floors, walls, ceilings, roofs, windows, doors and all other building parts shall be structurally sound, weatherproof, watertight and rodentproof, and shall be kept in a good state of repair. Roof surfaces shall be watertight. Where water is permitted to stand on a roof for cooling purposes, the roof must be designed for that purpose and proper precautionary measures taken to prevent breeding of mosquitoes and other similar insects.

(2) Gutters and downspouts, where in existence, shall be kept clear of debris and be maintained in a good state of repair and working condition.

(3) Every inside and outside stairway, porch, balcony, hallway, corridor and every appurtenance to such places shall be maintained in a safe condition and be capable of supporting the loads set forth in the building code and regulations of the city which were in effect at the time of certificate of occupancy. Protecting guardrails and safeguards shall be required on any unenclosed structure over two feet from the ground level and on every interior or exterior stair or stairwell of four or more risers and shall be located in accordance with requirements of the building code which was in effect at the time of certificate of occupancy. Where steps are located adjacent to a doorway, they shall be at least the width of the doorway.

(4) Every chimney and smoke pipe, and all their flue and vent attachments, shall be maintained in such condition that there will be no leakage or backing up of smoke and noxious gases into the structure.

(5) Every plumbing fixture, water pipe, waste pipe, drain and gas pipe shall be maintained in good, sanitary working condition, free of leaks and obstructions.

(6) All electrical wiring and accessories shall be maintained in good, safe working condition and be adequately insulated and protected. No wiring, outlets or connections shall be left exposed so as to create a hazardous condition.

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(7) Every accessory structure shall be kept in a clean and sanitary condition, free from rodents, vermin and infestations. Fences, garden walls, sheds and similar enclosures shall be maintained in a good state of repair.

(8) Meter rooms shall be clear of any debris and shall not be used for storage. If the meter room is locked and no on-site manager is available, a sign shall be posted indicating where the key to the meter room is kept.

(9) All elevators shall be maintained in a safe condition as required by F.S. ch. 399.

(10) The floor surface of every water closet compartment, bathroom and shower room shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(Code 1980, § 14-5.1)

Sec. 14-7. Basic equipment and facilities.

No person shall occupy, or let to another for occupancy, any residential or nonresidential property which does not comply with the following requirements:

(1) Every structure unit shall contain a room which affords privacy to a person within that room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to an approved water system and sewer system.

(2) All structures shall have a fuse or circuit breaker panel board readily accessible to the occupants of the structure.

(3) Every supplied facility, piece of equipment or utility required in this chapter shall be maintained in a safe and satisfactory working condition. No owner or occupant shall cause any service, facility, equipment or utility required in this chapter to be removed from or discontinued for any occupied structure except for such temporary interruption as may be necessary while actual repairs, replacement or alterations are in process.

(4) All structures shall have permanently affixed address numbers on the front of the structure which shall be clearly visible from the street. Where a street and/or alley is located in the front and rear of a structure, address numbers shall be affixed on both the front and rear of the structure. Additional numbers may be affixed on a mailbox.

(5) All structures shall be equipped with either a mailbox affixed to the front of the structure, a mailbox mounted on a post in the front yard, a mail slot installed in the front door or cluster mailboxes. All mailboxes shall be maintained in good repair, free from damage.

(Code 1980, § 14-5.2)

Sec. 14-8. Light and ventilation.

No person shall occupy, or let to another for occupancy, any residential or nonresidential property which does not comply with the following:

(1) Every opening beneath a structure, including basement or cellar windows and crawl space, shall be equipped with an approved type of screening or lattice work to keep out animals.

(2) Every hall and stairway located in a structure used for occupancy shall be provided with not less than one footcandle of natural light throughout or with properly installed electric lighting facilities which provide not less than one footcandle of illumination throughout and which are controlled by the occupants of the structure and available at all times.

(3) Every window and exterior door shall be weathertight, maintained without cracks and holes and in a good state of repair.

(Code 1980, § 14-5.3)

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Sec. 14-9. Space, use and location requirements.

No person shall occupy, or let to another for occupancy, any residential or nonresidential property in which a cellar or basement space is used as a habitable room or dwelling unit.
(Code 1980, § 14-5.4)

Sec. 14-10. Garbage, rubbish and/or waste.

(a) The occupants of every structure shall be responsible for keeping the premises free from the accumulation of garbage, rubbish and/or waste at all times.

(b) Every occupant of any building or structure shall dispose of garbage, rubbish and/or other waste materials in an approved sanitary manner. Garbage shall be placed in the garbage disposal facilities or storage containers as required by all applicable city codes.

(c) No owner, occupant or operator of a structure, hotel, hotel unit, roominghouse or roominghouse unit shall deposit, or cause to be deposited, any garbage, rubbish and/or waste on adjacent properties.
(Code 1980, § 14-5.5)

Cross reference—Health and sanitation, ch. 13.

Sec. 14-11. Maintenance and appearance standards.

Any property failing to meet the following maintenance and appearance standards shall be considered deficient:

(1) The owner and operator of all properties governed by the code shall maintain the exterior of the premises in such a manner as to conform with all city codes and ordinances; avoid blighting influences on neighboring properties; and avoid the creation of hazards to public health, safety and welfare. Such maintenance and appearance will be judged by the following standards:

a. All concrete block (CBS) masonry structures shall have no surface exposed and must be of a finished material, including brick, stone, tile, painted or tinted stucco, wood, plastic or painted metal siding. Such finishes must be applied to completely conceal the coursework of any CBS structure and unify the design or architectural treatment. All portions of a building or structure shall be of the same treatment material. All existing buildings and structures shall comply with this subsection within six months from adoption of the ordinance from which this subsection is derived.

b. The exterior surfaces of all premises and every structure on the premises, including all parts of the structure and appurtenances, shall be maintained in good condition and shall not show evidence of deterioration, weathering, discoloration, ripping, tearing, or other holes or breaks. All screened enclosures shall be properly fitted and maintained. All other surfaces shall be maintained free of broken glass, crumbling stone, brick or stucco, or other conditions reflective of deterioration or inadequate maintenance.

c. All exterior surfaces requiring painting or which are otherwise protected from the elements shall be kept painted or protected. Painted surfaces shall be maintained free of graffiti and void of any evidence of deterioration. Patchwork painting shall be prohibited.

d. All off-street parking spaces shall be paved with asphalt or constructed of concrete or block and shall be of smooth surface and in good repair in compliance with city codes.

e. The roofs of all structures shall be kept in a clean and presentable condition, free of mold and mildew. All roofs shall have a finished appearance, and there shall not be a mix of roofing materials on any one surface. There shall not be an accumu-

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lation of debris, other unnecessary materials or vegetation of any type permitted on roofs.

f. All swimming pools, either in the ground or above the ground, shall be properly maintained. Pool equipment shall be kept in a workable fashion such that the pool shall not become stagnant and create a health hazard or an area for breeding of insects or vermin.

g. The exterior premises shall be maintained so as to prevent the accumulation of stagnant water on the premises.

h. Exterior premises shall be kept free from the excessive growth of weeds, grass and other foliage. The provisions of this subsection shall also apply to vacant lots and to the premises of business establishments.

i. Animals and pets shall not be kept in any structure or on any premises in such a manner as to create unsanitary conditions or constitute a nuisance.

(2) Except as otherwise provided, live vegetative material shall provide complete coverage of the entire yard area free of dead and dying trees and limbs. Play areas, gardens, flower beds, driveways, walks and the like, not intended to have vegetative cover, should be clearly defined and maintained free of uncultivated growth. Yards not using vegetative cover must use a material that meets all city codes, and such material must be maintained free of uncultivated growth.

(3) The exterior of buildings and structures shall be kept free of all nuisances and any hazards to the safety of occupants, customers, pedestrians and other persons utilizing the premises, and free of unsanitary conditions; and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include but are not limited to the following:

a. Loose and overhanging objects which by reason of location above ground level constitute a danger of falling on persons;

b. Holes, excavations, breaks, projections, obstructions, and excretions of pets and other animals on paths, walks, driveways, parking lots and parking areas, and other parts of the premises which are accessible to or used by persons on the premises;

c. Inadequate runoff drains for stormwaters; and

d. Exterior porches, landings, balconies, stairs and fire escapes which are not provided with banisters or railings properly designed and maintained to minimize the hazard of falling.

(4) Any awning or marquee and its accompanying structural members shall be maintained in a good state of repair. If such awnings or marquees are made of cloth, plastic or of a similar material, such cloth or plastic shall not show evidence of weathering, discoloration, ripping, tearing or other holes. Nothing in this subsection shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.

(Code 1980, § 14-5.6; Ord. No. 2001-3, § 1, 3-20-2001)

Sec. 14-12. Standards for securing buildings and time limits.

(a) The boarding of the doors, windows or other openings of any building or structure or any means of securing such opening, shall comply with the following minimum standards:

(1) Securing windows and other openings. Windows and similar openings shall be boarded with exterior grade plywood of a minimum thickness of one-half-inch nominal or its equivalent. Vent holes may be

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required, as deemed necessary for safety. The plywood shall be secured in place by using anchors that will resist vandalism, damage by weather, and not give purchase for pliers and pry bars. All anchoring systems including but not limited to thru bolts and cross members, wood screws, expansion anchors, powder actuated fasteners, and masonry anchors, shall be acceptable to the city manager.

(2) Hurricane protection systems utilized at all openings shall comply with all the requirements of the 2001 Florida Building Code.

(3) Painting of boarded openings. All openings boarded for over 30 days shall be painted with a minimum of one coat of exterior paint and shall be painted the same color as the building.

(b) The owner of a building shall promptly repair any broken door, window or other opening by securing the necessary building permits so that a temporary boarded up condition is limited. Any such repair must be completed within 30 days from the time the boards are installed. When a unit or building is protected by a hurricane protection system in anticipation of a hurricane, the panels must be removed within 14 days after the lifting of a hurricane warning or hurricane watch for the county if the building is occupied. If the unit or building is not occupied, hurricane panels may remain installed longer than 14 days, if:

(1) The property owner provides the property manager or president of their condominium association with their contact information so they may be contacted while absent from the city;

(2) If there is no property manager or president, the property owner must notify the department of development services in the city; and

(3) The city manager shall at all times have the authority to require removal of the hurricane panels.

a. The city manager shall at all times have the authority to authorize panels to remain installed for a period of time exceeding 14 days.

(c) Buildings which have been boarded-up as a result of an order issued by other regulatory agencies having jurisdiction in the city including but not limited to the Nuisance Abatement Board, Unsafe Structures Board, Special Magistrate, Police Department, or emergency action initiated by the city manager, shall remain boarded in accordance with the specific terms of the order.
(Ord. No. 2003-04, § 1, 1-21-03; Ord. No. 2005-5, § 2, 4-19-2005)

Secs. 14-13—14-40. Reserved.

ARTICLE II. STANDARDS

Sec. 14-41. Basic equipment and facilities.

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

(1) Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower and water closet, all in good working condition, and installed in accordance with the building code and this Code. The sink, lavatory, tub or shower shall be supplied with adequate hot and cold water.

(2) Every dwelling unit shall contain a room which affords privacy to a person within that room and which is equipped with a bathtub or shower in good working condition and properly connected to an approved water system and sewer system.

(3) Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of this section shall be properly connected with both hot and cold water lines.

(4) Every dwelling shall have water heating facilities which are properly installed, maintained in safe and good working condition, and properly connected with hot water lines required under the provisions of subsections (1)—(3) of this section. Such water heating facilities shall be capable of supplying on demand to all the required

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fixtures a supply of hot water. The hot water heater provided shall have at least a 20-gallon capacity and shall comply with the standards of the National Fire Prevention Association and be installed in accordance with chapter 46 of the South Florida Building Code, Broward County Edition.

(5) Every occupied dwelling shall be provided with an installed permanent cooking facility which shall not be capable of being carried easily by one person, and shall have a minimum of two burners, an oven and an installed refrigerator. Vacant dwelling units shall be provided with utility connections for such facilities.

(6) Every dwelling unit shall contain cabinets and shelves for the storage of dishes, cooking utensils and food.

(7) Every dwelling unit shall contain storage space for clothes and linen.

(8) Hotels, motels, roominghouses or boardinghouses shall not permit cooking appliances of any sort within their units except in approved kitchens or kitchenettes.

(Code 1980, § 14-6)

Sec. 14-42. Light and ventilation.

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

(1) Every habitable room, excluding kitchens and eating areas, shall have at least one window or skylight facing directly to the outdoors to provide an external lighting source. The minimum total window area which provides light to each habitable room shall not be less than ten percent of the floor area of such room. Whenever exterior walls or other light-obstructing structures are located less than three feet from the window and extend above the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included in the required minimum total window area. Whenever the only window in a room is a skylight-type window located in the top of such room, the minimum total window area of such skylight shall not be less than 15 percent of the total floor area of the room. Windows or skylights shall not be obstructed by paint or objects causing permanent restrictions of light or ventilation; nor shall any window or skylight be nailed shut or permitted to be maintained in a condition which renders it inoperable unless designed and intended to be in a fixed, permanent position.

(2) Every habitable room shall be ventilated by openable areas equal to 50 percent of the required minimum window area, as set forth in subsection (1) of this section, or by equivalent mechanical ventilation as approved by the inspecting officer.

(3) Every bathroom, shower room and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in subsections (1) and (2) of this section; except that no window or skylight shall be required in adequately ventilated bathrooms, shower rooms and water closet compartments equipped with an approved mechanical ventilating system.

(4) Every door, window or other device opening to outdoor space and used or intended to be used for ventilation shall be provided with an approved type of screen for protection against mosquitoes, flies and other insects.

(5) Every habitable room of such a dwelling shall contain at least two separate floor or wall-type electrical convenience outlets, one of which is operated by a switch, or one such convenience outlet and one light fixture on a switch. Every bathroom, shower room, water closet compartment and laundry room shall contain at least one properly installed ceiling or wall-type electric light fixture. The switches shall be so located and installed as to avoid the danger of electrical shock.

(Code 1980, § 14-6.1)

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Sec. 14-43. Space, use and location requirements.

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

(1) Every dwelling unit shall contain a minimum gross floor area of at least 150 square feet for the first occupant, 100 square feet for each of the next two occupants, and at least 75 square feet for each occupant thereafter. Floor space shall be calculated on the basis of total habitable room area.

(2) At least half the floor area of every habitable room shall have a ceiling height of at least seven feet. Any portion of a room having a ceiling height of less than five feet shall not be considered in computing the total floor area of such room.

(3) No dwelling or dwelling unit containing two 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 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.

(4) At least one flush water closet, lavatory basin and bathtub or shower, properly connected to an approved water system and sewer system and in good working condition, shall be supplied for each six persons or fraction residing within a hotel or roominghouse, including members of the operator's family whenever they share the use of such facilities. In a hotel or roominghouse where rooms are let only to males, flush urinals may be substituted for not more than half of the required number of water closets. All water closets, urinals, bathtubs or showers shall be located within rooms which afford privacy to the user and are not more than one story removed from the hotel or rooming unit of any occupant intended to share the facilities. All such facilities shall be so located within the hotel or roominghouse as to be accessible to the occupants of each hotel or rooming unit sharing such facilities without going outside of the building or without going through a dwelling, hotel or rooming unit of another occupant. Every lavatory basin, bathtub or shower shall be supplied with hot and cold water at all times.

(5) The operator of every hotel or roominghouse shall change supplied bed linen and towels at least once each day or prior to the letting of any room to any occupant. The operator shall be responsible for the sanitary maintenance of all walls, floors, ceilings and other parts; and he shall be further responsible for the sanitary maintenance of the entire premises where all of the building is under the control of such operator.

(6) Every window of every hotel or rooming unit shall be supplied with shades, draw drapes, or other devices or materials which, when properly used, will afford privacy to the occupant of the hotel or rooming unit. No cooking shall be permitted in hotel and rooming units which are not equipped with approved kitchen facilities and do not meet minimum dwelling unit standards.

(7) If one or more persons occupy one or more hotel or rooming units located on any floor above the ground floor of any hotel or roominghouse, there shall be at least two safe and unobstructed exits from such floor leading to a safe open space at ground level. Each exit shall be easily accessible from every hotel or rooming unit on the specified floor without passing through any other hotel, rooming unit or dwelling unit. All exit stairways shall have at least one grip rail not less than 42 inches above the stairway treads. Stairways open on both sides shall have such a grip rail on each side. The construction of such egress

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and stairways shall be in conformance with the building code and any applicable fire regulations or ordinances.

(8) The operator of every hotel or roominghouse shall be responsible for the extermination of any insects, rodents, vermin or other pests in such place and shall be further responsible for such extermination on the entire premises where all of the building within which the hotel or roominghouse is contained is leased or rented by the operator. Whenever infestation is caused by failure of the owner to maintain the building in a reasonably insectproof and/or rodentproof condition, extermination shall be the responsibility of the owner.

(9) No owner shall let for occupancy any rooming unit or hotel unit that is not provided with adequate heating facilities of an approved type properly installed and maintained in a safe and good working condition as provided in the building code and any applicable fire regulations or ordinance. Adequate heating facilities are defined as follows:

a. Permanent heating equipment properly connected to a flue or vent, or if electric, properly installed and permanently connected to an adequately wired and sized branch circuit, installed and maintained in accordance with the provisions of the building code and other applicable regulatory agencies.

b. Accessory heating units deemed to be supplementary to the permanent heating equipment shall not be considered when calculating the adequacy of the permanently installed heating equipment.

c. Only those accessory heating units which are acceptable under the ordinances of the city, the state division of hotels and restaurants regulations, and other regularly adopted regulations will be used.

d. The use of unsafe heaters or cooking stoves and the use of cooking stoves, including ovens, for heating purposes is prohibited.

e. The requirements of this subsection shall not apply to units or hotel units in existence on March 17, 1969, provided that either a gas pipe outlet or an electrical outlet and circuit are present for the use of gas space heaters or portable electrical space heaters.

(10) No person shall operate a hotel or roominghouse unless he has complied with all applicable licensing and permit requirements.

(11) Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant. Every room occupied for sleeping purposes shall have a minimum width of eight feet and an average floor-to-ceiling height of 7½ feet.

(Code 1980, § 14-6.2)

Sec. 14-44. Responsibilities of owners and/or operators.

(a) The owner shall not occupy, permit another to occupy, or let to another for occupancy a dwelling, dwelling unit, or hotel or rooming unit that is not clean, sanitary, safe and fit for human habitation.

(b) The owner and operator of a dwelling or dwelling unit shall, jointly and severally:

(1) Maintain in a clean and sanitary condition the shared or public areas of a dwelling containing more than one dwelling unit and premises. Shared or public areas shall include yards, courts, driveways, parking areas, lawns and shrubbery.

(2) Be responsible for the extermination of any rodents, vermin and other pests in all public or shared areas, and when infesta-

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tion of other areas is caused by his failure to carry out the provisions of this chapter.

(Code 1980, § 14-6.3)

Sec. 14-45. Responsibilities of occupant.

Every occupant of a dwelling or dwelling unit shall be responsible for the following:

(1) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises which he occupies and controls, including yards, lawns, courts and driveways. The provisions of this subsection shall also apply to vacant lots and to premises of business establishments located adjacent to dwellings and dwelling units.

(2) Every occupant of a dwelling unit shall keep all plumbing fixtures, sanitary facilities, appliances and equipment in a clean and sanitary condition and shall exercise care in their proper use and operation.

(3) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, vermin, or other pests in or on the premises. Every occupant of a dwelling unit in a building containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested; except that whenever such infestation is caused by the failure of the owner to carry out the provisions of this chapter, extermination shall be the responsibility of the owner. In every dwelling containing one or more units, the owner shall exterminate all infestations of any insects, rodents, vermin or other pests in or on the premises except where such pests are the responsibility of the occupant as provided in the preceding sentence.

(4) Should an owner fail to complete and submit its annual certification by September 30, a penalty of $200.00 shall be assessed to the owner. Should an owner fail to complete and submit its annual certification within 60 days of a second and final written advisement from the city, a penalty of an additional $500.00 shall be assessed to the owner. The owner shall be fined a penalty of $500.00 every 60 days until such time as there is compliance.

(5) Should an owner fail to maintain the stormwater management facility, the city shall advise of this failure in writing and state what actions must be taken to correct the matter. Should the owner not comply with the written advisement within 60 days, a penalty of $500.00 shall be assessed to the owner. The owner shall be fined a penalty of $500.00 every 60 days until such time as there is compliance.

(Code 1980, § 14-6.4)

Sec. 14-46. Stormwater management.

(a) *Definitions.*

Stormwater management facility means a storm drainage system that controls stormwater runoff for major developments, defined as ten units or more for residential developments or 4,000 square feet or more for nonresidential developments.

Owner means the developer of a stormwater management facility or the person, individual, company or association that owns the facility after development completion.

Maintenance means performance of those tasks required to keep stormwater management system operational and effective, as described in the certification of drainage maintenance and as confirmed by the public works director.

(b) *Maintenance of private stormwater management facilities.*

(1) Private property owners shall ensure that all stormwater management facilities are maintained in proper working condition.

(2) The owner of a stormwater management facility shall submit to the city annually a certification of drainage maintenance, in accordance with Administrative Policy 2026.013 Stormwater Management Facilities Maintenance.

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(3) The certification of drainage maintenance shall be signed and submitted to the city by September 1 of each year.

(c) *Enforcement.* Should an owner fail to complete and submit the annual certification and/or fail to maintain the stormwater management facilities, enforcement of this section shall be pursuant to and in accordance with the code enforcement procedures with the city as set forth in chapter 9 of this Code (as amended), as set forth below.

(1) An owner shall receive a notice of violation giving a time frame for correcting the violation.

(2) If compliance is not achieved within the timeframe stated in the notice of violation, a hearing shall be held in front of the special magistrate.

(3) If the special magistrate finds the owner in violation of the code, the special magistrate may assess a fine and order remedial action to be taken as well as assess costs as provided in chapter 9.

a. For an initial violation of failing to submit a certification within the timeframe specified in the notice of violation, a penalty of $200.00 may be assessed. After a second and final written notice from the city, a penalty of an additional $500.00 may be assessed to the owner. After the second notice, the owner may be fined a penalty of $500.00 every 60 days until such time as the owner submits the proper certification.

b. Should an owner fail to maintain the stormwater management facility, a time for compliance of 60 days shall be given in the notice of violation. If compliance is not achieved within the specified timeframe, a penalty of $500.00 may be assessed to the owner. Thereafter, the owner may be fined a penalty of $500.00 every 60 days until such time as there is compliance.

(4) In addition to the provisions of subparagraph 14-46(c)(3), the city may or may cause to have storm drains of the stormwater management facility cleaned and charge the owner for the cost of said cleaning.

(5) The city may institute a civil action in a court of competent jurisdiction to seek injunctive or other appropriate relief to enforce compliance with or prohibit the violation of this section.

(Ord. No. 2006-14, § 1, 9-6-2006; Ord. No. 2008-27, § 1, 10-15-2008)

Secs. 14-47—14-80. Reserved.

ARTICLE III. ADMINISTRATION AND ENFORCEMENT*

Sec. 14-81. Repairs and installations.

Repairs and installation of replacement items shall be made so as to comply at a minimum with the provisions of the building code and other regulations which were in effect at the time of certificate of occupancy. All work shall proceed with reasonable progress and be done in a workmanlike manner and with proper permits if required.
(Code 1980, § 14-7)

Sec. 14-82. Enforcement officer.

A minimum property maintenance enforcement officer shall be appointed by the city manager. Such officer shall be chosen on the basis of his qualifications and experience in the field of public health, housing and building regulations in accordance with the building code.
(Code 1980, § 14-8)

Cross reference—Administration, ch. 2.

Sec. 14-83. Inspections.

(a) The enforcement officer is authorized to inspect all structures within the city. When the enforcement officer is required to enter onto pri-

*__Cross reference—__Administration, ch. 2.

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vate premises to make an inspection, he shall do so with the consent of the owner, operator, lessee or occupant.

(b) Inspections of all buildings or structures shall be made during reasonable hours. If the enforcement officer has probable cause to believe an immediate threat exists to the health, welfare or safety of persons in or about any building or structure, he may direct that an inspection be made at any time.

(c) The enforcing officer may request permission to enter and inspect any building or structure at any reasonable time. If permission is refused, the enforcing officer may make a visual inspection of the exterior of such premises and obtain any other relevant information from any other reliable source. If in the opinion of the enforcing officer there exists probable cause to believe that the minimum standards of this chapter are not being met, the officer may apply for a search warrant from the court having jurisdiction. If granted, such warrant shall be served by a police officer of the city, who shall be accompanied by the enforcing officer.
(Code 1980, § 14-9)

Sec. 14-84. Enforcement notices and orders; hearings.

(a) The provisions of this chapter shall be enforced under the police powers of the city; and all legal proceedings for violations shall be instituted in courts of appropriate jurisdiction; however, the code enforcement board shall have supplemental jurisdiction to enforce any of the provisions of this chapter in conformity with the provisions of F.S. ch. 162.

(b) Whenever the enforcing officer determines that there is a violation of any provision of this chapter, notice of such violation shall be served upon the owner, operator or occupant in charge or in control of the property, as set forth. Such notice shall:

(1) Be in writing.

(2) Be dated and signed by the enforcing officer.

(3) Specify the violations.

(4) Contain an outline of the corrective action which, if properly performed, will effect compliance with the provisions of this chapter.

(5) State that if a building permit is necessary to correct the violations, it must be obtained within a reasonable period, in light of the nature of the violation, as determined by the head of the enforcing agency or the period set by the code enforcement board for compliance.

(6) State that the work to remove the violation must be completed within a reasonable number of days, as determined by the head of the enforcing agency.

(7) State that final compliance must conform to the requirements of the building code.

(8) Be served upon the owner, operator or occupant in charge or in control of the property in accordance with F.S. § 162.12.

(9) Inform the person on whom notice is served of his rights to apply within 20 days for hearing to appeal the decision of the enforcing officer.

(c) The board shall be the code enforcement board.

(d) Any person affected by a violation notice issued under subsection (b) of this section in connection with the enforcement of any provision of this chapter may request and shall be granted a hearing on the matter before the code enforcement board, providing a petition for such hearing is submitted within 20 days from the date of the violation notice and is in accordance with the requirements of this chapter. Upon receipt of such petition, the enforcing agency shall immediately notify the board and a time and place for the hearing established and the petitioner given written notice of the hearing.

(1) The hearing shall be held not later than 30 days after the date upon which petition was filed and shall be open to the public.

(2) Upon application, the board may postpone the date of the hearing for a reason-

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able time beyond the 30-day period if in its judgment a good and sufficient reason for such postponement exists.

(3) At such hearing, the petitioner shall be given an opportunity to be heard and to show why the violation notice should be modified or withdrawn.

(4) After completion of the hearing, the board shall sustain, modify or withdraw the violation notice based upon the findings as to whether the provisions of this chapter have been complied with. If the board sustains or modifies the violation notice, it shall be deemed to be an order.

(5) The board, for due cause or where a hardship exists, may modify the time of performance for the requirements set forth by this chapter; but this shall not relieve the owner of the responsibility for compliance with the provisions of this chapter.

(6) The proceedings of such hearing, including the findings and decision of the board, shall be summarized in writing and entered in the public records of the board. Such records shall include a copy of every notice issued in connection with the matter.

(7) Any person aggrieved by the decision of the board may seek relief in any court of competent jurisdiction as provided by the laws of the state within 30 days after the rendition of such decision.

(e) Whenever the enforcing officer finds that an emergency exists due to an unsanitary condition, or other cause which requires immediate action to protect public health, safety or welfare, he may, upon approval of the head of the enforcing agency, without notice or hearing, issue an order stating the existence of such emergency and requiring that such action as he deems necessary be taken to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately.

(1) Any person to whom such emergency order is directed shall comply with the order within the time period contained in the order but upon petition to the enforcing agency shall be afforded a hearing as soon as possible. Upon such hearing, the order may be confirmed, modified or revoked.

(2) Whenever an emergency order is not complied with, the enforcing agency shall take such direct and immediate action as is necessary to abate the hazard or danger. The enforcing officer shall not take such direct and immediate action without first conferring with the city manager and the city attorney. Expenses incurred in the execution of such orders shall be recovered as provided in section 202.5 of the building code, which provides that costs incurred in the performance of such emergency work shall be paid by the appropriate governmental authority and upon the recording in the public records of this county a certificate executed by the enforcing officer, certifying the amount so expended and why expended, the costs shall become a lien against the property involved.

(Code 1980, § 14-10)

Sec. 14-85. Designation of unsafe structures.

All structures deemed as unsafe structures by the building official shall be processed in accordance with the Florida Building Code.
(Code 1980, § 14-11)

Sec. 14-86. Action to be taken upon refusal, failure or neglect to remove a violation.

(a) Upon the refusal, failure or neglect of the persons served with an order issued by the code enforcement board to remove a violation of a dwelling, dwelling unit, hotel, hotel unit, roominghouse, rooming unit, building or structure, the board's order shall be filed as a lien against the property. If the enforcing officer determines the continuing violation presents an unsafe or unsanitary condition or danger to the public health or safety, the property shall be cited under section 202 of the building code. The property owner will be brought before the unsafe structures board in accordance with such section 202.

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(b) If the enforcing officer determines the property requires more immediate action, the enforcing officer may take such emergency action as deemed necessary as prescribed by section 202.5 of the building code. The enforcing officer shall not take such emergency action without first conferring with the city manager and the city attorney. Costs incurred in the performance of such emergency action shall be paid by the appropriate government authority; and upon the recording in the public records of this county, a certificate executed by the enforcing officer, certifying the amount so expended and why expended, shall become a lien against the property involved. The city shall, in such case, be entitled to recover all attorney's fees.

(c) The building code is incorporated by reference as an alternative procedure for demolition of unsafe or unsanitary structures.
(Code 1980, § 14-12)

Sec. 14-87. Code enforcement board to enforce.

The code enforcement board, pursuant to its authority under this Code, shall have jurisdiction to hear and decide cases in which violations of this chapter are alleged; however, cases concerning unsafe buildings and structures shall be heard and decided by the unsafe structures board.
(Code 1980, § 14-13)

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Chapters 15, 16

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Chapter 17

MOBILE HOMES AND MOBILE HOME PARKS*

Sec. 17-1. Definitions.
Sec. 17-2. Mobile homes required to be in mobile home parks.
Sec. 17-3. Wheels and tires.
Sec. 17-4. Blocking, securing and anchoring required.
Sec. 17-5. Blocking.
Sec. 17-6. Anchoring.
Sec. 17-7. Porches attached to mobile home; distances between mobile homes; materials.
Sec. 17-8. Concrete slab patios.
Sec. 17-9. Awnings attached to mobile home; materials; removal during hurricane alert.
Sec. 17-10. Park plan.
Sec. 17-11. Proper zoning for parks.
Sec. 17-12. Health permit for operation of parks.
Sec. 17-13. Freedom from heavy vegetation; drainage of land.
Sec. 17-14. Water supply to lots.
Sec. 17-15. Garbage and sewage disposal.
Sec. 17-16. Compliance with construction codes and sanitary rules and regulations.
Sec. 17-17. Minimum unit size; corner markers; freedom from rocks and weeds.
Sec. 17-18. Unit drainage; height of mobile home floor.
Sec. 17-19. Distance between mobile home and building.
Sec. 17-20. Setbacks.
Sec. 17-21. Roadways or driveways; marking of exits and entrances.
Sec. 17-22. Enforcing use of entrances and exits.
Sec. 17-23. Park management; manager required.
Sec. 17-24. Office.
Sec. 17-25. Manufactured homes.

***Cross references—**Buildings, construction and condominiums, ch. 8; flood damage prevention, § 8-71 et seq.; streets, sidewalks and other public ways, ch. 25; zoning and land development code, ch. 30; mobile homes, residential development, § 32-411 et seq.

State law reference—On-site inspections to ensure compliance with codes, etc., F.S. § 320.8285.

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Sec. 17-1. Definitions.

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

Cabana (mobile home cabana) or *screened porch* means an area enclosed on three sides by temporary construction with a fourth side being a part of the mobile home and such enclosed area becoming a part of the living quarters of the mobile home to which it is attached.

Mobile home means, generally, any mobile home, travel trailer or motor home used or capable of being used as sleeping or living quarters mounted on wheels and propelled either by its own power or by other power-driven vehicle to which it may be attached; or alternately defined, for purposes of the blocking and anchoring requirements, as any vehicular portable structure built on a chassis and designed to be used and capable of being used without a permanent foundation as a dwelling when connected to utilities.

Mobile home park or *park* means a plot of land properly planned and subdivided particularly for the use and accommodation of mobile homes, where spaces are provided for three or more mobile homes used as living or sleeping quarters, parking spaces being maintained for rent or without rent by any person.

Travel trailer, for purposes of blocking and anchoring requirements, means a vehicular portable structure built on a chassis equipped for the road and used as a temporary dwelling during travel, recreation or vacation.

Unit, lot or site means a section of ground in any mobile home park, and being not less than 25 feet by 35 feet in dimension or an equivalent area, designated as the location for only one mobile home, but not to accommodate more than one family.
(Code 1980, § 17-1)

Cross reference—Definitions generally, § 1-2.

Sec. 17-2. Mobile homes required to be in mobile home parks.

No mobile home shall be parked or placed in the city except in a regularly licensed mobile home park; however, such vehicles may be parked in a duly licensed garage for repairs, in a warehouse or garage for storage, or in or on a sales room or sales lot for mobile homes and/or motor vehicles, and when so parked for repairs, storage or for sale shall not be occupied for any purpose.
(Code 1980, § 17-2)

Sec. 17-3. Wheels and tires.

The wheels of a mobile home may be removed, and/or ground may be removed from under the wheels to permit lowering of a mobile home. Mobile homes shall at no time be permitted to be mounted upon permanent foundations.
(Code 1980, § 17-3)

Sec. 17-4. Blocking, securing and anchoring required.

(a) Mobile homes shall be blocked properly, secured and anchored against the force of hurricane winds, in accordance with the provisions of sections 17-5 and 17-6.

(b) Such sections do not apply to boat trailers or luggage trailers and travel trailers that are not permanent year-to-year residences. A building permit is not required for blocking and anchoring for these vehicles.
(Code 1980, § 17-4)

State law reference—Uniform installation standards, F.S. § 320.8325.

Sec. 17-5. Blocking.

In order that a safe mounting for a mobile home may be provided, the minimum requirements for blocking shall be in accordance with the provisions of this section. This does not apply to mobile homes previously blocked.

(1) Where the supporting ground is capable of carrying 2,500 pounds per square foot or more in bearing (the 2,500 number is undisturbed sand and gravel), base foundations for masonry piers shall be not less than 16 inches square, nor less than eight inches deep, and shall be of solid masonry (two 8 × 8 × 16 blocks), not open core block.

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(2) Where the supporting ground carries less than 2,500 pounds per square foot in bearing, the enforcing official shall require a larger proportionate base surface for the piers.

(3) Pier foundations shall be installed under the mobile home a maximum of ten feet on centers on each side of the mobile home frame.

(4) If celled masonry blocks (8 × 8 × 16) are used for piers, blocks must be placed parallel to the main frame members with open cores placed vertically, on the 16-inch by 16-inch base.

(5) If cast-in-place concrete piers are used for foundations, minimum steel in the base of the pier shall be two number 3 bars in each direction and the minimum depth of the base shall be eight inches.

(6) Hardwood shims or shingles used in house construction shall be used over-the-top of the piers. Shims shall be fitted tightly to prevent rocking of the unit under the action of wind gusts.

(Code 1980, § 17-5)

Sec. 17-6. Anchoring.

(a) *Generally.* Each mobile home shall be provided with anchors and tie-downs, as described in this section, by the owners of the mobile homes and shall be of such number and type that the largest exposed surface area of the mobile home shall be capable of withstanding a static wind pressure, whose velocity pressure shall be in accordance with the South Florida Building Code. Such anchors or tie-downs shall be attached to the frame and/or over the top of the mobile home. Mobile homes more than 60 feet long shall have three sets of anchors.

(b) *Ties.*

(1) Ties passing over the mobile home shall be snug to the coach body at both top corners and installed not more than 12 inches outside a perpendicular line to the ground and secure to the main frame members and from there to ground anchors.

(2) Ties passing over the mobile home shall be at least three-eighths-inch-diameter wire rope, or a material possessing a minimum of 7,000 pounds' breaking strength.

(3) Ties shall be attached to the main steel framing members and made snug by connecting to one-half-inch dropped-forged turnbuckles connected to ground anchors with three-eighths-inch wire rope, or a material possessing a minimum of 7,000 pounds' breaking strength.

(c) *Anchors.* At least one anchor shall be placed near each front and rear corner of the mobile home. All anchors shall be installed in a straight line of pull with the tie.

(1) *Type A screw auger.* A screw auger of minimum auger diameter of six inches with a minimum five-eighths-inch-diameter rod installed at a minimum depth below the ground surface of four feet; an eight-inch-size arrowhead anchor installed at a minimum depth of four feet below the ground surface.

(2) *Type B screw auger.* An expanding prefabricated deadman of six-inch minimum size or a minimum six-inch diameter poured in place concrete deadman at least two feet in length. The bottom of each hole shall be a minimum of five feet beneath the ground surface. Backfill must be well tamped. Minimum rod diameter shall be five-eighths inch.

(3) *Type C screw auger.* A precast concrete block, a steel or cast iron cone or plate of a minimum least dimension of six inches. The bottom of each hole shall be a minimum of five feet beneath the ground surface. Backfill must be tamped. Minimum rod diameter shall be five-eighths inch.

(Where the mobile home is shorter than the patio, an anchor may be installed through the patio by drilling a hole 1½ inches in diameter not less than six inches from the outside edge of the patio. An "I" bolt of not less than one-half-inch diameter and long enough to reach below the patio at least two inches with a nut or flange at least twice the

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size of the "I" bolt; installed by removing a portion of the earth below the patio in order to form a cone-shaped chamber into which the bonding material and "I" bolt can be placed.)
(Code 1980, § 17-6)

Sec. 17-7. Porches attached to mobile home; distances between mobile homes; materials.

It shall be unlawful to attach any porch to any mobile home trailers unless and until the following conditions are complied with:

(1) The owner or person in charge of such mobile home shall first procure written permission from the mobile home park owner or operator to construct such porch.

(2) No porches shall be permitted unless the mobile home park owner or operator allots a space of not less than 25 by 35 feet for the parking of each such mobile home and construction of a porch. Such space shall be marked with permanent markings on each corner. A distance of not less than ten feet shall be allowed between such porch and any other mobile home, between such porch and any other porch and between any mobile home and any other mobile home.

(3) No such porch shall be larger than ten feet wide, and the length of the mobile home in size and the long side of the porch shall be parallel with the long side of the mobile home.

(4) Before any such porch is erected, application shall be made and a permit for the building of such a porch shall be procured and the appropriate fees paid.

(5) To secure such permit, an applicant shall first submit a letter from the mobile home park owner granting permission to erect such a porch; and there shall be submitted a drawing or plan showing the location of the mobile home in the park and showing the location of the porch in the park; and the plan for such proposed porch shall be submitted in duplicate. If the plan shows a structure that complies with the provisions of this section and is safe and is approved by the building official, a permit for the erection of the porch shall be issued; however, prior to issuing the permit, the building official shall inspect the site of the proposed porch and ascertain that all conditions as set forth in this section have been fully complied with. After the porch has been erected, the building official shall also inspect the finished porch to ascertain that it has been constructed in accordance with the plans and specifications submitted and according to all the provisions and conditions of this section; and if it has been ascertained that the provisions of this section have not been complied with in full and the porch has not been erected in accordance with the plans submitted at the time of procuring such permit, the porch shall be subject to its immediate removal.

(Code 1980, § 17-7)

Sec. 17-8. Concrete slab patios.

All owners and operators of mobile home parks within the city are permitted to place concrete slabs in front of the entrance of mobile homes parked in such parks, such slabs to be of such dimensions as shall be prescribed by the park owner or operator.
(Code 1980, § 17-8)

Sec. 17-9. Awnings attached to mobile home; materials; removal during hurricane alert.

(a) With permission from the owner of a mobile home park, awnings may be attached to one side only of such mobile homes parked in such parks, such awnings not to be longer than the mobile home to which it is attached; and such awnings shall be supported on metal rods or pipes. Railings or other fixtures cannot be attached to the awnings or supports.

(b) Aluminum awnings which can be dismantled within a short period of time shall be permitted for use on mobile homes. Every mobile home owner using such awnings, together with the

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mobile home park owner who permits its use, is held responsible for the removal of such awnings within one hour from a hurricane alert. Any person responsible for the removal of such awnings upon an alert's being sounded who fails or refuses to remove such awnings within the allotted time shall be in violation of this chapter.

(c) This provision pertaining to awnings shall apply only in mobile home parks and shall in no way affect any provision of the building code other than as specifically stated in this chapter.
(Code 1980, § 17-9)

Sec. 17-10. Park plan.

Any person applying for a permit and/or license to establish and operate a mobile home park must first file in duplicate with the approving authority a copy of the plan of the proposed park. This plan with the legal description of the property shown shall be drawn to scale and must show clearly the extent and area to be used for park purposes. All proposed roadways and/or driveways shall be shown, together with each proposed location or site for mobile homes, location and size of all concrete slabs, proposed utilities, sanitary conveniences, laundry buildings, toilets, washrooms, slop sinks, the proposed method of sewage disposal or removal, the plan for water supply and lighting, and all other improvements. Before any permit or license shall be granted, these plans must first be fully approved by the building department.
(Code 1980, § 17-10)

Sec. 17-11. Proper zoning for parks.

Mobile home parks shall be permitted only in the areas of the city zoned as specified in the comprehensive zoning ordinance.
(Code 1980, § 17-11)

Cross reference—Zoning and land development code, ch. 32.

Sec. 17-12. Health permit for operation of parks.

It shall be unlawful for any person to establish, maintain or operate within the city or its jurisdiction any mobile home park, including any location or plot of ground for use of travel trailers or motor homes of transients by the day, week, month or season, whether or not a charge is made, who does not possess a permit from the health authorities.
(Code 1980, § 17-12)

Cross reference—Health and sanitation, ch. 13.

Sec. 17-13. Freedom from heavy vegetation; drainage of land.

All land used as a mobile home park shall be located on well-drained sites of ample size, free from heavy or dense growth of brush or weeds; the land shall be free from marsh and shall be graded to ensure rapid drainage during and following rain.
(Code 1980, § 17-13)

Sec. 17-14. Water supply to lots.

Each unit in a mobile home park shall be provided with an ample and adequate supply of water of safe, sanitary quality.
(Code 1980, § 17-14)

Sec. 17-15. Garbage and sewage disposal.

Each mobile home park shall be provided with safe and adequate provision for the collection and removal of waste and garbage and shall provide a proper and acceptable sewer system either by connection to the city sewer system where such is available, or to approved septic tanks, all of which shall comply fully with all laws, ordinances and regulations prescribed by the city health authority and the state division of health.
(Code 1980, § 17-15)

Cross references—Health and sanitation, ch. 13; utilities, ch. 30.

Sec. 17-16. Compliance with construction codes and sanitary rules and regulations.

All buildings and structures erected within mobile home parks shall comply with the building code, plumbing code, electrical code, and any other such codes and all sanitary rules and regulations of the city.
(Code 1980, § 17-16)

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Sec. 17-17. Minimum unit size; corner markers; freedom from rocks and weeds.

Each unit or site in any mobile home park upon which a mobile home is placed shall be not less than 25 feet by 35 feet in area, clearly defined by markers at each corner. The site shall be level and free from rocks and weeds.
(Code 1980, § 17-17)

Sec. 17-18. Unit drainage; height of mobile home floor.

Each unit or site shall be well drained, and the floor of each mobile home shall be not less than four inches above ground level for ventilation.
(Code 1980, § 17-18)

Sec. 17-19. Distance between mobile home and building.

No mobile home shall be placed upon any site at any less distance than ten feet from any building.
(Code 1980, § 17-19)

Sec. 17-20. Setbacks.

(a) No building in a mobile home park site shall be placed or erected within less than five feet of the property line separating the park from adjoining property, measuring from the nearest point of the cottage site or location.

(b) No building in the mobile home park abutting on any public street, avenue, boulevard, terrace, court or public way shall be located beyond the established setback line and in no case closer than 20 feet to any street, avenue, boulevard, terrace, court or public way.

(c) No mobile home or any part or portion of such home shall be placed closer than one foot from a public street, avenue, boulevard, terrace, court, alley or other public way or to the lot line of property adjoining the trailer park where the adjoining property is zoned for business; but if the adjoining property is zoned an R classification, the setback shall be five feet.

(d) A mobile home having an attached unenclosed awning must maintain the same setback requirement for such awning as is set forth in subsection (c) of this section.

(e) Where there is an attached enclosed porch, cabana or enclosed awning on a mobile home, the setback of such enclosed area shall be five feet from any public street, avenue, boulevard, terrace, court, alley or other public way, or to the lot line of property adjoining the trailer park where the adjoining property is zoned for business; but if the adjoining property is zoned an R classification, the setback shall be five feet; and also there shall be a five-foot setback from such attached enclosed porch, cabana or enclosed awning and any other mobile home or attached enclosed porch, cabana or awning.
(Code 1980, § 17-20)

Sec. 17-21. Roadways or driveways; marking of exits and entrances.

Hard-surfaced roadways or driveways shall be provided not less than 18 feet in width, well marked in the daytime and well lighted at night, such roadways or driveways to be so located that each unit of the park is easily accessible. All entrances and exits from the park shall be well marked and so arranged that they will be easily controlled and supervised.
(Code 1980, § 17-21)

Sec. 17-22. Enforcing use of entrances and exits.

The use of entrances and exits of mobile home parks shall be enforced. Where it is established by complaint of adjoining property owners that their property is being trespassed upon by occupants of or visitors to any park, it shall be the duty of the owner, manager or other person responsible to provide a fence or other effective barrier to ensure such owners of adjoining property protection against trespassing.
(Code 1980, § 17-22)

Sec. 17-23. Park management; manager required.

(a) Each mobile home park shall be under the direct management of the owner or licensee or his agent or representative for whose acts he shall be fully responsible.

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(b) The name of the person entrusted with the direct management of the park shall be filed for reference with the police department. Such person must be of good reputation and character and shall satisfy the public authority of his experience and capacity to supervise, manage, regulate, control and maintain good order in the camp.
(Code 1980, § 17-24)

Sec. 17-24. Office.

Each mobile home park shall be provided with a building to be known as the office in which shall be kept copies of all records pertaining to the management or supervision of the park, such records to be available for inspection by the health authority and by the police department.
(Code 1980, § 17-25)

Sec. 17-25. Manufactured homes.

(a) No manufactured home shall be placed in a coastal high-hazard area, except in an existing manufactured home park or existing manufactured home subdivision.

(b) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

(1) Over-the-top ties be provided at each end of the manufactured home, with one additional tie per side at an intermediate location on manufactured homes of less than 50 feet and one additional tie per side for manufactured homes of 50 feet or more;

(2) Frame ties be provided at each corner of the home with four additional ties per side at intermediate points for manufactured homes less than 50 feet long and one additional tie for manufactured homes of 50 feet or longer;

(3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

(4) Any additions to the manufactured home be similarly anchored.

(c) New manufactured home parks and subdivisions; expansions to existing manufactured home parks and subdivisions; existing manufactured home parks and subdivisions where the repair, reconstruction or improvements of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and manufactured homes not placed in a manufactured home park or subdivision require:

(1) Stands or lots elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level;

(2) Provision of adequate surface drainage and access for a hauler; and

(3) In the instance of elevation on pilings:

a. Lots large enough to permit steps;

b. Piling foundations placed in stable soil no more than ten feet apart; and

c. Reinforcement provided for pilings more than six feet above ground level.

(Code 1980, § 8-24(B)(3))

Chapter 18

OCCUPATIONAL LICENSES*

Article I. In General

Secs. 18-1—18-30. Reserved.

Article II. Local Business Tax

Sec. 18-31. License required; duty to procure; issuance; conduct of pursuit without.
Sec. 18-32. Civil penalties.
Sec. 18-33. License application.
Sec. 18-34. License period.
Sec. 18-35. Execution of license; record.
Sec. 18-36. Effect of issuance.
Sec. 18-37. Fee schedule.
Sec. 18-38. License tax collectible for each business on premises.
Sec. 18-39. Term; delinquency.
Sec. 18-40. Suspension or revocation of occupational licenses.

***Cross reference—**Businesses, ch. 7.
State law reference—Local Business Tax Act, F.S. ch. 205.

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ARTICLE I. IN GENERAL

Secs. 18-1—18-30. Reserved.

ARTICLE II. LOCAL BUSINESS TAX*

Sec. 18-31. License required; duty to procure; issuance; conduct of pursuit without.

(a) It shall be unlawful for any person to engage in, conduct or manage any business, occupation or profession in this article in the city unless payment of the local business tax and a receipt in payment of same shall have been first procured from the city, which license shall be issued to such person on receipt of the amount provided for by the city. The payment of the local tax referred to as a license throughout this chapter shall be confirmed by the city's receipt, and is not a representation by the city of the qualifications or competency of the local business or profession.

(b) It shall be the duty of all persons required to be licensed to comply with the provisions of this article by taking out licenses, and all who shall do business without having first paid the license tax imposed shall be subject to the penalty imposed in this section.

(c) Any person violating any of the provisions of this article, or who shall fail to pay any license tax imposed by this article, or who shall engage in, conduct or manage any business, occupation or profession mentioned, without first procuring such license as provided in this article, shall, upon conviction be punished as provided in section 1-8.
(Code 1980, § 18-1(a)—(c); Ord. No. 2007-02, § 2, 4-4-2007)

State law reference—Similar provisions, F.S. § 205.042.

Sec. 18-32. Civil penalties.

Any person who does not pay the required license tax within 150 days after the initial notice of tax due, or who does not obtain the required occupational license is subject to civil penalties and actions including court costs, reasonable attorney's fees, additional administrative costs incurred by the city as a result of collection efforts, and a penalty of up to $250.00 as prescribed by the administrative rules established by the city manager.
(Code 1980, § 18-1(d))

State law reference—Similar provisions, F.S. § 205.053(3).

Sec. 18-33. License application.

The city is authorized and directed to issue an appropriate license application form to secure all necessary information from applicants. No license shall be issued unless the federal employer identification number or social security number is obtained from the person to be licensed.
(Code 1980, § 18-6)

Sec. 18-34. License period.

No license shall be issued for more than one year, and all licenses shall expire on September 30 of each year; but fractional licenses may be issued, on the conditions provided in this article, to expire on such date at a proportionate rate; however, a license shall not be issued for a lesser period than six months.
(Code 1980, § 18-5)

State law reference—Similar provisions, F.S. § 205.053.

Sec. 18-35. Execution of license; record.

All licenses shall be made out and issued by the city on payment of the business tax; and a list of all licenses shall be preserved showing date of issuance, name of the party to whom issued, the number of the license, the nature of the business, occupation or profession licensed and its location, and the amount received.
(Code 1980, § 18-2; Ord. No. 2007-02, § 3, 4-4-2007)

Sec. 18-36. Effect of issuance.

Issuance of a license shall operate as a receipt for payment of the tax due and shall be evidence of the name and address of the person doing business. Issuance of the license shall not be evidence that the business is lawful nor that it

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***Editor's note—**Ord. No. 2007-02, § 1, adopted April 4, 2007, changed the title of Art. II from "Occupational license tax" to "Local business tax."

State law references—Local Business Tax Act, F.S. ch. 205; transfer fee, F.S. § 205.043.

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complies with the laws and regulations of the city, or any regulatory body or agency; and the license shall not, in any case, operate as a waiver, estoppel, or consent of the city as to any action or proceeding other than liability for the tax.
(Code 1980, § 18-3)

Sec. 18-37. Fee schedule.

(a) *Tax to be collected.* A business tax shall be collected from every person engaged in, conducting or managing any of the businesses, occupations or professions enumerated in this section, which is fixed at the respective amounts set opposite each business, occupation or profession in this section, each of such amounts, unless otherwise specifically stated, being the amount payable as a license tax for carrying on, engaging in, conducting or managing the business, occupation or profession mentioned until September 30 of each year. Notwithstanding any of the enumerated business taxes as set forth in subsection (d) of this section, a minimum local business tax, established and on file in the city, shall be paid by every person engaged in, conducting or managing any business, occupation or profession within the city.

(b) *Construction of provisions.* Each provision of this section, and each license tax imposed in this section, is intended to be separate and independent and is construed distributively.

(c) *Waiver.* Every business or activity within the city shall first obtain a license upon proper application. However, in the discretion of the city commission, the applicable tax may, by motion, be waived for religious, charitable or community activities.

(d) *Fees.* The amount of the respective business tax for each business, occupation or profession is on file in the city.

(e) *Unlisted categories.* The categories listed in the schedule on file in the city constitute and set forth the lawful, permissible businesses within the city. If application is made for a license not specifically enumerated in the schedule on file in the city, the city shall have the authority to determine the most nearly similar category that shall apply to the applicant. If in the discretion of the city a similar category does not exist or cannot be determined, the application shall be submitted to the city commission, which may determine the appropriate category or approve or disapprove a new category and, if approved, establish an appropriate business tax.
(Code 1980, § 18-7(a)—(d), (f); Ord. No. 2003-17, § 1, 9-16-2003; Ord. No. 2007-02, § 4, 4-4-2007)

Sec. 18-38. License tax collectible for each business on premises.

If more than one business is conducted from the same premises or by the same person, the applicable license tax for each business conducted shall be collected and a license for each business category required.
(Code 1980, § 18-7(g))

Sec. 18-39. Term; delinquency.

All licenses shall be sold beginning July 1 of each year and shall be due and payable on or before September 30 of each year and shall expire on September 30 of the succeeding year. Any license not renewed by September 30 shall be considered delinquent and subject to a delinquency payment of ten percent for the month of October, plus an additional five percent penalty for each month of delinquency thereafter until paid; but the total delinquency penalty shall not exceed 25 percent of the occupational business fee for the delinquent business. In any license year the licenses are not mailed to the licensees before September 10, the city shall have the discretion to waive the delinquency payment for the month of October but not for subsequent months.
(Code 1980, § 18-7(e); Ord. No. 2007-02, § 5, 4-4-2007)

State law reference—Delinquency penalty, F.S. § 205.053.

Sec. 18-40. Suspension or revocation of occupational licenses.

(a) The city commission may suspend or revoke the license of any licensee under this chapter if any of the following grounds exist:

(1) That the license was granted based on false information, misrepresentation of fact, or mistake of fact or law.

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(2) That the health, safety, or welfare of the residents of the city is threatened by the continued operation of the licensed business.

(3) That the licensed business constitutes a public nuisance as defined in section 9-1 of the City Code.

(4) That the licensee has within the preceding three years been convicted of violating of any federal law, Florida Statute, or the ordinances of Broward County or the City of Hallandale Beach, or the licensee has had adjudication withheld after being charged with violating any federal law, Florida Statute, or the ordinances of Broward County or the City of Hallandale Beach, and the charge for which the licensee was convicted or had adjudication withheld relates to the conduct of the licensee's present business.

(5) That the licensee is engaging in, conducting or managing a business, occupation or profession, at a site prohibited by the City Code.

(6) That the licensee has violated any provision of the City Code and has failed or refused to abate the violation after notification thereof.

(b) The city manager may suspend or revoke a license if the health, safety, or welfare of the city's residents is threatened by the continued operation of the licensed business. However, in such case, the city manager shall immediately notify the licensee of the suspension or revocation in writing through certified mail, including the grounds for the suspension or revocation, a copy of the governing ordinance and shall also notify the licensee of his/her right to appeal the city manager's decision to the city commission. Should a licensee seek an appeal from the suspension or revocation of the licensee, the licensee shall furnish a written request for an appeal to the city manager within ten working days after receipt of such notice. Upon timely receipt of a written request for an appeal, the city manager shall place the appeal on the next regular city commission agenda. The city clerk shall notify the licensee in writing of the date and time of such hearing. At the hearing, the city commission shall hear and determine the appeal; and the decision of city commission shall be final and effective immediately.

(c) Unless the city manager determines that the health, safety or welfare of the city's residents is threatened by the continued operation of a business, a license shall not be suspended or revoked until the licensee has been notified by certified mail, with at least ten days notice, of the specific charges against him and the date, time and place that the city commission will consider the matter.

(d) At the hearing, all witnesses shall be sworn and the city shall have the burden of proving by a preponderance of the evidence that the licensee has violated one of the provisions of paragraph (a) above. Subsequent to the city's presentation of its case, the licensee shall have the opportunity to present evidence to rebut the city's evidence and to cross examine any of the city's witnesses. Thereafter, the city may cross-examine the licensee's witnesses and present any evidence rebutting the licensee's evidence. The city and the licensee may introduce documentary evidence.

(e) At the conclusion of the hearing, the city commission shall deliberate and shall by motion suspend or revoke the license, uphold a suspension previously entered by the city manager, find that there is no basis to suspend or revoke the license or list conditions that must be complied with by the licensee for the license to remain valid.

(f) A licensee may seek review of the city commission's decision as provided by law.
(Ord. No. 2002-22, § 1, 12-3-2002; Ord. No. 2007-07, § 1, 5-16-2007)

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Chapter 19

OFFENSES AND MISCELLANEOUS PROVISIONS*

Article I. In General

Sec. 19-1. Sleeping out-of-doors or in vehicles, temporary shelters, or property of another.
Sec. 19-2. Public decency.
Sec. 19-3. Conduct on beaches.
Sec. 19-4. Authority of police to disperse unlawful assembly.
Sec. 19-5. Obscene material.
Sec. 19-6. Retail sale of hypodermic syringes and needles.
Sec. 19-7. Housing of criminal sexual psychopath.
Sec. 19-8. Reserved.
Sec. 19-9. Renting place for illegal purposes.
Sec. 19-10. Discharge of fireworks.
Sec. 19-11. Hunting; discharge of firearms.
Sec. 19-12. Fishing from bridges.
Sec. 19-13. Improper use of United States Flag.
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*__Cross reference—__Traffic and motor vehicles, and boats, ch. 28.
State law reference—Fines for violation of ordinance payable to city, F.S. § 34.191.

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ARTICLE I. IN GENERAL

Sec. 19-1. Sleeping out-of-doors or in vehicles, temporary shelters, or property of another.

(a) It shall be unlawful for any person to lodge or sleep in, on or about any automobile, truck or similar vehicle, or in any temporary shelter, or in the open air, on any public street, public way, right-of-way, parking lot or other public property, within the city.

(b) It shall be unlawful for any person to occupy, lodge or sleep in the open air, vacant lots, in or under any vacant or unoccupied barn, garage, shop or other building, bridge or structure or in any railroad car without owning the property or without permission from the owner or person entitled to possession of the property.

(c) The police officers of the city shall advise all violators that their conduct is in violation of the city ordinance and request that they leave the area. If any violators fail to heed this request, they shall be cited for violation of this section and shall be subject to punishment as provided in section 1-8.

(Code 1980, § 19-4)

Cross reference—Traffic and motor vehicles, and boats, ch. 28.

Sec. 19-2. Public indecency.

(a) It is unlawful for a person to knowingly or intentionally, in a public place, appear in a state of nudity. A person who violates this section shall be punished as provided in section 1-8 of this Code.

(b) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering; the showing of the female breasts with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.

(c) "Public place" includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

(d) The prohibition set forth in subsection (c) shall not apply to:

(1) Any child under ten years of age; or

(2) Any individual exposing a breast in the process of breastfeeding an infant.

(Code 1980, § 19-5; Ord. No. 2002-5, § 3, 4-2-2002)

State law reference—Exposure of sexual organs, F.S. § 800.03.

Sec. 19-3. Conduct on beaches.

(a) *Prohibited acts.*

(1) It shall be unlawful for any person to surfboard, sandsurf, spear fish, scuba dive, except within a designated area; to build fires, allow animals to come upon the beach, drink alcoholic beverages on the beach, or throw bottles or other litter upon the public beaches.

(2) It shall be unlawful for any person to disregard "no swimming" instructions when posted by the city lifeguard.

(3) It shall be unlawful for any person to disregard the reasonable directions of a city lifeguard engaged in enforcing any of the beach regulations.

(4) It shall be unlawful for any person to camp or sleep overnight on the public beaches.

(5) Vehicular traffic is prohibited on the public beaches.

(6) Swimming at the public beaches is prohibited between the hours of sundown and sunrise.

(7) No person owning or having charge, care, custody or control of any animal shall cause, permit or allow the animal into or

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upon any beach in the city; however, this provision shall not apply to guide dogs as specified in state law.

(b) *Posting regulations.* Regulative signs shall be posted at appropriate intervals on the beach area.

(c) *Closing in an emergency.*

(1) The power is granted to declare an emergency situation closing public beaches in the interest of public safety due to emergencies such as severe storms, hurricanes, high water, etc., or civil disasters. If an unlawful, riotous or tumultuous assembly exists, or such assembly as is likely to result in a breach of the peace, or in such instances where the chief of police or his command duty officer shall have reasonable cause to believe that such assembly will occur, the chief of police or any police operations officer shall have the authority to declare the public beach and immediately adjacent public rights-of-way closed and shall thereafter order all persons to immediately disperse and leave the area; and the area shall remain closed until the chief of police shall determine that the danger no longer exists.

(2) The power to declare an emergency situation is vested in the mayor, the city manager and the chief of police.

(Code 1980, §§ 19-7—19-9)

Sec. 19-4. Authority of police to disperse unlawful assembly.

(a) If any number of persons are unlawfully, riotously or tumultuously assembled within the city, any police officer shall go among the persons so assembled, or as near to them as may be with safety, and shall command all the persons so assembled immediately and peaceably to disperse; and if such persons do not thereupon immediately and peaceably disperse, such officer and such additional officers as may be necessary for assistance shall arrest those persons who have not dispersed by leaving the immediate area.

(b) The failure of any person to disperse after being commanded to do so under the provisions of this section is declared to be unlawful, punishable as provided in section 1-8.

(Code 1980, § 19-9.1)

Sec. 19-5. Obscene material.

(a) *Generally.*

(1) It shall be unlawful for any person to distribute obscene material within the corporate limits of the city.

(2) A person commits the offense of distributing obscene material when he sells, lends, rents, leases, gives, advertises, publishes, exhibits or otherwise disseminates to any person any obscene material of any description, knowing the obscene nature of the material, or who offers to do so, or who possesses such material with the intent to do so.

(3) Material is obscene if, considered as a whole, applying community standards, its predominant appeal is to prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion, and is utterly without redeeming social value and if, in addition, it goes substantially beyond customary limits of candor in describing or representing such matters. Undeveloped photographs, molds, printing plates and the like shall be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

(4) Material not otherwise obscene may be deemed obscene under this subsection if its distribution, the offer to do so, or the possession with the intent to do so is a commercial exploitation of erotica solely for the sake of their prurient appeal.

State law reference—Obscene literature, profanity, F.S. ch. 847.

(b) *Alternative prohibition and test.*

(1) Any person who shall import, print, publish, sell, design, prepare, loan, give away or distribute any book, magazine, newspaper, writing pamphlet, ballad, printed

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paper, print, picture, drawing, photograph, publication or other thing, containing obscene, immoral, lewd or lascivious language, or obscene, immoral, lewd or lascivious prints, pictures, figures or descriptions, manifestly tending to the corruption of the morals of persons, or shall introduce into any family, school or place of education or shall buy, procure, receive or have in his possession, any such book, pamphlet, magazine, newspaper, writing, ballad, printed paper, print, picture, drawing, photograph, publication or other thing, either for the purpose of sale, exhibition, loan or circulation, or with intent to introduce the material into any family, school or place of education, shall be guilty of an offense and upon conviction shall be punished as provided in section 1-8.

(2) The test to be applied in cases under subsection (b)(1) of this section shall not be whether sexual desires or sexually improper thoughts would be aroused in those comprising a particular segment of the community, the young, the immature or the highly prudish, or would leave another segment, the scientific or highly educated or the so-called worldly wise and sophisticated, indifferent and unmoved. But such test shall be the effect of the book, picture or other subject to complaint considered as a whole, not upon any particular class, but upon all those whom it is likely to reach, that is, its impact upon the average person in the community. The book, picture or other subject of complaint must be judged as a whole in its entire context, not by considering detached or separate portions only, and by the standards of common conscience of the community of the contemporary period of the violation charged.

(c) *Search warrant; seizure and destruction, when.* Whenever the court having jurisdiction shall receive a complaint, signed and verified upon information and belief by the prosecuting attorney or any assistant prosecuting attorney stating there is any prohibited lewd, lascivious or obscene book, magazine, newspaper, writing, pamphlet, ballad, printed paper, print, picture, motion pictures, drawing, photograph, publication or other thing, as set out in subsection (b) of this section, located within the city, it shall be the duty of the judge to forthwith issue his search warrant directed to the chief of police or any police officer to seize and bring before the judge such a prohibited item. Any police officer seizing such item shall leave a copy of such warrant with any manager, servant, employee or other person appearing or acting in the capacity of exercising any control over the premises where such item is found or, if no person is there found, such warrant may be posted by the police officer in a conspicuous place upon the premises where found; and the warrant shall serve as notice to all interested persons of a hearing to be had at a time not less than ten days after such seizure. At such hearing, the judge issuing the warrant shall determine whether or not the item so seized and brought before him pursuant to the warrant was kept upon the premises where found in violation of any of such provisions. If he shall so find, he shall order such item to be destroyed by the chief of police or any police officer by burning or otherwise, at such time as such judge shall order, and satisfactory return made to him; however, such item shall not be destroyed so long as it may be needed as evidence in any prosecution.

(d) *Alternative procedures.* The provisions and procedures of subsections (b) and (c) of this section shall be alternative provisions and procedures to any others available to the city for the suppression of obscene, immoral, lewd or lascivious material in the city.
(Code 1980, §§ 19-10—19-13)

Sec. 19-6. Retail sale of hypodermic syringes and needles.

It shall be unlawful for any person to sell or distribute on a retail basis any hypodermic syringe or needle, designed principally for subcutaneous injection, except when authorized by prescription, as such term is defined in F.S. § 465.031(2) by such persons as are authorized under state law to issue prescriptions for drugs to be administered subcutaneously by hypodermic syringe.
(Code 1980, § 19-15)

State law reference—Possession of paraphernalia, F.S. § 893.145.

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Sec. 19-7. Housing of criminal sexual psychopath.

It shall be unlawful for any person to house, accommodate, maintain or otherwise keep within such person's care, custody or control, any person adjudicated a criminal sexual psychopath as contemplated and defined in the applicable state statutes.
(Code 1980, § 19-16)

Sec. 19-8. Reserved.

Editor's note—Section 19-8, which prohibited fortunetellers and derived from Code 1980, § 19-17, was deleted at the city's instructions. Provisions regarding fortunetellers can be found in sections 7-231 and 7-232.

Sec. 19-9. Renting place for illegal purposes.

It is unlawful for any person to knowingly rent or lease to another any house, room, booth, tent, shelter, space, boat, vehicle, or other place in the city for the purpose of defrauding another or for any illegal purposes.
(Code 1980, § 19-18)

Sec. 19-10. Discharge of fireworks.

It shall be unlawful to discharge any fireworks of any kind or form within the city without first obtaining from the city manager a permit for the discharge of such fireworks.
(Code 1980, § 19-19)

State law references—Sale of fireworks, F.S. ch. 791; regulation of explosives, F.S. ch. 552.

Sec. 19-11. Hunting; discharge of firearms.

It shall be unlawful for any person to hunt game of any kind or nature, or for any person, except peace officers in the discharge of their duties, to discharge any firearm of any kind or description within the city.
(Code 1980, § 19-20)

State law reference—Weapons and firearms, F.S. ch. 790.

Sec. 19-12. Fishing from bridges.

(a) *When prohibited; duty of city manager to determine.* It shall be the duty of the city manager to determine whether the public safety and welfare would be promoted by prohibiting fishing from any bridge in the city. If the city manager shall determine that prohibition of fishing from any such bridge would promote the public safety and welfare, he shall recommend to the city commission that fishing be prohibited from such bridge. If the city commission shall approve such recommendation, the city manager shall cause any such bridge to be posted with at least two conspicuously placed signs which shall contain the words "Fishing Prohibited From Bridge" or similar language.

(b) *Violations.* It shall be unlawful for any person to fish from any bridge in the city from which fishing has been prohibited, pursuant to subsection (a) of this section, and on or at which a sign announcing such prohibition is posted. Violation of this section shall be punished as provided by section 1-8.
(Code 1980, § 19-26)

Sec. 19-13. Improper use of United States Flag.

(a) It shall be unlawful for any person to use the United States Flag for the purpose of advertising, selling or promoting the sale of any article of merchandise whatsoever in the city.

(b) No person shall publicly mutilate, deface, defile, defy, trample upon, or, by word or act, cast contempt upon the flag.

(c) No person shall, in any manner, for exhibition or display:

(1) Place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign or shield of the United States or of this state, or authorized by any law of the United States or this state; or

(2) Expose to public view any such flag, standard, color, ensign or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed any such word, figure, mark, picture, design, drawing or advertising.

(Code 1980, § 19-27)

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Sec. 19-14. Defacement of property; graffiti.

(a) *Writing on property without permission of owner prohibited.* No person shall write, paint or draw any inscription, figure or mark of any type on any building, public or private, or any other property, real or personal, in the city without the express permission of the owner or operator of such property.

(b) *Possession of aerosol spray paint or broad-tipped indelible ink markers by minors prohibited.*

(1) It shall be unlawful for any person under the age of 18 years to have in his possession any aerosol spray can containing any substance commonly known as paint or containing any other opaque liquid capable of being propelled by the aerosol can, or any indelible ink broad-tipped markers of design while on public property or upon private property without the consent of the owner of such private property.

(2) Any person who gives information leading to the arrest and conviction upon final appeal of any person for a violation of this section and testifies in the prosecution of the violator shall be eligible to receive a reward of up to $500.00 from the city, except that no officer or employee of the city shall be eligible for such reward.

(3) A parent or natural guardian of a minor convicted under this section shall be liable for any fine assessed by the court or any reward paid by the city in addition to the liability imposed by F.S. § 741.24. An adult convicted under Ordinance Number 88-12 shall likewise be responsible to the city for any reward paid by the city.

(4) No person shall sell or cause to be sold to any person under the age of 18 years; and no person under the age of 18 years shall buy any aerosol container of spray paint or broad-tipped indelible markers unless bona fide business or personal use is demonstrated at the time of sale. Evidence that a person, his employee or agent, demanded and was shown bona fide evidence of majority and acted upon such evidence in a transaction or sale shall be a defense to any prosecution under this subsection.

(c) *Penalty for violation.* Any person convicted of violating the provisions of this section shall be punished by a fine of not less than $250.00 nor more than $500.00 per occurrence or by imprisonment for not more than 60 days per occurrence, or both, in the discretion of the court.
(Code 1980, §§ 19-28—19-30)

State law reference—Graffiti, F.S. § 806.13.

Sec. 19-15. Prohibited distribution of handbills.

(a) The term "handbill" means any printed or written matter; any sample or device, dodger, circular, leaflet, pamphlet, paper or booklet; or any other printed or otherwise reproduced original or copy of any matter of literature.

(b) No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises if requested by anyone on the premises not to do so verbally or by prior written notice, or if there is placed on the premises in a conspicuous position near the entrance a sign bearing the words "No Trespassing," "No Solicitors," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

(c) No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises if such person has actual knowledge that the premises are temporarily or permanently unoccupied or where it is or should be apparent to a reasonable person that any previous day's distribution of such material has not been removed or that the property is vacant.

(d) Handbills not prohibited as provided in this section shall be distributed in or upon private premises only by handing such materials directly to the owner, occupant or other person then present in or upon such premises or by placing the handbill so as to secure or prevent it from being blown or drifted about such premises or upon sidewalks, streets or other public places.

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(e) The prohibitions set forth in this section shall not apply where handbills or printed matters have been specifically contracted for by the person in possession of any premises; nor shall agencies of the federal, state, county, or city governments or licensed and regulated public utilities be prohibited from making communications to or distribution of materials to their citizens or customers concerning or in the course of official business, including but not limited to distribution of articles upon which United States postage has been paid, notices of violation, utility bills, telephone directories, and package delivery notices.
(Code 1980, § 19-31)

Sec. 19-16. Pay telephones.

(a) *Definitions.* For the purposes of this section, the following terms mean:

Pay telephone means a telephone which is available for use by the public, from which calls can be paid for at the time they are made by a coin, credit card, electronic card, prepaid debit card or in any other manner. The term pay telephone includes any pedestal or telephone bank supporting one or more such telephones, associated enclosures, signage or other associated equipment.

Substantial criminal activity means a pay telephone installed or maintained at a location within 100 feet of street addresses where there have been three or more arrests during any calendar year.

(b) *Removal and enforcement.*

(1) Should the city manager determine that a pay telephone installed on city property, the public right-of-way or on private property, facilitates or promotes substantial criminal activity, upon ten days written notice to the owner of the pay telephone, he may order the removal of the pay telephone at the pay telephone owner's expense.

(2) The pay telephone owner may appeal the city manager's decision to the city commission by making a written request for a hearing before the city commission. The request for a hearing before the city commission must be received by the city manager within ten days of the date of the city manager's decision. Upon receipt of a timely appeal to the city commission, the owner of the pay telephone shall not be required to remove the pay telephone until after the city commission rules on the appeal. At the hearing, after reviewing the relevant facts, the city commission shall decide to uphold, modify or reverse the city manager's decision. If the city commission upholds the city manager's decision, the owner of the pay telephone shall remove the pay telephone within ten days of the city commission's decision. A pay telephone owner may appeal the city commission's decision to the circuit court by filing a petition for certiorari within thirty days of the rendition of the city commission's decision.

(3) If the pay telephone owner does not voluntarily remove a pay telephone as required by the city manager or city commission (in the event of an appeal of the city manager's decision), the city shall remove it and put it temporarily in storage. The pay telephone owner shall be responsible for paying the city its actual cost associated with the removal, and storage of the pay telephone and the cost of restoring any city property or the right-of-way to its original condition. If the pay telephone owner does not pay the aforementioned costs, and reclaim the pay telephone, within 30 days, the city shall consider the pay telephone surplus property and dispose of it appropriately.

(Ord. No. 2001-8, § 1, 6-5-01)

Secs. 19-17—19-50. Reserved.

ARTICLE II. JUVENILE CURFEW*

Sec. 19-51. Short title and applicability.

(a) This article may be cited as the "City of Hallandale Beach Juvenile Curfew Ordinance."

***State law reference—**Juvenile curfew, F.S. §§ 877.20—877.25.

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(b) The provisions of this article are declared to have citywide effect.
(Code 1980, § 19-32)

Sec. 19-52. Legislative intent, findings and purposes.

(a) The city commission finds and determines that the city is facing a mounting crisis caused by increasing crime, including juvenile crime and delinquency which threatens peaceful citizens, residents and visitors. The commission further determines that this criminal activity, both individually and collectively, presents a clear and present danger to the citizenry and to the public order and safety. The economic cost of crime in the city continues to drain existing resources. Additionally, the effect on victims, both economic and psychological, is traumatic and tragic.

(b) The city commission finds that fighting crime effectively requires a multipronged effort, with one aspect focusing on those age groups particularly vulnerable to and injured by crime, and susceptible to being induced into committing crime. Consequently, it is the intent of the commission to create and implement a juvenile curfew program aimed at protecting juveniles from crime and reducing juvenile crime and the direct and indirect consequences of juvenile crime.

(c) Juveniles in the city have themselves become victims of crime and violence in steadily increasing numbers. Violent crimes against juveniles in the city are dramatically high in number, and the psychological effect of crime committed upon juveniles is particularly tragic and traumatic. A juvenile curfew program would have the additional benefit of reducing juvenile victimization.

(d) It is the intent of this commission to substantially reduce, if not eradicate, acts of crime and delinquency committed by juveniles and to provide for the care, safety and protection of law abiding juveniles and other citizens, residents and visitors.

(e) This article is enacted in recognition of the peculiar vulnerability of juveniles, their frequent inability to make critical decisions in an informed, mature manner, and the importance of the parental role in child-rearing.

(f) The purposes of this article are to:

(1) Protect juveniles themselves and other citizens, residents and visitors of the city from the dangers of crimes which occur on sidewalks, streets and in public, and semipublic places during late night and early morning hours.

(2) Decrease the amount of criminal activity engaged in by juveniles.

(3) Promote and enhance parental control over juveniles.

(Code 1980, § 19-33)

Sec. 19-53. Definitions.

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

Curfew hours means the hours of 11:00 p.m. until 6:00 a.m. the following day.

Emergency means an unforeseen combination of circumstances or the resulting state or any situation requiring immediate action to care for or prevent serious bodily injury or loss of life. The term includes but is not limited to a fire, natural disaster, or an automobile accident.

Juvenile means a person under 17 years of age whose disabilities have not been removed by marriage or a court of competent jurisdiction or otherwise.

Law enforcement officer means a certified law enforcement officer who is a duly sworn officer of the city police department, or such other individual who qualifies as a law enforcement officer under F.S. § 943.10(1).

Legal guardian means a person or agency appointed by a court to act in the role of a parent.

Operator means any individual, firm, association, partnership or corporation operating, managing or conducting any business or other establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent means the natural parent, adoptive parent, or stepparent of a juvenile.

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Public place means any street, alley, highway, parking lot, sidewalk, playground, park, plaza, building or other property owned or controlled by a governmental entity.

Semipublic place means any privately owned or privately operated real property (including any structure on the property) to which the general public is invited or has the legal right of access and right to resort for business, recreation, entertainment, or other lawful purpose such as but not limited to any store, shop, restaurant, tavern, theater, parking lot, alley, road, shopping center, bowling alley, pool hall, any vacant lot, or any vacant or abandoned building.
(Code 1980, § 19-34)

Cross reference—Definitions generally, § 1-2.

Sec. 19-54. Authorized.

It shall be unlawful and a violation of this article for any person under the age of 17 years to linger, stay, congregate, move about, wander, or stroll in any public or semipublic place in the city, either on foot or in or upon any conveyance or vehicle being driven or parked on such place, during curfew hours.
(Code 1980, § 19-35)

Sec. 19-55. Exceptions to curfew.

The provisions of this article shall not apply if the juvenile is:

(1) Accompanied by a parent or legal guardian or another adult person at least 21 years of age given permission by the parent or legal guardian to have the care, custody or control of the juvenile.

(2) Engaged in a lawful employment activity or traveling to or returning home from a lawful employment activity without any detour.

(3) Engaged in interstate travel.

(4) On an errand at the written approval and direction of the juvenile's parent or legal guardian, without any detour.

(5) Involved in or attempting to remedy, alleviate or respond to an emergency.

(6) Attending or traveling to or from an official school, religious or recreational activity supervised by adults at least 21 years of age and sponsored by a governmental entity, civic or religious organization or other similar entity, which organization takes responsibility for the juvenile as an invitee.

(7) On the swale or sidewalk abutting the juvenile's residence or abutting the residence of a next door neighbor if the neighbor has not complained to the police department about the juvenile's presence.

(8) Exercising First Amendment rights protected by the United States Constitution (or those similar rights protected by Fla. Const., art. I, §§ 3—5), such as free exercise of religion, freedom of speech, and the right of assembly.

(9) Attending or returning to current residence from a specific activity at a public or semipublic place which is open to the general public and supervised by adults at least 21 years of age provided any such activity begins no later than 10:00 p.m. and provided the juvenile possesses written permission from his parent or legal guardian authorizing the juvenile to attend or engage in that specific activity.

(10) Married in accordance with law or had disability of nonage removed by a court of competent jurisdiction.

(11) Homeless or uses a public or semipublic place as his usual place of abode.

(12) Authorized by the city commission, pursuant to an application by a sponsor of an event not provided for in this subsection, or any other person, to be in a public or semipublic place during curfew hours.

(13) Operating a motor vehicle and accompanied by a driver who holds a valid license to operate the type of vehicle being operated and who is at least 21 years of age.

(Code 1980, § 19-36)

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Sec. 19-56. Procedures when curfew violation suspected.

Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer, upon finding a person suspected to be in violation of this article, shall ask the apparent offender's age and reason for being in a public or semipublic place during curfew hours. The law enforcement officer shall immediately attempt to verify statements or other information provided by the juvenile through contact with the parent, legal guardian or others. The officer shall issue a notice to appear or take into custody any person who the officer reasonably believes is violating or has violated section 19-54, and that based upon any response or circumstance, no defense in section 19-55 is present.
(Code 1980, § 19-37)

Sec. 19-57. Responsibility of parents regarding curfew.

It is unlawful for a parent, legal guardian or other adult person at least 21 years of age having the care, custody or control of a juvenile to permit or by insufficient control to permit such juvenile to linger, stay, congregate, move about, wander or stroll on or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or any public places in the city during curfew hours unless the juvenile is accompanied by his parent, legal guardian or other adult person at least 21 years of age having his care, custody or control. Any parent, legal guardian or other adult person at least 21 years of age having the care, custody or control of a juvenile who shall have made a missing person notification or informs the police department that the juvenile left or remained away from his residence during curfew hours over the objection of the parent, legal guardian or other adult person at least 21 years of age having the care, custody or control of the juvenile shall not be considered to have permitted any person to be in violation of this section. It shall also constitute a defense to this section that such parent, legal guardian or other adult person at least 21 years of age having the care, custody or control of such juvenile did not have knowledge of the presence of such juvenile in, or about or upon any place in the city away from the current residence or usual place of abode of such juvenile during curfew hours if the parent, legal guardian or other person having care, custody or control of such juvenile, in the exercise of reasonable care and diligence, should not have known of the unlawful acts of such juvenile.
(Code 1980, § 19-38)

Sec. 19-58. Responsibility of operators concerning curfew.

It is unlawful for any operator, owner of any employee managing or conducting any business or other establishment to knowingly permit a juvenile to linger, stay, congregate, move about, wander or stroll upon the premises of the establishment during curfew hours. It is a defense to prosecution under section 19-60 that the owner, operator or employee notified the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave after being asked to leave the premises.
(Code 1980, § 19-39)

Sec. 19-59. Display of curfew notice by establishment.

Operators are encouraged but not required to conspicuously display in or about the premises of an establishment, a legibly printed notice in substantially the following form:

> "IT IS UNLAWFUL FOR A PERSON UNDER THE AGE OF 17 TO REMAIN ON THESE PREMISES BETWEEN THE HOURS OF 11:00 P.M. AND 6:00 A.M. THE FOLLOWING DAY UNLESS SPECIFICALLY ALLOWED BY LAW."

(Code 1980, § 19-40)

Sec. 19-60. Penalty or remedy for violations of curfew.

(a) Any parent, legal guardian or other adult person at least 21 years of age having the legal care, custody or control of a juvenile, or operator, owner or any employee managing or conducting any establishment who shall violate the provisions of section 19-57 or 19-58 shall be issued a notice to appear, and upon conviction shall be punished by a fine of $100.00.

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(b) Any juvenile violating section 19-54 shall be taken into custody and transported immediately to the police station or other appropriate holding facility in accordance with F.S. ch. 39. After recording pertinent information about the juvenile, the law enforcement agency shall attempt to contact the parent or legal guardian of the juvenile, and if successful, shall request the parent or legal guardian to immediately come to the facility where the juvenile is being held, and upon presenting documents identifying the juvenile and the parent or legal guardian shall release the juvenile to the parent or legal guardian. If after two hours of reaching the holding facility the law enforcement agency is unsuccessful in contacting the parent or legal guardian, or if the parent or legal guardian fails or refuses to come to obtain custody of the juvenile, the law enforcement agency shall transport the juvenile to his current residence. The procedures established for the first violation shall be repeated for the second violation. Commencing with the third and any subsequent violation, a petition for adjudication of dependency shall be filed in accordance with the provisions of F.S. ch. 39.
(Code 1980, § 19-41)

Secs. 19-61—19-80. Reserved.

ARTICLE III. SEXUAL OFFENDERS AND SEXUAL PREDATORS*

Sec. 19-81. Findings and intent.

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating areas around a public or private school, designated public or private school bus stop, day care center, public park or public playground, wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.
(Ord. No. 2005-10, § 1, 8-16-2005)

Sec. 19-82. Definitions.

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

Permanent residence means a place where the person abides, lodges, or resides for 14 or more consecutive days.

Temporary residence means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.
(Ord. No. 2005-10, § 1, 8-16-2005)

Sec. 19-83. Sexual offender and sexual predator residence prohibition; penalties; exceptions.

(a) It is unlawful for any person who has been convicted of a violation of F.S. § 794.011 ("Sexual battery"), § 800.04 ("Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age"), § 827.071 ("Sexual performance by a child"), or § 847.0145 ("Buying or selling of minors"), regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to establish a permanent residence or temporary

*__Editor's note—__Ord. No. 2005-10, § 1, adopted August 16, 2005, set out provisions intended for use as section 19-17, §§ 19-17-1—19-17-6. For purposes of classification, and at the editor's discretion, these provisions have been included as Art. III, §§ 19-81—19-86.

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residence within 2,500 feet of any public or private schools that have students less than the age of 18; designated public or private school bus stop, day care center, public park, or public playground.

(b) The above prohibition shall apply to individuals who have either pled no contest or pled guilty; or who have been found guilty of a violation of an equivalent offense to F.S. §§ 794.011, 800.04, 827.071, or 847.0145, within any state of the U.S. or any foreign nation, provided, however, a person referenced in the foregoing sentence and residing within 2,500 feet of any school, designated public or private school bus stop, day care center, park, playground, does not commit a violation of this section if:

(1) The person established the permanent residence prior to the effective date of this article;

(2) The person was a minor when he/she committed the offense and was not convicted as an adult;

(3) The person is a minor;

(4) The school, designated school bus stop, day care center, park, or playground within 2,500 feet of the person's permanent residence was opened after the person established the permanent residence.

(c) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a public or private school, designated public or private school bus stop, day care center, public park, or public playground.

(d) *Penalties.* A person who violates this section shall be punished by a fine not exceeding $500.00 or by imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment.

(Ord. No. 2005-10, § 1, 8-16-2005)

Sec. 19-84. Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties.

(a) It is unlawful to lease, let, rent or convey any place, structure, or part thereof, trailer, dwelling place or other conveyance, to a permanent residence or temporary resident by any person prohibited from establishing such permanent residence of [or] temporary residence pursuant to section 19-83 of this Code, if such place, structure, or part thereof, trailer, dwelling place or other conveyance, is located within 2,500 feet of any public or private school, designated public or private school bus stop, day care center, public park, or public playground.

(b) Prior to letting, renting or leasing any place, structure, or part thereof, trailer or other conveyance for use as a permanent or temporary residence that is located within 2,500 feet of a public or private school that has students less than the age of 18; designated public or private school bus stop, day care center, public park, or public playground, the owner or lessor shall obtain written confirmation from the Florida Department of Law Enforcement (FDLE), the city police department, or other law enforcement agency that the prospective renter or lessee is not a registered sexual offender or sexual predator. A copy of the herein referenced written confirmation shall be retained by the property owner or lessor for not less than two years after the termination of the sexual offender's or sexual predator's residence on the property.

(c) A property owner's failure to comply with the provisions of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions and procedures as provided in chapter 9 of this Code.

(d) The provisions and procedures contained in this chapter shall be in addition and supplemental to any other remedies now existing or subsequently provided for by law, regarding violations of municipal ordinances.

(e) Nothing in this chapter shall prevent the city from enforcing its ordinances by any other means; including but not limited to enforcement in any court of competent jurisdiction, or by any other enforcement procedure available under F.S. ch. 162, or as provided in this Code or by law.

(Ord. No. 2005-10, § 1, 8-16-2005)

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Sec. 19-85. Sexual offender and sexual predator restricted access to specified locations; penalties.

(a) It is unlawful for a sexual offender or sexual predator to be present in or at a public or private school that has students less than the age of 18; designated public or private school bus stop, day care center, public park, or public playground, when a child under the age of 16 years is present, unless the sexual offender or sexual predator is the parent or guardian of the child present in the park.

(b) A sign may be posted at the entrance of the facilities identified in subsection (a), which provides that a person shall not be present as provided therein, if convicted of a sexual offense, as defined in section 19-83, unless the sexual offender or sexual predator is the parent or guardian of the child present.

(c) *Penalties.* A person who violates section 19-85 herein shall be punished by a fine not to exceed $500.00 or imprisonment in the county jail for not more than 60 days, or by both such fine and imprisonment.
(Ord. No. 2005-10, § 1, 8-16-2005)

Sec. 19-86. Public notification.

The chief of police shall determine if notice to members of the community and the public of the presence of sexual predators and sexual offenders is necessary and provide notice in a manner deemed appropriate by the chief of police including but not limited to the internet, cable channels, mailings, public posting, and leaflets.
(Ord. No. 2005-10, § 1, 8-16-2005)

Chapter 20

RESERVED

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Chapter 21

PERSONNEL*

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Sec. 21-32. Persons covered; employment to be based on merit.
Sec. 21-33. Excluded positions.
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Sec. 21-62. Meetings.
Sec. 21-63. Responsibilities.
Sec. 21-64. Initiating proceedings.
Sec. 21-65. Right of appeal to civil service board; notice to employee of hearing.
Sec. 21-66. Amendment of charges prohibited; procedure of hearing; right to counsel at hearing; decision by civil service board.
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*__Cross reference—__Administration, ch. 2.

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ARTICLE I. IN GENERAL

Secs. 21-1—21-30. Reserved.

ARTICLE II. CIVIL SERVICE*

DIVISION 1. GENERALLY

Sec. 21-31. City employees to be civil service employees; policy.

It is declared to be the policy of the city that city employees not specifically excepted in this article or by resolution shall be constituted as civil service employees and shall be employed, retained, governed, directed and discharged as provided in this article. It is further the policy of the city that certain positions in the city's employ shall be excluded from civil service coverage because of the managerial, professional or confidential nature of their responsibilities.
(Ord. No. 97-19, § 1(21-1), 11-18-1997)

Sec. 21-32. Persons covered; employment to be based on merit.

(a) All persons regularly employed by the municipality, except excluded positions and department heads, shall be construed to come within the provisions of this article; but this article shall not include any officer or person employed for temporary duty only, or volunteers. Every vacancy in the classified service shall be filled from an eligible register established for the particular position.

(b) Employees of the municipality coming within the provisions of this article shall be employed and retained in employment and advanced to any higher grade on merit and fitness only; and the merit and fitness of any applicant for such departments, or for advancement in such departments, shall be determined by competitive examination, as provided in this article.
(Ord. No. 97-19, § 1(21-2), 11-18-1997)

*__State law reference—__Civil service systems authorized, Fla. Const., art. III, § 14.

Sec. 21-33. Excluded positions.

(a) Positions may be excluded by resolution if, due to reorganization, reassignments or reallocation of duties and responsibilities, they are created or become managerial, professional or confidential under guidelines established by the city commission and uniformly applied. Employment in such exempt, noncompetitive positions shall be in the discretion of the city manager.

(b) Persons occupying excluded positions and who have no previous civil service status with the city shall continue in their employment at will, at the discretion of the city manager or the city commission (as the City's Charter provides), who shall have the authority to terminate the employment of such persons.
(Ord. No. 97-19, § 1(21-3), 11-18-1997)

Sec. 21-34. Classification plan.

(a) A classification plan which describes the classes of positions as published with any modifications made to such plans in accordance with this article shall constitute the official classification plan for all civil service positions in the service of the city. No person shall be employed or regularly assigned to work under any title not appropriate to the duties to be performed.

(b) The personnel department shall prepare position descriptions for each class of positions and job descriptions for each job within the position, if separate. The board shall first approve each class of positions prior to employing anyone in the classified service for that class.

(c) The annual budget shall fix the number of members in each particular grade and may increase or reduce the number of any grade, or may abolish that grade, except department heads authorized by the City's Charter.
(Ord. No. 97-19, § 1(21-4), 11-18-1997)

Sec. 21-35. Transfers.

Any employee in the classified service who has served the required probationary period may be transferred with the approval of the personnel department from a position in one department to a position of the same class in another department, upon approval of the heads of the two

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departments concerned and with the consent of the employee to be transferred, without having to serve an additional probationary period. Nothing in this section shall be construed to interfere with the right of the city manager to assign or reassign employees within a given class among the various departments as he deems in the best interest of the service, regardless of consent of employees so assigned.
(Ord. No. 97-19, § 1(21-23), 11-18-1997)

Sec. 21-36. Conflicting laws.

The provisions of this article are severable. If any paragraph, section, subdivision, sentence, clause or phrase of this article is for any reason held to be contrary to law or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining portions of this article.
(Ord. No. 97-19, § 1(21-33), 11-18-1997)

Secs. 21-37—21-60. Reserved.

DIVISION 2. CIVIL SERVICE BOARD*

Sec. 21-61. Created; composition; appointment and election of members; organization; compensation of members.

(a) A civil service board for the municipality is created. Such board shall be composed of seven members, four members of the board to be persons of different vocations, not employed by the municipality in any other capacity, official or otherwise, and shall be appointed by the city commission, and shall be so appointed for terms of two years. The fifth member of the board shall be a sworn officer in the police department, and the sixth member of the board shall be a certified firefighter member of the fire department, who shall be elected to membership on the board by the vote of the regular employed members of the police and fire departments, respectively. The seventh member of the board shall be a city employee with civil service status other than a sworn police officer or certified firefighter. For greater certainty, it is specified that civilian employees in the fire or police department shall vote only for the seventh member and not for the fifth or sixth member of the civil service board. The term of the fifth, sixth and seventh members shall be for two years. The members of the board, other than the fifth, sixth and seventh members, shall appoint the judges and clerks for the election of the fifth, sixth and seventh members. The time for such election shall be set by the board or such other day as may be designated by the city commission. The votes shall be counted on the following work day after the election. The candidate receiving the greatest number of votes shall be declared elected.

(b) At the first regular meeting after a new appointment or reappointment, the board shall elect one of its members as chairman, then elect another one of its members to serve as vice-chairman. The selection of the chairman and vice-chairman shall be by majority vote of the board members present.

(c) All members of the civil service board appointed shall serve without recompense unless otherwise provided by the city commission. The employee members shall serve on the board without compensation other than their regular pay.
(Ord. No. 97-19, § 1(21-31), 11-18-1997)

Sec. 21-62. Meetings.

(a) Meetings of the civil service board are regularly scheduled for the second Wednesday of every month but can be canceled by the civil service board chairperson, if there are no items requiring the board's attention. Additional meetings can also be scheduled as necessary.

(b) All meetings of the board shall be open to the general public and shall be recorded, with minutes kept. Representatives of newspapers, radio stations and television stations shall be permitted to attend and to report to the public through their media all transactions of the board. When it is necessary to arrange for equipment for the transmitting of board meetings, such equipment shall be set up and tested prior to the time scheduled for the board to meet. No requests for broadcasting and/or televising board meetings will be granted once the board is in session, and

*__Cross reference—__Boards, committees, districts and authorities, § 2-71 et seq.

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the board has the right to limit the number of agencies permitted to broadcast and/or televise its proceedings.

(c) In all questions coming before the board, a majority vote shall control. Any four members of the board shall constitute a quorum.

(d) Whenever an individual or group has a matter which requires or might require the consideration or the decision of the board, that individual or group shall first meet with the personnel department, who shall make the necessary arrangements to bring the matter before the board.
(Ord. No. 97-19, § 1(21-3.1), 11-18-1997; Ord. No. 2007-03, § 1, 4-4-2007)

Sec. 21-63. Responsibilities.

(a) The civil service board shall adopt a set of rules, subject to approval by the city commission. The board shall have the power to employ stenographers, clerks and other assistance as may, by appropriation, be provided for by the city commission. It shall be the duty of the board to make an annual report of its activities of the calendar year to the city commission and make recommendations for the best interests of the service.

(b) The civil service board shall recommend a code of rules and regulations. This code shall cover the regulations for the conduct and direction of all employees, except those excluded by this code, and shall prescribe their duties, hours of work, discipline, and control. The code shall contain rules and regulations for the appointment, employment and discharge of persons in all positions in the municipality, based on merit, efficiency, character and industry. The code shall have the force and effect of a law on employees of the municipality. The board shall make investigations concerning the enforcement and effect of this article on its adopted code. It shall make an annual report to the city commission.

(c) The board shall have the right as necessary to make such rules as it sees fit governing physical and mental examinations for all employees in the classified service, subject to all legal requirements.

(d) The board shall periodically review the procedures used for conducting the examinations and may adopt such measures as it deems necessary, expedient or otherwise in the best interest of the city with regard to testing procedures. The personnel department shall comply with all such measures adopted by the board.

(e) Whenever in its judgment the interest of the public requires it, the board shall have the power to order a reexamination of applicants. It may also correct, amend or revoke any schedule, eligible register, or other paper or record when an error has been made or an injustice done.

(f) Whenever the board has reason to believe that the rules and regulations have been violated by the abuse of power in recommending or making an appointment to any position, or in a layoff, demotion, suspension or removal without justification, it shall be the duty of the personnel department to investigate. If in the investigation the personnel department shall find that the violations were contrary to the intent and spirit of this article, it shall make a report to the city manager and the board.

(g) The board shall have the power to subpoena and require the attendance of witnesses and the production of pertinent documents, and to administer oaths.
(Ord. No. 97-19, § 1(21-3.2), 11-18-1997)

Sec. 21-64. Initiating proceedings.

The civil service board shall have the initiative in any proceedings and may, by a majority vote, call before it any employee of any department for investigation, and if it finds sufficient grounds to do so may direct the personnel department to prefer charges against the employee, in which event the personnel department may be substituted for the department head in such charges and hearing.
(Ord. No. 97-19, § 1(21-3.3), 11-18-1997)

Sec. 21-65. Right of appeal to civil service board; notice to employee of hearing.

A discharged, suspended or demoted employee may appeal to the civil service board for a hearing

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in writing within 15 calendar days from the effective date of the suspension, demotion or discharge. The board shall hear the appeal within 30 days after the date that such appeal shall have been so filed with the board. Written notice shall be given by the personnel department to the person so removed, the city manager, and to the head of the proper department, of the time and place of hearing the appeal, which hearing shall be open to the public.
(Ord. No. 97-19, § 1(21-32), 11-18-1997)

Sec. 21-66. Amendment of charges prohibited; procedure of hearing; right to counsel at hearing; decision by civil service board.

(a) The civil service board shall hear the evidence upon the charges and specifications as filed with it by the department head. No material amendment of or addition to such charges or specifications will be considered by the board. The proceedings shall be as informal as is compatible with justice. The order of proof shall be as follows:

(1) The department head shall present his evidence in support of the charges.

(2) The appellant shall then produce such evidence as he may wish to offer in his defense.

(3) The parties in interest may then offer rebuttal evidence.

(4) The board shall hear arguments.

The admission of the evidence shall be governed by the rules applied by the court in civil cases. The department head may be represented by other counsel. The appellant may also be represented by counsel; and the board shall, after due consideration, render its judgment affirming, disaffirming or modifying the action of the department head. The board, recognizing the disciplinary authority of the department head, and ready at all times to improve the relationship between employer and employee, shall make its recommendations in writing to the city manager for his consideration. The city manager shall then enter an order affirming, reversing or modifying the disciplinary action of the department head.

(b) Whenever the dismissal or suspension of an employee is disapproved by the board and a reinstatement ordered, the employee involved may, as determined by the board, receive the pay he lost because of such suspension.
(Ord. No. 97-19, § 1(21-32.1), 11-18-1997)

Sec. 21-67. False swearing before civil service board constitutes perjury.

Any willful false swearing on the part of any witness or person giving evidence before the civil service board mentioned in this division as to any material fact in such proceedings shall be deemed perjury, and shall be punished in the manner prescribed by law for such offense.
(Ord. No. 97-19, § 1(21-32.2), 11-18-1997)

Sec. 21-68. Failure to appear at hearing.

If the employee whose appeal is to be heard as set out in this division shall fail to appear for no good reason at the time fixed for the hearing, the civil service board shall hear evidence and render judgment thereon. If the head of the proper department shall fail to appear at the time fixed for the hearing, and if no evidence is offered in support of his charges, the board may render judgment as by default or may hear evidence as offered by the removed employee, and render judgment; and the board shall forthwith notify the department head and the removed employee of its judgment.
(Ord. No. 97-19, § 1(21-32.3), 11-18-1997)

Sec. 21-69. Resignation before appeal.

The acceptance by a department head of the resignation of an employee suspended, demoted or discharged, before final action on the part of the civil service board, shall be considered a withdrawal of the charges; and the separation of the employee concerned shall be recorded as a resignation, and the proceedings shall be dismissed without judgment. A copy of the charges shall remain in the personnel file of the employee, and a notation shall be made on the copy of the charges to the effect that charges were withdrawn pursuant to this section.
(Ord. No. 97-19, § 1(21-32.4), 11-18-1997)

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Secs. 21-70—21-90. Reserved.

DIVISION 3. EMPLOYMENT

Sec. 21-91. Examinations; lists of eligibles; appointments and promotions to be made only from lists of eligibles.

(a) The personnel department, subject to the approval of the civil service board, shall provide examinations and maintain lists of eligibles to appointment as an employee of the municipality. The personnel department shall divide the lists into grades and shall certify a list of the eligibles of each position. The lists may be certified to the heads of departments at such time as may be determined by the personnel department and shall be available for examination by any member of the department, at any time. Appointments shall be made to fill vacancies only from this list of eligibles.

(b) Whenever a department shall request certification from the personnel department for appointment to or employment in any position in the competitive class, the department shall request the title and duties for such position, so that certification may be made from the proper eligible register; or, when necessary, a proper eligible register may be prepared as the result of an open competitive examination held for that purpose. Upon receipt of a requisition for certification to fill a vacancy, in the absence of a reemployment list, the personnel department shall certify the names and addresses of the first five eligible on the original appointment list for the class. When more than one vacancy is to be filled, the personnel department shall certify a number of names equal to the number of vacancies to be filled and four more additional names; however, a fewer number may be certified when there is not the required number on the original appointment list. Eligibles not selected shall be returned to the register in accordance with their relative grades. Such eligibles shall be recertified in groups of five eligibles.
(Ord. No. 97-19, § 1(21-5), 11-18-1997)

Sec. 21-92. Temporary appointment.

(a) In the absence of an eligible register and whenever there are urgent reasons for filling a vacancy in any position in the competitive class, the personnel department may nominate a person for temporary appointment. A temporary appointment may be made for a specific period of not more than 180 days, or to replace an employee on leave of absence. The appointee may hold the position until a competitive examination shall establish an eligible register.

(b) All employees holding permanent status in any classification in the classified service may receive the temporary appointment by the city manager. The selected employee shall receive additional remuneration for their added duties and responsibilities in an amount the city manager may determine to be appropriate. Such employee shall be returned to the rank from which he has been appointed upon personal request of the employee or when the assigned employment terminates. Seniority credits in the permanent civil service classification held by such employee shall accrue to the employee while assigned to such temporary employment. Such assigned employment shall not bar employees from qualifying for promotional examination to the classification next higher to their permanent civil service classification.
(Ord. No. 97-19, § 1(21-6), 11-18-1997)

Sec. 21-93. Appointments in the labor class.

(a) The personnel department may provide an appropriate form of application for unskilled labor service. If the application is not in the handwriting of the applicant, it shall state by whom written, giving the full name and address of that person. The personnel department, as it may deem advisable, may require oral, practical, medical and physical tests, and may adopt methods to verify the statements in the application. The names of those who have met the requirements shall be placed on the proper eligible register.

(b) A labor register shall be established by the personnel department; and the order of the names on the register shall be based on experience, work history and the date and time the applications are filed. A copy of the labor register shall be furnished to the department director requiring this class of help; and the director shall employ only the laborers named on the register, making the selection as nearly as possible based on their

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standing on the register. The department director shall notify the personnel department in writing of his selections. If any laborer on the register is not given employment when his turn comes, the department director shall notify the personnel department in writing of the reason for such omission. Any person not selected but still in good standing shall remain on the labor register.

(c) In the absence of an eligible register of laborers, the department director requiring the help may make a selection from any laborers referred by the personnel department.
(Ord. No. 97-19, § 1(21-7), 11-18-1997)

Sec. 21-94. Appointments to positions where exceptional qualifications required.

In certain instances, there may be a vacancy in a position where peculiar and exceptional qualifications of a scientific, managerial, professional or educational character are required. Upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can best be filled by a selection of some designated person of high qualities, the personnel department, with the written assent of the affected department head, may suspend the provisions of this division requiring competition in such position; and all such cases of suspension of the examination shall be recorded by the personnel department with the reasons for the suspension and shall be open to the public. At the time of the appointment, the rank of the appointee shall be fixed by the personnel department.
(Ord. No. 97-19, § 1(21-8), 11-18-1997)

Sec. 21-95. Appointments in noncompetitive classifications.

Positions in the noncompetitive class may be filled by the city manager. Applicants for appointments must file the regular application form, together with proof of education, training, experience, ability and character. If the personnel department has determined to its satisfaction that the position falls in a noncompetitive class and the applicants under consideration are properly qualified for employment, it shall so advise the city manager and the appointment may be made.
(Ord. No. 97-19, § 1(21-9), 11-18-1997)

Sec. 21-96. Probationary appointments.

(a) The term "probationary employee" means those employees initially employed by the city in a classified position, or an employee who is in the classified service but who has been promoted to a higher classified position and who has not completed the probationary period provided in this section.

(b) No appointment or promotion, excepting the classification of police officer, police sergeant, and firefighter/paramedic, shall be deemed completed until a period of probation of nine months of actual service shall have elapsed from the date of such appointment or promotion.

(c) No appointment or promotion in the classification of police officer, police sergeant, and firefighter/paramedic shall be deemed complete until a probation of 12 months of actual service shall have elapsed from the date of graduation from the appropriate academy or promotion, whichever is later.

(d) No probationary period shall be extended beyond the time limits set forth in this division, except as otherwise specifically provided in this division.
(Ord. No. 97-19, § 1(21-10), 11-18-1997)

Secs. 21-97—21-120. Reserved.

DIVISION 4. EXAMINATIONS

Sec. 21-121. Notice of examinations.

(a) Notice of all competitive entrance or original examinations to be held shall be made not less than 15 days prior to the examinations, by advertisement in a newspaper of general circulation in the city and by posting the announcement in the personnel department in the municipal complex. This requirement may be waived in the case of a special examination for a position difficult to fill

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and for which the qualified applicants cannot conveniently be assembled to take the examination.

(b) The announcement shall include the date of the examination, the final date for filing applications, and the minimum qualifications for applicants.
(Ord. No. 97-19, § 1(21-11), 11-18-1997)

Sec. 21-122. Entrance examinations.

(a) All entrance examinations shall be competitive and open to all persons who possess the minimum qualification requirements as established by the personnel department. All fitness tests as part of an entrance examination shall be practical in character, relate directly to matters which will fairly determine the relative capacity of the person examined to discharge the particular duties of the class of position to which appointment is sought, and, when appropriate, include tests of physical qualifications, health and manual skill.

(b) The fitness tests held to establish a list of eligibles for any class shall consist of one or more of the following parts:

(1) *Written test.* This part, when required, shall include a written demonstration designed to show familiarity of competitors with the knowledge involved in the classes of positions to which they seek appointment, their ability in the use of English, the range of their general information, or their general educational attainments. A formal thesis upon one or more subjects may be required, if advisable.

(2) *Oral test.* This part, when required, shall include tests for ability to understand oral directions and ability to effectively carry out verbal orders. An oral test may also be used where a written test is unnecessary or impracticable.

(3) *Oral interview.* This part, when required, shall include a personal interview with competitors for classes of positions where ability to deal with others, to meet the public, or other personal qualifications are to be determined.

(4) *Performance test.* This part, when required, shall include such tests of performance or trade as will determine the ability and manual skill of competitors to perform the work involved.

(5) *Physical test.* This part, when required, shall consist of a test which is specifically job-related and consistent with business necessity. Nothing contained in such test shall be used to defeat the purpose and intent of the Americans With Disabilities Act, as amended.

(6) *Mental test.* This part, when required, shall include any test to determine mental alertness, the general capacity of applicants to adjust their thinking to new problems and conditions of life, or to ascertain their special character traits and aptitudes.

(7) *Training and experience.* This part, when required, shall be marked from the statements of education and experience contained in the application form or from such supplementary data as may be required. The board, or personnel department, may, at its discretion, investigate the truth of an applicant's statements as to training and experience and govern the rating accordingly.

(8) *Medical examination.* This part is required in all cases, to determine that the applicant is physically capable of performing efficiently the duties of the position and is free from such defects or diseases that would constitute employment hazards to themselves or endanger the safety or welfare of fellow employees or others.

(c) Upon request of the board, it shall be the duty of the director of personnel to furnish a specific and comprehensive statement, in writing, showing requirements of the position; and this statement may be the basis of the examination under consideration.
(Ord. No. 97-19, § 1(21-12), 11-18-1997)

Sec. 21-123. Conducting examinations.

(a) The personnel department or its appointees shall supervise all examinations held under the civil service rules in order to ascertain the

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fitness and merit of the candidates with respect to their ability, character and industry for the position they are seeking and, after determining the relative excellence or standing of the examinees, shall certify them as provided in the civil service rules.

(b) The personnel department shall prescribe a procedure to be used in all examinations which shall preclude the identification of any examination paper with the name of any examinee until after the examination papers have been graded.

(c) In examinations composed of several tests which are graded independently, weights shall be assigned by the personnel department to each test representing its relative value in ascertaining the fitness of the applicant. The applicant's grade in a test shall be multiplied by the weight assigned to that test, and the sum of the resulting products shall be used in determining the final grade. The final grade shall determine the order in which the name of the applicant shall appear on the eligible list, except where additional credit is allowed veterans as provided by law in state statutes.

(d) Passing grades for each examination shall be established by the personnel department in advance of the examination. The names of applicants receiving passing grades shall be posted in the departments concerned, and entered on the appropriate eligible register. The grade of any applicant failing to qualify shall not be made public. The personnel department will determine the minimum grade for any test or part of an examination. A candidate who does not attain this minimum grade shall be considered to have failed in the examination and shall not be examined on any other parts, if any are planned. Veteran's preference shall be awarded in accordance with F.S. ch. 295.

(e) After the adoption and filing of the report of a competitive examination, the personnel department will inform every candidate, by mail, as to their grade. The candidate receiving the notice may inspect the results of the examination in the presence of an employee of the personnel department, either in person or through an authorized agent. Under no conditions will the questions and answers be subject to review by anyone other than designated members of the personnel department. This rule is mandatory in order to comply with the requirements of test material publishers and test exchange.

(f) If the examinee believes their grading was unjust, they may, within 15 working days after the notice of their rating was mailed to them, appeal to the personnel department, specifying in detail the reasons for their complaint. If after due consideration the personnel department agrees that the complaint is justified, it will direct correction of the marking or grading of the examination papers. All appeals must be in writing.

(g) Other than the applicant or their duly authorized agent, no one shall be given permission to review the results of an examination without the authority of the personnel department.
(Ord. No. 97-19, § 1(21-13), 11-18-1997)

Sec. 21-124. Emergency examinations.

The personnel department, after determining that there is an immediate urgent need for employment, and with the approval of the city manager, may authorize the holding of an emergency competitive examination. Notice of all emergency competitive entrance examinations shall be made not less than four days prior to the examinations by advertisement in a newspaper of general circulation in the city and by posting the announcement in the personnel department in the municipal complex.
(Ord. No. 97-19, § 1(21-14), 11-18-1997)

Sec. 21-125. Postponement and cancellation.

Any examination may be postponed or canceled at the discretion of the personnel department or board. In either case, each applicant shall be notified; and this action, together with the cause, shall be reported to the board for entry in the minutes at their next regular meeting.
(Ord. No. 97-19, § 1(21-15), 11-18-1997)

Secs. 21-126—21-150. Reserved.

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DIVISION 5. ELIGIBILITY

Sec. 21-151. Rejection of applications.

(a) The board may refuse to examine, or after examination may decline to certify as eligible for employment, any applicant for the following reasons:

(1) If the applicant, within the six months prior to the date of the examination, failed to attain a passing grade in an examination for the same or a like position.

(2) If the applicant is missing any of the established preliminary requirements for the examination or the position applied for.

(3) If the applicant does not meet the physical requirements of the position sought, provided that such requirements are specifically related to the position and are consistent with business necessity. Nothing contained in this subsection shall be utilized to defeat the purpose and intent of the Americans With Disabilities Act, as amended.

(4) If the applicant is addicted to drugs or intoxicating beverages.

(5) If the applicant has been convicted of an offense or crime involving moral turpitude or of dishonorable conduct.

(6) If the applicant is considered by the board to be, for good and reasonable cause, unfit for employment with the city.

(7) If the applicant has been dismissed from previous employment with the city for flagrant delinquency or misconduct, or resigned after charges have been brought in accordance with the City's Charter, or has been or may be subsequently dismissed upon such charge.

(8) If the applicant has made a false statement with regard to any material fact in his application.

(9) If the applicant fails to report promptly after receiving notification of the time and place of an examination.

(b) Upon rejection of an application, the applicant may be given the opportunity to show cause why the application should not be rejected.
(Ord. No. 97-19, § 1(21-16), 11-18-1997)

Sec. 21-152. Eligible registers.

(a) From the results of each examination, the personnel department shall prepare and keep open for public inspection an eligible register for the persons who have obtained the minimum passing grade, and who are otherwise qualified for appointment. Eligible applicants shall be notified of their rating and shall take rank on the eligible register in the order of their relative grades, beginning with the highest rating (subject to the veterans' preference rules being complied with).

(b) Whenever it becomes necessary to hold another similar examination in order to obtain additional eligibles, the civil service board shall establish a new register by consolidating the existing register and by rearranging the names on the register according to their grades. All persons whose names appear on an existing register which is to be merged with a new register shall have an opportunity to compete in the second examination. Should such persons elect to refuse reexamination, their names shall remain on the new register for a period of one year from the date the original register was approved by the board. Should they elect to be reexamined, the grade earned on the latter examination shall be their official grade without regard to their previous grade and will remain on the new register for a period of one year from the date the new scores are approved by the board.

(c) The term of eligibility of each register shall be one year. The term of the eligibility register may be extended for an additional one-year period upon request of the personnel department and approval of the board.

(d) The name of any person appearing on an eligible register may be removed for the following reasons:

(1) By appointment to the position for which the register is established.

(2) By written request.

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(3) By failure to report or arrange for an interview with the appointing authority within three working days after the time of notification of certification.

(4) By failure to respond to a notice from the personnel department.

(5) By declining an appointment without satisfactory explanation to the personnel department.

(6) By failure to be selected as provided for in this article.

(7) By becoming incapacitated or unfit for appointment.

(e) If after creating an eligible register the personnel department has reason to believe a person enrolled has become disqualified for appointment because of a disability developed since the examination was held, or because of errors discovered in computing the examination grade, or because of a false statement made in the original application, or for other valid reasons, the person shall be notified and given the opportunity to be heard. If the person shall fail to appear at the hearing when set by the board, the name of the person shall be removed from the eligible register.

(f) Every person on the eligible register shall file with the personnel department written notice of any change of address. Failure to do so may justify removal of their name from the eligible register.

(g) When an eligible certified for appointment shall fail to accept the offer made by mail or otherwise within four working days after receipt of the notice of appointment, he shall be deemed to have declined the appointment and his name shall be removed from the eligible register. If, however, it shall be made to appear to the satisfaction of the board, within 30 days after giving such notice, that the person was unavoidably and without fault on their part prevented from accepting the appointment, the name may be restored to its proper position on the eligible register. When an eligible certified for permanent employment refuses twice to accept a position, his name shall be removed from the eligible register.

(h) No person whose name is on the eligible register may waive his right to certification or appointment without being removed from the register except for the following reason, stated in writing to the board: temporary inability, physical or otherwise, to accept the position offered. The proof of this temporary inability must be acceptable to the board. The board shall then enter upon its minutes the reason for its action in each case described in this subsection, and the waiver shall not continue in effect for a longer period than 30 days from the date of certification without a special vote of the board. The appointing department shall forward to the board, with the notice of appointment, copies of all correspondence to and from the person declining the appointment pursuant to this subsection.

(i) An eligible register may be revoked and another examination ordered when the board shall deem it advisable either because of errors discovered, fraud committed, or inappropriate standards prescribed for any examination. All persons named on the revoked register shall be given the opportunity to take the next examination for establishing a new register. No existing eligible register shall be altered or revoked except by action of the board.
(Ord. No. 97-19, § 1(21-17), 11-18-1997)

Sec. 21-153. Employment of relatives.

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

Employee means every person engaged in any employment with the city under any appointment or contract of hire, express or implied, oral or written, for remuneration, including without limitation all full-time, part-time, seasonal, permanent and temporary employees.

Public official or *employee* means any officer or employee of the city, specifically excluding members of noncompensated advisory boards of the city.

Relative means an individual who is related to the public official or employee as father, mother,

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son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

(b) *Restricted.* After August 20, 1974, no relative of a public official or employee shall be employed by the city except in accordance with the terms of this section.

(c) *Exemption.* All persons employed by the city on August 20, 1974, who then had existing relationships that would otherwise prohibit their employment by the city shall not be affected by the prohibition on employment contained in this section.

(d) *Restrictions and conditions.* All persons who are protected by the exemption contained in subsection (c) of this section shall nevertheless be subject to the following restrictions and conditions on their continued employment:

(1) If any of the relatives were then or are presently employed in the same department or division, the relative should be transferred to a different department or division, if practical, in the discretion of the city manager.

(2) If any of the relatives were not then or are not presently in the same department or division, no such transfer to within the same department or division shall take place.

(3) If any of the persons so related are subject to promotion or advancement or a raise in pay or status other than cost-of-living increases before the promotion, advancement or raise shall be effective, the city manager shall make a special evaluation of the proposed change and report by written memorandum to the city commission on the change; and all relatives of the person subject to such change shall execute a written affidavit, under oath, swearing that they did not attempt to influence the change by any means whatsoever; and the affidavits shall remain in the permanent personnel file of the subject employee.

(e) *Change of status.* If two public officials or employees change their family relationships by marriage, adoption or other means, so as to come in conflict with the employment prohibitions of this section, they shall come within subsection (d) of this section.

(f) *Variance authorized.* A variance to the requirements of this section may be authorized by the following procedure:

(1) If the city manager determines that an existing vacancy cannot be filled with qualified personnel by normal recruitment efforts, the personnel director or appropriate official wherein exists the vacancy shall notify the city manager in writing, detailing what efforts have been made to fill the vacancy and requesting a waiver.

(2) It shall be the duty and responsibility of the city manager, upon receipt of written notification and after administrative review, to make a finding that literal application of the terms of this section shall work an unreasonable hardship upon the practical governmental functions of the city.

(Ord. No. 97-19, § 1(21-18), 11-18-1997)

Sec. 21-154. Requirements as to seniority; seniority list.

(a) A seniority list shall be certified of all employees, and each member and employee shall in writing assent or dissent to his seniority rating. If a member dissents, a hearing shall be held by the board and the seniority determined; and the finding of the board shall be final.

(b) In the event of a reduction in the number of members in any grade, the members shall be retained in that grade according to seniority; and those members thus being forced back to a lower grade or class will thereafter receive the pay of the lower grade or class, and if the grade or class

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is again increased, shall be first to succeed to the old grade or class according to seniority, without further examination or probationary period.
(Ord. No. 97-19, § 1(21-19), 11-18-1997)

Secs. 21-155—21-180. Reserved.

DIVISION 6. PROMOTION

Sec. 21-181. Procedure.

(a) Members of a department shall be moved from any grade to a higher grade only after passing an examination prescribed by the personnel department, and a certificate as to their efficiency and fitness, with the necessary qualifications prescribed by the personnel department, and the entry of their names on the eligible list for the grade.

(b) Vacancies in higher positions in the classified service shall be filled by promotion or advancement of employees, qualified by examination, from the lower classifications of the same group. Whenever the personnel department may determine that no employees from the lower classification in the same group are qualified to take a promotional examination or if no person passes the examination to fill a promotional position, then, in either case, such higher position shall be filled as an entrance position, under the provisions of this article.

(c) In the event of a position's being reaudited at the request of the director of a department, where the reaudit shows the duties and responsibilities of the position to be higher than the present classification, the employee shall be advanced to the new classification and pay range with the approval of the city manager and provided the following conditions are found by the personnel department:

(1) The employee has developed the position into a higher classification because of his initiative and ability to assume more important and complex duties and responsibilities.

(2) The employee has been in the position for at least one year and holds permanent status in the classification allotted to the position.

(d) An emergency, interim or temporary appointment from a lower to a higher position made necessary by reason of illness, disability or other cause for absence of the regular employee may be authorized without examination by the personnel department upon written request, with full information from the department director. Such promotions will terminate with the return of the regular employee, and all circumstances shall be recorded by the personnel department. No seniority rights in the higher position shall accrue to the temporarily promoted employee.
(Ord. No. 97-19, § 1(21-20), 11-18-1997)

Sec. 21-182. Promotional examinations.

(a) The term "promotional examination" signifies fitness tests to determine the relative standing of current employee applicants for positions in a specified class. A promotional examination may include employees in specified classes in all departments, or only in the department for which the eligible register is being established, as determined by the personnel department.

(b) Promotional examinations shall be competitive and open only to permanent employees legally appointed in the classified service as established by the city commission and administered by the civil service board and who meet the minimum experience qualifications as determined by the personnel department. The only exception to this subsection is that employees will not be eligible to participate in a promotional examination who have, within the six months' period immediately preceding the date of the examination, failed to obtain a passing grade in an examination for the same or a like position. This exception may be waived by the board upon application of a department director in those instances in which all eligible candidates have failed an examination.

(c) Examinations for promotions shall be conducted as often as is necessary. Notices shall be posted in the personnel department in the munic-

ipal complex and sent to all department heads in a sufficient amount of time prior to the date of the examination.

(d) Each eligible applicant who cares to compete for promotion must fill out the prescribed application or promotion form and present it to the personnel department on or before the closing date specified in the official announcement of the examination. The applicant must be able to read and write and must fill out his own application form unless the personnel department decides that such abilities are not necessary to properly perform the duties of the higher position.

(e) All promotional examinations shall be practical in character and shall relate directly to matters which will fairly test the relative capacity of the person examined to discharge the particular duties of the class of position to which promotion is desired. The promotional examination shall consist of one or more of the following parts as defined in this article: mental test, written test, performance test, oral interview, physical test, and medical examination.
(Ord. No. 97-19, § 1(21-21), 11-18-1997)

Sec. 21-183. Civil service status preserved.

(a) Any employee of the city who holds permanent civil service status and is appointed or assigned as director of a department, or to any other position not under civil service, shall be returned to the rank from which the employee has been promoted under personal request of the employee or when the noncivil service employment ceases, or when the employee is removed from the noncivil service employment. Seniority credits in the permanent civil service classification held by such employee shall accrue to the employee while assigned to such noncivil service employment. A probationary employee who has been appointed to a position not under civil service may accrue civil service credits with the approval of the civil service board. Application for such rights must be requested by the probationary employee and approved by the head of such employee's department in which he held his classified position. Such noncivil service employment shall not bar employees, holding permanent civil service status, from qualifying for promotional examination to the classification next higher to their permanent civil service classification.

(b) Any employee of the city who holds permanent civil service status and is appointed or assigned to any other position not under civil service may be removed from such position by the city manager and may be terminated for sufficient cause, pursuant to the procedures under this article.
(Ord. No. 97-19, § 1(21-22), 11-18-1997)

Secs. 21-184—21-200. Reserved.

DIVISION 7. LEAVE OF ABSENCE

Sec. 21-201. Leave of absence without pay.

(a) The director of a department, with the approval of the city manager, may grant leaves of absence without pay for the following causes and not otherwise:

(1) If the employee has a temporary physical disability; however, no such leave shall be given for a period to exceed 90 days unless the disability was caused by an injury without negligence on the part of the employee, received in the performance of duty, in which latter case the period of leave may be extended with the approval of the city manager.

(2) If the employee requests the leave for the purpose of entering a course of training or study or to engage in an investigation calculated to improve the quality of the employee's service; but no leave shall be granted for a period to exceed six months, with the right to extend for another six months if approved by the city manager and the department head. Where a leave of absence is given for more than 90 days, the position shall be filled, if necessary, by a temporary appointment from the eligible register.

(3) If the employee requests the leave for an injury on the job or military service. In the case of an employee recovering from an injury, a longer leave of absence than

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six months may be granted, provided the physician designated by the city manager shall examine and certify that the employee's leave should be extended for a longer period, and provided further that a similar certificate of necessity shall be filed every three months thereafter as long as the employee continues to be absent.

(4) If the employee has a good reason other than mentioned in this section which shall be sufficient to warrant granting the leave; however, the leave shall not exceed 90 days, and the employee shall understand that the acceptance of another position or engaging in other employment while on leave of absence shall be deemed a resignation from the service of the city. Any vacancy for such cause shall be filled by a temporary employee for a duration of not more than 90 days. Leave of absence during the required probationary period of service of an employee shall extend the probationary period the length of time used during the leave of absence.

(b) In no case shall a leave of absence be given within 90 days of the employee's appointment, neither shall a leave of absence be granted within six months after the return of the employee from a leave of 15 days or more, except in the case of a physical disability. At the expiration of a leave of absence, the employee shall be returned to the position vacated when the leave of absence was granted.

(c) Whenever a leave of absence without pay is granted, it shall be promptly reported in writing to the personnel department.
(Ord. No. 97-19, § 1(21-24), 11-18-1997)

Secs. 21-202—21-220. Reserved.

DIVISION 8. LAYOFFS

Sec. 21-221. Authority of city manager.

(a) The city manager shall have the power to separate any employee from the classified service whenever such action is made necessary by reason of shortage of funds, an insufficient appropriation to meet the salary requirements necessary to maintain existing personnel, the abolition of one or more positions, or because of organizational changes.

(b) Whenever the layoff of one or more employees shall become necessary, the city manager's office shall notify the director of personnel in advance of the intended action and the reason for such action. The director of personnel shall thereafter furnish to the city manager the names of the employees to be laid off in the order in which such layoffs shall be effected.

(c) Employees shall be laid off in the following order: seasonal employees, temporary employees, part-time employees, substitute employees, probationary employees, and regular employees. In the event of a further reduction in forces, regular employees will be laid off from the classification in which there is a surplus of employees in accordance with their seniority. If a tie exists, it shall be decided in favor of the employee who filed the first work application with the city.

(d) If an employee who is to be laid off has progressed in continuous and uninterrupted service through, and holds permanent classification in, each of several job classifications, in the same job group, he shall hold job seniority in any of the several job classifications as follows:

(1) In the highest job classification, only seniority actually accrued in that classification shall apply.

(2) In any lower job classification, all seniority accrued in the lower classification, together with all seniority accrued in several higher classifications, shall comprise the total seniority in the lower job classification.

(e) No employee shall have any right or title in a job classification in which he has never held a permanent appointment.
(Ord. No. 97-19, § 1(21-25), 11-18-1997)

Sec. 21-222. Abolishment of positions.

(a) When a position is abolished, or if necessary is merged with another position of a different classification, the person who held the position shall replace that employee whose position on the

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layoff register is lowest in an identical classification. Should the person elect to waive this privilege, he shall be transferred by the personnel department to the head of the eligible register of the classification held prior to his removal for a period not to exceed one year, within which time the person may be certified for employment.

(b) Should it be found advisable to revive or recreate a formerly abolished position within one year from the date of the abolishment, the last incumbent of the original position shall be entitled to the new position provided he was a permanent employee at the date of his separation and provided he is otherwise eligible.

(c) The names of persons who held permanent positions in the classified service which have been abolished or have become unnecessary shall be placed on an appropriate layoff register in the order of their seniority, the most senior being first, if otherwise qualified. Such employee shall be reemployed with the seniority as of the date of his involuntary separation.

(d) If a reduction in force or any grade causes a member of the lowest grade of the force to go into inactive duty, the member on inactive duty shall not receive any pay; but the inactive member shall not lose his seniority, provided he remains inactive for a period not exceeding one year, and reenters on active duty within ten days after notice has been given him by the personnel department that a position is open.
(Ord. No. 97-19, § 1(21-26), 11-18-1997)

Secs. 21-223—21-240. Reserved.

DIVISION 9. DISCIPLINARY ACTION

Sec. 21-241. Progressive discipline.

Where practicable, department heads shall employ progressive discipline for correctable conduct or violations that are performance related as opposed to negligent, willful, malicious or criminal conduct. Serious breach of duty or conduct may be subject to immediate dismissal or suspension where the best interests of the city or the public interest requires.
(Ord. No. 97-19, § 1(21-28), 11-18-1997)

Sec. 21-242. Grounds for dismissal, suspension and demotion.

The following are declared to constitute a breach of duty and to be grounds for dismissal, suspension from the classified services or grounds for demotion, though charges may be based upon causes other than those enumerated:

(1) Incompetency, negligence or inefficiency in the performance of assigned duties.

(2) Incapacity for the proper performance of duties because of a permanent or chronic physical or mental ailment or defect that cannot be accommodated by the city without placing an undue hardship on the conduct of business.

(3) Productivity or workmanship not up to required standards or performance.

(4) Failure to carry out assigned work or supervisory responsibilities adequately, directly or promptly.

(5) Refusal to perform reasonable work assignments or to cooperate with supervisors or management in the performance of duties.

(6) Hindering the regular operation of the department or division due to excessive absenteeism or tardiness or abuse of leave privileges.

(7) Failure to report for duty after a leave of absence has expired.

(8) Abandonment of position.

(9) Making a false claim for leave.

(10) Unauthorized absence from work for a period of three consecutive workdays.

(11) Making false claims or misrepresentations in an attempt to obtain sickness or accident benefits or workers' compensation.

(12) Rude, antagonistic or offensive conduct towards the public, supervisors or fellow employees, including abusive language.

(13) Conduct unbecoming an employee of the city, whether on or off duty, providing all

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allegations shall be specific and shall describe the conduct which is the basis of the charge.

(14) Quitting work, wasting time, loitering or leaving assigned work area during working hours without permission.

(15) Engaging in horseplay, scuffling, malicious mischief, distracting the attention of others, or similar types of disorderly conduct.

(16) The commission of any action which reflects, may reflect, or tends to reflect discredit upon the city, its officials and/or employees.

(17) An act of insubordination, by commission or omission, toward a superior or any elected official of the city.

(18) Making derogatory racial, ethnic, or sexist remarks and sexual harassment in the presence of the public or other employees while on duty.

(19) Antagonistic attitudes or language toward supervisors or fellow employees.

(20) Criticizing orders or rules issued and policies adopted outside of the context of a formal grievance procedure.

(21) Fighting or threatening to fight with a member of the public or another employee unless the employee is a police officer and the fighting is fully within the course and scope of job duties.

(22) Commission of a felony or a misdemeanor or a misdemeanor of the first degree as defined by state law or any violation involving moral turpitude while either on or off the job.

(23) Theft or misuse of equipment, material, property or money of the city, the public or of other employees.

(24) Careless or negligent use of city property.

(25) Unauthorized release of confidential information.

(26) Gambling or engaging in any games of chance during working hours or on city property at any time.

(27) Reporting for duty or being on duty under the influence of alcohol, illegal drugs or controlled substances; being in possession of alcohol, illegal drugs or controlled substances or the sale and/or their use during working hours and/or on city property.

(28) Violating a safety rule or safety practice.

(29) Being subject to an excessive number of accidents resulting in personal injury or injury to others or damage to property or equipment.

(30) Operation of a city-owned or -utilized vehicle in wanton disregard for the safety of or injury to others.

(31) Falsification of official documents or city records.

(32) Intentionally falsifying application for employment or medical information which would have otherwise caused employment disqualification.

(33) Possession of unauthorized weapons or firearms during working hours and/or on city property at any time.

(34) The use, threat to use or the attempt to use political influence in securing a promotion, leave of absence, transfer, change of classification, pay, nature of work or other preferential treatment.

(35) Participation in strikes, work stoppages, slowdowns, boycotts, or job actions by refusing to perform assigned work.

(36) Soliciting or accepting any gift or bribe in the course of work or in connection with work.

(37) Attempting to induce any officer or employee of the city to commit an act in violation of this article.

(38) Loss of driver's license and driving privilege by due process of law where duties of the employee's position require the operation of a motor vehicle.

(39) Violation or disobedience of any regulation, order or directive.

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(40) Willful or repeated violation of any of the provisions of the Charter, Code, or this article.

(41) Engaging in any other actions which are determined by the city manager to be sufficient cause for disciplinary action.

(Ord. No. 97-19, § 1(21-28.1), 11-18-1997)

Sec. 21-243. Suspension without pay; demotion.

(a) Any department head, with the prior consent of the city manager, may suspend a permanent employee without pay for a reasonable period not to exceed 30 days, for purposes of discipline; however, the employee shall not be required to work more than five days of any suspension without pay.

(b) A department head, subject to approval of the city manager, may demote or reduce in rank, grade, step or assignment an employee who violates the provisions of this Code, or any lawful rule, regulation, policy or order. Such demotion shall be accompanied by the appropriate reduction in pay grade consistent with the position assigned.

(c) In all cases of suspension or demotion, the department head shall furnish such employee with a copy of a notice specifying his reasons for the action and give such employee a reasonable time in which to make and file an explanation.

(Ord. No. 97-19, § 1(21-28.2), 11-18-1997)

Sec. 21-244. Discharge of permanent employees; notice of discharge.

(a) The discharge of a permanent employee other than at the end of a probationary period shall not become effective until the department head shall have first served upon such employee of the department a written notice of discharge which shall contain one or more reasons or grounds for discharge, together with such specifications of facts as will enable the employee to make an explanation and place him fairly upon his defense, giving such employee an opportunity to make an explanation, and file it with the civil service board, together with a copy of such notice of discharge and explanation, if any, made by the employee. A temporary or probationary employee who has no status in any other classification has no civil service rights. Consequently, such an employee may be discharged by the department director without appeal to the civil service board.

(b) The probationary employee may be discharged or reduced in rank at any time prior to the expiration of the probationary period. The probationary employee must receive a letter of discharge or reduction in rank from the director of his department, approved by the city manager and the director of personnel.

(c) No employee serving a probationary period in a position to which he has been promoted shall be discharged within the probationary period but shall only be reduced to the classification in which they have permanent civil service status. However, the employee may be discharged if the discharge is in compliance with this article and the civil service rules.

(d) Probationary employees who have been discharged are restricted from taking further examinations except by special ruling of the board. Probationary employees who have been reduced in rank are restricted from taking another promotional examination for a one-year period of time.

(Ord. No. 97-19, § 1(21-28.3), 11-18-1997)

Sec. 21-245. Employees dismissed or resigning.

(a) Any permanent employee who is dismissed for misconduct or delinquency, or who resigns while charges are pending, shall be disqualified from taking any civil service examination thereafter.

(b) Any former employee who has resigned in good standing from the classified service will not be eligible for reinstatement. Such former employees, upon application for employment, will be processed in the same manner as any other applicant, including the filing of an application, the taking of an examination, and the selection from an eligible register in accordance with the civil service rules and regulations. No seniority credit will be given for service rendered prior to the date of resignation.

(Ord. No. 97-19, § 1(21-28.4), 11-18-1997)

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Sec. 21-246. Name-clearing hearing.

Any employee who is disciplined, suspended or dismissed may request a name-clearing hearing before the city manager or his designee, by written request within ten days of the effective date of the action.
(Ord. No. 97-19, § 1(21-29), 11-18-1997)

Secs. 21-247—21-280. Reserved.

ARTICLE III. OLD-AGE AND SURVIVORS BENEFITS*

Sec. 21-281. Social security for city employees.

Pursuant to F.S. ch. 650, Social Security for Public Employees, all city employees shall participate and have the necessary social security and withholding taxes deducted from their salaries and the employer shall pay for city contributions as are required. The city manager, or his designee, shall be authorized to maintain the program in accordance with federal, state and local law. If federal, state or local law affect the program, the city manager shall provide a written impact statement to each city commissioner. Any and all other changes to the plan must be approved by a majority of the city commission.
(Ord. No. 2004-21, § 1, 9-21-2004)

Secs. 21-282—21-320. Reserved.

ARTICLE IV. RETIREMENT†

DIVISION 1. GENERALLY

Sec. 21-321. Reserved.

Note—See the editor's note at Art. IV.

Sec. 21-322. Additional pay for 20-year continuous service.

Any employee retiring from service to the city who has served for a period of 20 continuous years or more shall be granted at the time of his service retirement an additional 240 hours pay in addition to his regularly earned pay, vacation pay and other legal and contractual benefits.
(Ord. No. 97-19, § 2, 11-18-1997)

DIVISION 2. PENSION PLANS‡

Sec. 21-323. General employees' pension plan established.

The city hereby adopts and establishes a general employees' pension plan for itself and for the benefit of all eligible city employees. Plan documents and related agreements are maintained on file in the city clerks office.
(Ord. No. 2004-22, § 1, 9-21-2004)

Sec. 21-323.1 Police and fire pension plan.

The city shall maintain a Hallandale Beach Police and Fire Pension Plan document on file in the city clerk's office.
(Ord. No. 2008-29, § 4, 11-19-2008)

Editor's note—Ord. No. 2008-29, § 4, adopted Nov. 19, 2008, set out provisions intended for inclusion in § 21-323. For purposes of clarity, and at the editor's discretion, these provisions have been included as § 21-323.1. See also the Code Comparative Table.

Sec. 21-324. Execution of agreements.

The city manager, or his designee, shall be authorized to maintain the general employees' pension plan in accordance with federal, state and local law. If federal, state or local law affect the program, the city manager shall provide a written impact statement to each city commissioner. Any and all other changes to the plan must be approved by a majority of the city commission.

***Editor's note—**Ord. No. 2004-21, § 1, adopted September 21, 2004, repealed the former Art. III, §§ 21-281—21-285, and enacted a new Art. III, § 21-281, as set out herein. The former section 21-281 pertained to similar subject matter. See also the Code Comparative Table.

State law references—Consolidation of administration of system with Florida Retirement System, F.S. § 121.011; social security, F.S. ch. 650.

†**Editor's note—**Ord. No. 2004-22, § 1, adopted September 21, 2004, repealed § 21-321, which pertained to retirement plan for personnel over 65, and enacted §§ 21-323 and 21-324, as set out herein. In addition, Ord. No. 2004-22, § 1, changed the title of Div. 2 from "Deferred compensation plan" to "Pension plans." See also the Code Comparative Table.

‡**Note—**See the editor's note at Art. IV.

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The city manager, or appointed designee, is hereby authorized to execute, on behalf of the mayor, all necessary agreements, trust documents, and any other documents required to administer its general employees' pension plan.
(Ord. No. 2004-22, § 1, 9-21-2004)

Sec. 21-325. Professional/management pension plan established.

The city hereby adopts the established professional/management pension plan for itself and for the benefit of all eligible employees. Plan documents and related agreements are maintained on file in the city clerks office.
(Ord. No. 2004-23, § 1, 9-21-2004)

Sec. 21-326. Continuation of 401(a) plan.

Employees that elected to remain in the 401(a) plan will continue that benefit for the duration of their employment.
(Ord. No. 2004-23, § 1, 9-21-2004)

Sec. 21-327. Execution of agreements.

The city manager, or his designee, shall be authorized to maintain the professional/management pension plan in accordance with federal, state and local law. If federal, state or local law affect the program, the city manager shall provide a written impact statement to each city commissioner. Any and all other changes to the plan must be approved by a majority of the city commission.

The city manager or appointed designee is hereby authorized to execute, on behalf of the mayor, all necessary agreements, trust documents, and any other documents required to administer its professional/management pension plan.
(Ord. No. 2004-23, § 1, 9-21-2004)

Secs. 21-328—21-340. Reserved.

DIVISION 3. DEFERRED COMPENSATION PROGRAM*

Sec. 21-341. Established.

Pursuant to F.S. § 112.215(5), the city hereby adopts and establishes a deferred compensation program for itself and for the benefit of all city employees who wish to participate in said program. Plan documents and related agreements are maintained on file in the city clerks office.

All assets in the deferred accounts, property and rights purchased with deferred amounts, and all income attributable to such deferred amounts, property or rights, shall (until made available to the participating employee or beneficiary) be held in a trust, custodial account, or annuity contract as described in the Internal Revenue Codes, more particularly section 457(g), for the exclusive benefit of the participating employees and their beneficiaries.
(Ord. No. 2004-24, § 1, 9-21-2004)

Sec. 21-342. Execution of agreements.

The city manager, or his designee, shall be authorized to maintain the deferred compensation program in accordance with federal, state and local law. If federal, state or local law affect the program, the city manager shall provide a written impact statement to each city commissioner. Any and all other changes to the plan must be approved by a majority of the city commission.

The city manager or appointed designee is hereby authorized to execute, on behalf of the mayor, all necessary agreements, trust documents, and any other documents required to administer the deferred compensation program, and any for city contributions as are necessary.
(Ord. No. 2004-24, § 1, 9-21-2004)

*__Editor's note—__Ord. No. 2004-24, § 1, adopted September 21, 2004, repealed former §§ 21-341—21-348, and replaced them with Div. 3, §§ 21-341 and 21-342, as set out herein. The former sections pertained to similar subject matter. See also the Code Comparative Table.

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Chapter 22

RESERVED

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Chapter 23

PROPERTY AND PURCHASING*

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Secs. 23-1—23-30. Reserved.

Article II. City Property

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Sec. 23-32. Leases and franchises.
Sec. 23-33. Surplus city property.
Sec. 23-34. Records of surplus property sold.
Secs. 23-35—23-50. Reserved.

Division 2. City Cemetery

Sec. 23-51. Use of roadways and entrances.
Sec. 23-52. Burial permits.
Sec. 23-53. Notice of interment.
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Sec. 23-56. Lot enclosures.
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Sec. 23-113. Purchase and conveyance of real property.
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***Cross references—**Administration, ch. 2; minimum property maintenance and occupancy code, ch. 14.

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Article IV. Surplus Property

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Article V. Lost, Stolen and Abandoned Property

Sec. 23-171. Custodian; records.
Sec. 23-172. Determination of disposition.
Sec. 23-173. Notice and conduct of sale.
Sec. 23-174. Disposition if worthless.
Sec. 23-175. Reclaiming by owner.
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Secs. 23-177—23-210. Reserved.

Article VI. Destruction of City Property

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Article VII. Design-Build Procurement Method

Sec. 23-226. Definitions.
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ARTICLE I. IN GENERAL

Secs. 23-1—23-30. Reserved.

ARTICLE II. CITY PROPERTY

DIVISION 1. GENERALLY

Sec. 23-31. Deeds of conveyance.

(a) The appropriate officials are authorized to execute deeds of conveyance to eligible applicants for residential building lots owned by the city provided that the applicant:

(1) Is an eligible recipient pursuant to the guidelines of the county community development division, the city community development corporation and the housing finance authority of the county.

(2) Demonstrates the ability to secure and close a construction loan along with the appropriate additional funds to complete construction of a single-family residence in a timely manner.

(3) Executes a restrictive covenant in the form previously approved by the city commission.

(b) Lot allocation shall be as indicated on attachment A to the ordinance from which this section was derived which is on file in the city clerk's office. The lots shall be assigned by the housing finance authority of the county and the city community development corporation, with the approval of the city manager, on a first-come, first-served basis, allocated on a nondiscriminatory basis. As program guidelines permit, preference shall be extended to city residents.

(c) The city manager is authorized to implement the waiver of certain liens and charges and may implement the fee sharing plan as previously approved by the city commission.
(Ord. No. 95-25, §§ 1—3, 10-17-1995)

Sec. 23-32. Leases and franchises.

(a) The city shall have power to grant, lease or renew any lease to the right to use the streets, highways, alleys, public grounds or buildings, and to grant franchises in connection with such power. No ordinance granting, renewing or leasing the right to use the streets, alleys, public grounds or buildings of the city to any private person, firm or corporation shall become a law or be effective in any way unless passed by a majority vote of all members of the commission; however, no such grant, renewals or leases shall in any event be for a longer period of time than 49 years. No such grant, renewal or lease shall be transferable except by approval of the commission expressed by ordinance. Copies of all transfers and mortgages or other documents affecting the title or use of such grants, renewals or leases shall be filed with the city clerk within ten days after execution.

(b) Nothing contained in this section shall be construed as limiting or applying to the power of the city which is expressly conferred to grant franchises or to enter into franchise contracts for the construction, maintenance and operation of any general railroad over, along or upon or across the streets, avenues, alleys and public places of the city.

(c) Any actions taken by the city which did not conform to Laws of Fla. ch. 29108(1953), § 9(24), but which do comply with the provisions of this section are hereby ratified.
(Code 1980, § 10-5)

Sec. 23-33. Surplus city property.

(a) *Declaration.*

(1) The city manager is authorized to declare city-owned property with an estimated value of $20,000.00 or less to be surplus property and dispose of such property as set forth in subsection (b) of this section.

(2) The city manager may recommend that the city commission declare any property owned by the city and valued in excess of $20,000.00 to be surplus property. Any city property declared to be surplus by the city commission may be disposed of in the

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manner declared by the city commission, including but not limited to sealed bids, auction and negotiated sale.

Charter reference—Conveyance of land to be by ordinance, § 3.15(4)(f).

(b) *Disposition under city manager declaration.*

(1) Surplus property valued at $250.00 or less, as estimated by the city manager or his designee, shall be disposed of by negotiation with prospective purchasers. Notice declaring the property to be surplus shall be posted on the city hall bulletin board for a period of not less than one week, the notice requesting interested parties to contact the appropriate city officials to discuss purchase of the property. The city manager is authorized to dispose of the property at the best price that can be negotiated. If no money is offered for any surplus property, the city manager is authorized to allow the property to be removed for no cost or to have it destroyed.

(2) Surplus property valued in excess of $250.00 but less than $20,000.00, as estimated by the city manager or his designee, shall be sold to the highest bidder. The city manager or his designee shall solicit sealed bids by placing notice of sale in appropriate periodicals and by directly contacting parties which might submit bids. Notice of sale and request for bids shall be posted on the city hall bulletin board for a period of not less than two weeks prior to the opening of bids. The city manager is authorized to accept the highest bid, or he may reject all bids, in which event bids could be requested again, or the property could be sold at auction, or the city commission could authorize sale in another manner.

(3) At the request of the city manager, the city commission may authorize the sale of any surplus property at auction rather than any other method specified in this section.

(Code 1980, §§ 10-6, 10-7; Ord. No. 2003-34, § 1, 11-18-2003)

Editor's note—Ord. No. 2003-34, § 1, adopted November 18, 2003, contained a scrivener's error amending § 23-23. At the discretion of the editor, the amended section has been redesignated as § 23-33.

Sec. 23-34. Records of surplus property sold.

The city clerk shall keep detailed records of all surplus property sold, the date of the sale, the name of the purchaser, and the amount of proceeds received. The proceeds shall be turned into the general fund of the city.

(Code 1980, § 10-8; Ord. No. 2000-2, § 1, 1-18-1999; Ord. No. 2001-15, § 1, 9-20-01)

Secs. 23-35—23-50. Reserved.

DIVISION 2. CITY CEMETERY

Sec. 23-51. Use of roadways and entrances.

(a) No person shall use the roadways of Hallandale Cemetery as public thoroughfares for passage through the cemetery or for any other purposes, other than for attendance at funerals, memorial occasions, visits to graves or cemetery lots, or other similar uses and purposes, including official business.

(b) No person shall climb over, go through or go over any wall, fence or hedge in the cemetery; trespass in any manner upon cemetery property; or enter or leave the cemetery at any place other than at regularly established gateways or entrances and at such times as are established by the city manager for visitation.

(Code 1980, § 23-2)

Sec. 23-52. Burial permits.

It shall be the duty of the funeral director, family or friends of any person about to be buried in the cemetery to furnish a proper burial permit and give the place of birth, age and residence at the time of death, sex, date of death and cause of death of the deceased, so far as is known.

(Code 1980, § 23-3)

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Sec. 23-53. Notice of interment.

Notice to the city manager or his designee of an interment must be accompanied by directions as to the lot if preowned, and such notice must be presented within 16 working hours of the interment.
(Code 1980, § 23-4)

Sec. 23-54. Work orders.

No person shall erect or place any memorial marker or do any work in the cemetery without first presenting a written order from the lot owner to the city manager or his designee and obtaining written permission from the city manager or his designee for the work contemplated.
(Code 1980, § 23-5)

Sec. 23-55. Unsightly debris.

The city manager or his designee and/or any person employed by the city and acting under the city's direction shall have the right to go upon any lot and to cut down or remove any and all weeds, tall grasses, underbrush, trash, etc., or to proceed in any manner as deemed necessary to put the lot or cemetery premises in good condition and to render the cemetery premises sightly.
(Code 1980, § 23-6)

Sec. 23-56. Lot enclosures.

No lot owner shall erect any fence, wall or curbing around any lot or place on a lot any cement or stone slab or any walkway leading to or from such lot.
(Code 1980, § 23-7)

Sec. 23-57. Markers and tombstones.

Upright markers or tombstones may not be erected in any portion of Hallandale Cemetery. Installation of grass level markers is permitted. Such markers shall not exceed 36 inches in width and 24 inches in length and shall be installed with the top surface flush with the ground level. No marker, tombstone or monument shall be erected on grave space until the lot is paid for in full.
(Code 1980, § 23-8)

Sec. 23-58. Permanent maintenance fund.

Twenty percent of the lot purchase money for all Hallandale Cemetery lots sold shall be set aside to establish a permanent maintenance fund.
(Code 1980, § 23-9)

Sec. 23-59. Vaults.

A cement, steel or equivalent strength vault shall be provided, at the cost of the lot owner, for all burials. Such vaults shall be of such specifications and weight as to prevent retention of water and cave-ins in the grave space.
(Code 1980, § 23-10)

Sec. 23-60. Care of grave space.

The following rules for the care of grave space shall be enforced by the city manager or his designee:

(1) Flowers from burial services shall be removed by the city within one week.

(2) Easels and stands are not permitted.

(3) Permanent plantings are not permitted.

(4) Faded flowers, plastic, potted or fresh, shall be removed from the grave space.

(Code 1980, § 23-11)

Sec. 23-61. Reservation of grave space.

The city manager or his designee may reserve grave space, at the request of a prospective purchaser, for a period of ten days without formal agreement or payment of the price of the lot. A record shall be kept of any such reservation made. At the expiration of the time period, a formal agreement to purchase such space must be signed or the space paid for. In the absence of a formal agreement or payment for the space, the space will no longer be reserved.
(Code 1980, § 23-12)

Sec. 23-62. Cost and payment for cemetery lots, niches and mausoleum spaces.

(a) Any cemetery lot, niche or mausoleum space shall be paid for in cash or an agreement to purchase in installments shall be executed with

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the city. Such agreements shall be prepared by the city manager and shall designate cemetery lots at the prices established by resolution.

(b) A minimum down payment and the number of years of the agreement shall be specified in the installment purchase agreement.

(c) For interments on Saturday there will be an additional charge which will be established by resolution.

(d) Prior to interment in any cemetery lot, niche or mausoleum space in Hallandale Cemetery, the lot or space must be paid for.
(Code 1980, § 23-13)

Sec. 23-63. Multiple interments.

(a) Multiple cremation interments shall be permitted within a single niche space up to a maximum of two. Each time an individual niche space is reopened to accommodate this type of multiple burial, an additional charge shall be made.

(b) Interments of one adult and one infant child, or of newborn infant children, or of children of sufficiently small stature that would permit use of a single burial vault in a grave space, shall be permitted as a single interment. Existing grave spaces shall not be reopened to accommodate additional burials, except in the case of double burial vaults.

(c) No other multiple interments are authorized.

(d) Monuments or markers for burials described in this section must be consistent with the overall plan of Hallandale Cemetery.
(Code 1980, § 23-14)

Sec. 23-64. Transfer of deceased to another cemetery; reversion of grave space.

(a) When a disinterment occurs for the purpose of transfer of the deceased to another cemetery, the grave space shall revert to the city. The purchaser or his heirs shall be reimbursed the original sale price of the space less 20 percent for administrative costs.

(b) Transfer of ownership or exchange of cemetery spaces within Hallandale Cemetery may be accomplished by the payment of an administrative charge as established for the first space. An additional charge per space shall be made for a transfer of each additional space. A city resident may transfer his cemetery space to a noncity resident only upon paying the city the difference between the current resident and nonresident cemetery space fees. A nonresident may transfer his cemetery space to a resident, but such transfer shall not entitle the nonresident to receive any refund from the city.

(c) The city shall have the first option to repurchase cemetery space at the original purchase price, less ten percent for administrative costs. The city shall have the first option to repurchase niche or mausoleum space at 50 percent of the original purchase price.
(Code 1980, § 23-15)

Sec. 23-65. Bicycles, motorcycles, dogs, peace disturbances.

The city shall regulate the use of the Hallandale Cemetery grounds by prohibiting:

(1) Bicycles and motorcycles, except such as may be in attendance at funerals, on business or to visit grave sites;

(2) Dogs, except guide dogs; and

(3) Improprieties. Strict decorum shall be observed at all times.

(Code 1980, § 23-16)

Secs. 23-66—23-100. Reserved.

ARTICLE III. PURCHASING

Sec. 23-101. Purpose and intent.

The purpose and intent of this article shall be to prescribe the manner in which the city shall control the purchase of material, supplies, equipment and certain contractual services, and to maintain a high ethical standard for all officers and employees of the city in connection with this purpose.
(Code 1980, § 10-2(a))

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Sec. 23-102. Definitions.

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

Contractual services includes, without limitation, printing; gas; fuel; towel and cleaning services; purchase, installation, rental, repair, and maintenance of equipment; machinery and other personal property; lease of real property and office space by the city as lessee; and all other contractual supplies, materials, equipment and services not specifically excluded from the requirements of this article.

Supplies means all supplies, materials and equipment.

Using agency means any department, agency, commission, bureau or other unit in the city government using supplies or procuring contractual services as provided in this section.
(Code 1980, § 10-2(b))

Cross reference—Definitions generally, § 1-2.

Sec. 23-103. Competitive bidding required.

(a) All purchases of and contracts for equipment, supplies and contractual services, when the estimated cost shall exceed $50,000.00, except as specifically provided in this section, shall be based, wherever possible, on competitive bids. The city manager is authorized to purchase and contract for equipment, supplies and contractual services and pay for a construction change order(s) when the cost shall not exceed 50,000.00, without further city commission approval, competitive bidding or a formal written contract, provided authorized funds are available in the budget, and a report of such expenditures is provided on the monthly basis to the city commission.

(b) The purchase of equipment, supplies and materials utilized on a routine and ongoing basis with an annual cost in excess of $50,000.00 may be procured through receipt of informal competitive bids. Any purchase in excess of $50,000.00 requires commission approval unless the purchase is solely funded by grant monies or has been approved in the annual budget and the items purchased have a unit price of $7,500.00 or less.
(Code 1980, § 10-2(c); Ord. No. 97-20, § 2, 12-2-1997; Ord. No. 2002-20, § 1, 11-2-2002; Ord. No. 2006-19, § 1, 10-16-2006)

Sec. 23-104. Formal contract procedure.

All equipment, supplies and contractual services, except as otherwise provided in this section, when the estimated cost shall exceed $50,000.00 shall be purchased by formal, written contract from the lowest responsive, responsible bidder, after due public notice inviting proposals has been given; however, the city commission, upon request of the city manager, may waive the requirement for a formal written contract when such a contract would not be in the best interest of the city.
(Code 1980, § 10-2(d); Ord. No. 2002-20, § 1, 11-2-2002; Ord. No. 2006-19, § 1, 10-16-2006)

Sec. 23-105. Award of contract.

(a) The city manager shall have the authority to recommend to the city commission award of contracts.

(b) Contracts shall be awarded to the lowest responsive, responsible bidder, or as otherwise determined in the best interest of the city. The city commission shall not be involved in the preparation, submittal and evaluation of bids, request for proposals and other purchases, including attendance at or participating in presentations to or deliberations by a selection committee or contact with persons, firms, organizations and corporations submitting bids or proposals to the city. Following an evaluation of responses received for bids, request for proposals, and other purchases, the city manager shall have the authority to recommend to the city commission award of contracts. After placement on the agenda, the city commission reviews the city manager's recommendations and may direct any communications, inquiries or questions regarding the contract award to or through the city manager. In accordance with administrative procedures and policies, and the city's lobbying ordinance, all persons, firms, organizations and corporations

seeking a procurement from the city or the award of funds for goods and services must submit a completed and notarized lobbyist registration form/oath to the city clerk's office prior to contacting a member or members of the city commission regarding a city procurement. Lobbyists shall cease all contact and communication with the city commission within the period of time as stated in the lobbying ordinance before the date set for a decision on a matter, unless contacted by a city commissioner.

(c) In the award of bids and the determination of the lowest, best and responsible bidder, the city commission may award a preference based upon vendors, contractors or subcontractors who are local and whose bid is within five percent of the apparent lowest bid with a preference:

(1) First, to bidders who maintain a place of business within the city limits;

(2) Second, to bidders who maintain a place of business within the county; and

(3) Third, to bidders who maintain a place of business with the state.

Purchases and contracts within the authority of the city manager may also give consideration to local preference by application of the guidelines in this subsection.
(Code 1980, § 10-2(e); Ord. No. 2008-09, § 1, 5-21-2008)

Sec. 23-106. Prohibition against subdivision.

No contract of purchase shall be subdivided to avoid the requirements of this article.
(Code 1980, § 10-2(f))

Sec. 23-107. Exception to bid requirements.

Only the following situations are exempted from the competitive bid requirements of this article:

(1) *Emergency purchases.* In urgent cases of compelling emergency which require the immediate purchase of equipment, supplies or contractual services, the city manager is empowered to secure, by open market procedure at the lowest obtainable price, any equipment, supplies or services not exceeding $50,000.00. A full report of the circumstances of all emergency purchases shall be filed by the city manager with the commission.

(2) *Professional services.* Contracts for professional services involving peculiar skill, ability, experience or expertise, which are in their nature unique and not subject to competitive bidding, are exempt from the competitive bidding requirements of this article; however, a formal, written contract, approved by the commission, shall be required for all such contracts in excess of $25,000.00, and any applicable state law, such as the Consultant's Competitive Negotiation Act, shall be followed.

(3) *Noncompetitive supplies.* Noncompetitive supplies, available only from one source, such as unique, patented or franchised supplies, are exempt. The city manager is authorized to purchase and contract for noncompetitive supplies in excess of $50,000.00 provided authorized funds are available in the annual budget and records of purchases exceeding $50,000.00 are available for review in the city commission/city manager offices.

(4) *No bid received.* Where no bid has been received after publication of a bid proposal; however, such purchases in excess of $50,000.00 require a formal, written contract approved by the commission.

(5) *Unique circumstances.* Where the commission finds unique circumstances to establish that competitive bidding is not in the best interest of the city; however, such purchases in excess of $50,000.00 shall require a formal, written contract approved by the commission. The city commission, upon request by the city manager, may waive the requirement for a formal written contract when such a contract would not be in the best interest of the city.

(6) *Bids and contracts from other entities.* The city manager is authorized to use

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competitive bids and formal contracts from other entities under the same limitations as described in section 23-108.

(Code 1980, § 10-2(g); Ord. No. 97-20, § 1, 12-2-1997; Ord. No. 2002-20, § 1, 11-2-2002; Ord. No. 2006-19, § 1, 10-16-2006)

Sec. 23-108. Cooperative purchasing.

The city manager may procure, without following formal contract procedure, all supplies, materials and equipment which are cooperative purchases and shall have the authority to join with other units of government in cooperative purchasing plans or to purchase pursuant to formal written contracts or competitive bids of other governmental units, when the best interests of the city would be served, subject to the requirement that any purchase in excess of $50,000.00 requires commission approval unless the purchase has been approved in the annual budget and the items purchased have a unit price of $7,500.00 or less.

(Code 1980, § 10-2(h); Ord. No. 2006-19, § 1, 10-16-2006)

Sec. 23-109. Appropriations required.

(a) No obligation for expenditures of city funds may be incurred except pursuant to, and only to the extent of, a specific appropriation of funds in the budget. This provision shall apply, without being limited to, any formal or informal contractual obligation for the purchase of lease supplies, services or equipment, and personal services. No money may be drawn from the treasury of the city nor may the appropriate city officials execute any check, draft, warrant, note or other negotiable instrument, except pursuant to, and only to the extent of, a specific appropriation of funds in the budget to be debited for such payment.

(b) No obligation for the expenditure of money, nor drawing of funds from the treasury, in excess of $1,000.00 may occur unless there is a written certification from the finance director or his designee certifying that there exists an adequate unencumbered balance of appropriate and available funds.

(c) The city manager, in a matter of public necessity, may incur obligations or expend funds, not in excess of $50,000.00 without complying with this article or the requirements for public bidding, provided that he places the ratification of these expenditures on the first regularly scheduled commission meeting occurring after the incursion or expenditure. In an emergency involving urgent and extreme matters of public health, safety or welfare, the city manager may exceed this monetary limitation, provided that, on the same business day that he takes such action, the city manager shall request that a special commission meeting be held at the earliest possible time, to ratify that action.

(Code 1980, § 10-2(i); Ord. No. 2002-20, § 1, 11-2-2002; Ord. No. 2006-19, § 1, 10-16-2006)

Sec. 23-110. Appropriations for outstanding purchase orders.

A duly authorized appropriation of any given fiscal year shall continue to be a valid appropriation of a subsequent fiscal year, without appropriation or inclusion in the later year's budget, providing that the expenditure pursuant to such appropriation has been authorized by the city commission or a properly executed purchase order is outstanding at the end of the fiscal year of the original appropriation. Authority to complete such purchase and expenditure is granted; and if the expenditure is not completed after a reasonable time, the city manager is authorized and directed to cancel and close out the unexpended balance of the appropriation.

(Code 1980, § 10-2(k))

Sec. 23-111. Administrative code regulations implementing article.

(a) The city manager shall adopt, as part of the administrative code, written regulations implementing this article, based upon commonly accepted professional local government purchasing standards, concerning the following subject areas:

(1) The nature, type and frequency of advertisements.

(2) Bid deposits.

(3) Bid opening procedures.

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(4) Rejection of bids.

(5) Criteria for determining the lowest responsible bidder.

(6) Bid awards.

(7) Performance bonds.

(8) Bidders list.

(9) Open market procedure.

(10) Inspection and testing of purchased supplies or services.

(11) Change orders.

(12) Other matters necessary to implement this article.

(b) These administrative code provisions and any amendments to such provisions shall be transmitted to the city commission and shall take effect 30 days after the date of submission, and shall have the force and effect of law.
(Code 1980, § 10-2(l))

Cross reference—Administration, ch. 2.

Sec. 23-112. Affordable housing.

(a) Affordable housing means a program administered by the city manager and as implemented by administrative policies and procedures which are approved by the city commission to achieve the purpose of establishing standards of eligibility for affordable housing programs in the city as follows:

(1) Where the city acquires real property whether improved or un-improved for affordable housing;

(2) Where improvements can be made to improved or un-improved property so that low and/or moderate income households can buy affordable housing; and

(3) To expand affordable housing in the city including units for purchase or lease.

(b) City manager authority.

(1) The city manager shall have the authority to sign the documents necessary to accomplish the goals approved by the city commission in subsection (a) above, including the conveyance, transfer, and lease of real property whether improved or unimproved.

(2) The city manager may use waivers of the city's zoning and land development code to achieve the laudable goals of affordable housing, encourage capital and economic investment, and to stimulate affordable housing throughout the city, in combination with such conditions imposed as are appropriate, including vacation of easements, alleys, rights-of-way or any other conveyance or reduction of the city's interest in real property, pursuant to section 32-965 pertaining to variances providing for notice to the public and consideration by the city commission upon objection by the public or denial by the city manager.

(Ord. No. 2006-10, § 1, 5-2-2006)

Sec. 23-113. Purchase and conveyance of real property.

In addition to section 23-141 of this Code, the city manager shall have the authority to sign the documents necessary to purchase and convey real property, as authorized by motion by the city commission in accordance with procedures set forth by administrative policy.
(Ord. No. 2006-10, § 2, 5-2-2006)

Secs. 23-114—23-140. Reserved.

ARTICLE IV. SURPLUS PROPERTY

Sec. 23-141. Conveyance of real property.

(a) The city manager, with the concurrence of the city attorney, is authorized to convey parcels of real property acquired from the county as escheated properties or acquired by the city by donation or lien foreclosures, in such reasonable and expeditious fashions as will be in the best interests of the city and as will reduce the city's financial obligations, maintenance responsibilities, and liability exposures, while at the same time returning the properties to the tax rolls through private ownership.

(b) The authority conferred in this section shall not apply to any property purchased by the city, or used for parks, utilities, public facilities or any public function; and the city manager shall first find that no public purpose exists for the property.

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(c) The city manager shall report each such disposition of property in a memo to the city commission within five working days.
(Ord. No. 97-5, §§ 1—3, 3-18-1997)

Secs. 23-142—23-170. Reserved.

ARTICLE V. LOST, STOLEN AND ABANDONED PROPERTY

Sec. 23-171. Custodian; records.

The chief of police is designated as the custodian of all lost, confiscated, impounded, captured or abandoned personal property coming into the possession of officers or employees of the city; and he shall keep proper, adequate and complete records of the property, including a short description, time of acquisition, how acquired, and final disposition made of the property, and of the proceeds of the sale of the property if sold.
(Code 1980, § 10-10)

Sec. 23-172. Determination of disposition.

The city manager shall call to the attention of the city commission at periodic intervals the extent and value of property in the categories in this article that has accumulated in order that a determination can be made by the city commission as to whether or not there exists enough of such property with a sufficient value that would justify the expense of a public sale. A public sale shall be held at such periods of time as the commission shall determine as being warranted. Upon a determination's being made by the city commission that a sale is warranted, it may, by motion, provide the extent to which the sale shall be advertised, including whether the property is of sufficient value that it would justify the cost of advertisement in a newspaper or whether merely a posting of notice of the public sale on the city hall bulletin board is warranted.
(Code 1980, § 10-11)

Sec. 23-173. Notice and conduct of sale.

Prior to such sale's being held, the city clerk shall attempt to notify as many persons as possible who might be interested in purchasing the articles to be sold in order to secure the best available bid. All sales shall be for cash, and the proceeds of the sale shall be paid into the general fund of the city. The city shall have a right to participate as a bidder at the sale; and if there are no bidders, the property shall be retained by the custodian until a similar sale is next held, and attempts made again to secure bids on the property.
(Code 1980, § 10-12)

Sec. 23-174. Disposition if worthless.

If any property under this article, in the opinion of the commission, is worthless, it can be disposed of in any manner the commission might direct.
(Code 1980, § 10-13)

Sec. 23-175. Reclaiming by owner.

Nothing provided in this article shall prevent a lawful owner of such property from reclaiming the property upon proof of ownership and the reimbursement to the city for any costs it may have incurred relative to its having the custody of the property unless such property is confiscated property as regulated in section 23-176.
(Code 1980, § 10-14)

Sec. 23-176. Disposition when confiscated.

All property carried, possessed, owned or used in the violation of any ordinance of the city shall be confiscated, after it has served the purpose as evidence of such violation, by an order of the court. Such confiscation shall be by a proceeding before the court, after due notice and hearing, and shall not operate against innocent owners or lienholders not having notice of such use. All orders of confiscation shall be filed with or written upon the docket entry or sheet referring to such violation or in a book provided for such purpose.
(Code 1980, § 10-15)

Secs. 23-177—23-210. Reserved.

ARTICLE VI. DESTRUCTION OF CITY PROPERTY

Sec. 23-211. Prohibited.

It shall be unlawful for any person to wantonly, willfully or maliciously mar, deface, injure or

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mutilate any of the city buildings, vehicles, equipment, furniture, street signs, traffic signs, or traffic control equipment, or any other property of the city, or shall cause such action to be done. (Code 1980, § 19-3)

State law reference—Constitutes criminal mischief, F.S. § 806.13.

Secs. 23-212—23-225. Reserved.

ARTICLE VII. DESIGN-BUILD PROCUREMENT METHOD

Sec. 23-226. Definitions.

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

Consultants' Competitive Negotiation Act means F.S. § 287.055, as periodically amended.

Design-build contract means a single contract with a design-build firm for the design and construction of a public construction project.

Design-build firm means a partnership, corporation, or other legal entity that:

(1) Is certified under F.S. § 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

(2) Is certified under F.S. § 471.023 to practice or to offer to practice engineering; certified under F.S. § 481.219 to practice or to offer to practice architecture; or certified under F.S. § 481.319 to practice or to offer to practice landscape architecture.

Design criteria package means performance oriented drawings or specifications of the public construction project. The design criteria package shall furnish sufficient information to permit design-build firms to prepare a bid or a response to the city's request for proposal, or to permit the city to enter into a negotiated design-build contract. The design criteria package shall specify performance based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layout and conceptual design criteria for the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.

Design criteria professional means a firm which holds a current certificate or registration under F.S. ch. 481 to practice architecture or landscape architecture or a firm which holds a current certificate as a registered engineer under F.S. ch. 471 to practice engineering and who is employed by or under contract by the city to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package. (Ord. No. 2000-29, 11-21-2000)

Cross reference—Definitions generally, § 1-2.

Sec. 23-227. Use of design-build contracts.

(a) *Competitive proposal selection process.* The competitive proposal selection process involves a three phase design-build process.

(1) *Design criteria package.*

a. All design-build projects require a design criteria package.

b. The design criteria package shall be prepared and sealed by a design criteria professional, employed by or retained by the city.

c. Should the city elect to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must be selected and contracted with in accordance with the requirements of sections (4) and (5) of the Consultants' Competitive Negotiation Act.

d. A design criteria professional who has been selected to prepare the design criteria package shall be ineli-

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gible to render services under a design-build contract executed pursuant to the design criteria package.

(2) *Public announcement.* The city shall publicly announce in a uniform and consistent manner, the fact that design criteria professional services and design-build services are required, except in cases of valid public emergency as declared by the city manager. The announcement shall include a general description of the project, procedures for obtaining the request for proposals, and the time within which interested design criteria professionals and design-build firms may submit proposals.

(3) *Design-build firm selection.*

a. The qualification and selection of no fewer than three design-build firms shall be made based on qualifications, availability, and past work of the firms, including the partners or members of such firms.

b. The city manager shall select three firms submitting the best proposals and shall present the proposals to the city commission.

c. The city commission shall make the final selection of the design-build firm for the public construction project based on qualifications, availability, experience and related factors of the three firms.

d. The city manager is authorized to develop additional procedures for use of the competitive proposal selection process for design-build contracts by the city.

(b) (1) *Qualifications-based selection process.* The qualifications-based selection (QBS) is a two phase, simplified procurement process not requiring the creation and submission of a design criteria package.

(2) *Design-build firm selection.*

a. If the city uses the qualifications-based selection (QBS) method, the city shall employ or retain a licensed design professional appropriate to the project to serve as its representative.

b. The QBS method shall include the qualification and selection of no fewer than three design-build firms, based on the qualifications, availability, past work of the firms including partners or members of such firms.

c. The selection of three firms shall be made by the city manager and presented to the city commission for final approval of one firm.

(3) *Public announcement.* The city shall publicly announce in a uniform and consistent manner, the fact that the design criteria professional services and design-build services are required, except in cases of valid public emergency as declared by the city. The announcement shall include a general description of the project, procedures for obtaining the request for proposals, and the time within which interested design criteria professionals and design-build firms may submit proposals.

(Ord. No. 2000-29, 11-21-2000)

Sec. 23-228. Method of project selection and participation.

(a) Prior to the implementation of each proposed construction project, the city commission may determine which construction method to use based on the nature of the project and the city's needs and capabilities. The city commission may reject both design-build methods contained in this article and instead implement the traditional design-bid-build method of contracting.

(b) Prior to the implementation of each proposed construction project, the city commission shall also determine whether to use staff or retain an outside design criteria professional.

(c) All final agreements pursuant to this article shall be subject to the approval of the city commission following recommendations made by the city manager. The city commission reserves the right to reject all proposals.

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(d) In the case of a public emergency presenting certain conditions that might adversely affect the life, safety, health or welfare of the residents of the city, or when city employees, property or equipment are endangered, or when it is necessary to maintain or restore vital services, to address noncompliance with state statutes or other regulatory laws and permits or situations which may cause major financial impact to the city should immediate action not be taken, the city manager is authorized to negotiate with the best design-build firm available at the time, and award a design-build contract. The emergency design-build contract shall be presented to the city commission for ratification at the next scheduled commission meeting.
(Ord. No. 2000-29, 11-21-2000)

Chapter 24

RISK MANAGEMENT*

Sec. 24-1. Creation of program.
Sec. 24-2. Program administration.
Sec. 24-3. Claims administration.
Sec. 24-4. Legal services.
Sec. 24-5. Trust fund.

*__Cross reference—__Administration, ch. 2.

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Sec. 24-1. Creation of program.

There is created a risk management program which shall include administration and settlement of claims, a claims prevention program and a trust fund to defray the cost of the program.
(Code 1980, § 10-51)

Sec. 24-2. Program administration.

(a) The general liability risk management program shall be administered by the city manager or his designee, with responsibilities as outlined in this chapter.

(b) There shall be a position of risk management who shall report to the city manager and be exempt from civil service coverage and who shall have such duties as are assigned by the city manager.

(c) A safety program shall be established under the direction of the city manager to identify and implement ways and means to reduce and eliminate unsafe conditions or practices for which liabilities may occur. The safety program may include such rewards, disciplines or penalties as may tend to reduce losses and promote safety.
(Code 1980, § 10-52)

Sec. 24-3. Claims administration.

(a) All claims shall be referred to the office of risk management, who shall investigate such claims and report to the city manager in accordance with administrative procedures to be prescribed by the city manager. If a court proceeding may be involved, the city attorney shall be advised.

(b) The city manager may employ such investigative, adjusting or consulting services as may be required within his authority under the purchasing ordinance.

(c) The city manager and city attorney may compromise, settle and pay or collect all claims which may be discharged by payment of an amount not to exceed $20,000.00 per incident. Such settlements or compromise shall be for all damages claimed for personal injury, property damage, or both.

(d) Proposed settlements in excess of $20,000.00 shall be submitted to the city commission for its decision.
(Code 1980, § 10-53; Ord. No. 2003-33, § 1, 11-18-2003)

Sec. 24-4. Legal services.

The city attorney shall perform all legal services required to accomplish the purpose of the risk management program regarding the defense or prosecution or, when requested by the city manager, the negotiation of settlements of claims or suits. The city attorney may, with approval of the city commission, obtain outside legal services which shall be paid for by the fund when such services are deemed necessary and in the best interest of the city.
(Code 1980, § 10-54)

Sec. 24-5. Trust fund.

(a) The program shall rely upon funds placed in the general liability trust fund established in this chapter to which shall be credited all money deposited by appropriation or from any other source, related to the fund. The fund shall consist of:

(1) Any unexpended balances of any appropriation heretofore made for the payment of claims and judgments against the city relating to general liability.

(2) Appropriations for the payment of claims and judgments against the city relating to general liability.

(3) Any costs, contributions or indemnities recovered from other parties relating to tort claims involving general liability.

(4) Income accruing from the investments of the trust fund.

(b) These funds are to be expended in accordance with the provisions and for the purposes stated in this chapter. The fund shall be segregated from other funds of the city, shall be appropriated in the annual city budget and shall be administered under the direction of the city manager.

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(c) For the purpose of this chapter, the term "general liability" shall be defined as all actual or alleged responsibilities to others arising out of the ownership, maintenance and use of all city property; all operations of the city; and all acts or omissions of the city's elected officials, appointees, agents and employees while acting within the scope of official duties.
(Code 1980, § 10-55)

Chapter 25

STREETS, SIDEWALKS AND OTHER PUBLIC WAYS*

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Sec. 25-34. Abutments; bridges; culverts.
Sec. 25-35. Bulkheads and retaining walls.
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***Cross references—**Aircraft and airports, ch. 4; drinking alcoholic beverages on public property, § 5-8; animals not permitted in public parks or on beaches, exceptions, § 6-5; use of streets restricted by peddlers, § 7-411; peddlers, solicitors and transient merchants, § 7-411 et seq.; buildings, construction and condominiums, ch. 8; moving of buildings, § 8-33; flood damage prevention, § 8-71 et seq.; special assessments, § 10-101 et seq.; abandoned vehicles on public ways or ground, § 13-40; mobile homes and mobile home parks, ch. 17; traffic and motor vehicles, and boats, ch. 28; operation of bicycles on sidewalks, § 28-5; parades, § 28-91 et seq.; utilities, ch. 30; zoning and land development code, ch. 32; planning for sidewalks, § 32-87; planning for streets, § 32-88; sidewalk cafes, § 32-571 et seq.

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Sec. 25-72. Exceptions or variances to the provisions of sections 25-68 through 25-70.
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ARTICLE I. IN GENERAL

Sec. 25-1. Building numbering.

(a) *System.*

(1) The centerline of Hallandale Beach Boulevard shall be taken as the basis of numbering from the north to the south and from the south to the north on a unit basis of 25 feet per number; and the buildings on the north and south avenues and highways which intersect that boulevard shall begin to be numbered at that boulevard and run north to the city limits and south to the city limits.

(2) The centerline of Dixie Highway shall be taken as the basis of numbering from the east to the west and from the west to the east on a unit basis of 25 feet per number; and the buildings on the east and south streets, boulevards and courts which intersect that highway shall begin to be numbered at that highway and run east to the city limits and west to the city limits.

(3) On the north avenues, highways and terraces, the odd numbers shall be placed on the west side; and on the east streets, courts and boulevards, the odd numbers shall be placed on the north side; and on the south avenues, highways and terraces, the odd numbers shall be on the east side; and on the west streets, courts and boulevards the odd numbers shall be on the south side, as they increase.

(b) *Adjusting and specifying numbers.* Such numbers shall not be changed without the consent of the city manager; and it shall be the duty of the city manager to adjust such numbers, or to number such streets from time to time, if such numbering may be required.

(c) *Size and location of numbers.* Each of the figures of each number shall be at least three inches in length, but so marked as to be easily and distinctly read. Numbers shall be placed on, above or immediately to the side of the door, or else at some other and more conspicuous place on the front of the building, to serve the purpose for which intended; and subject to the direction of the city manager.

(d) *Plats on file.* For the purpose of facilitating a correct enumeration, plats of all streets, avenues, courts, terraces and highways within the city, showing the proper number of all lots or houses fronting upon all highways (except alleys) shall be prepared and kept on file in the office of the city clerk, which plats shall be open during regular office hours, for the inspection of any owner or occupant of any building desiring to know the proper number of his building.

(e) *Placement by owner or occupant.* Any owner or occupant of any building now erected or that may hereafter be erected in the city who shall for 30 days after notice from the city manager of the proper number of such building neglect or refuse to number any building owned or occupied by him in conformity with the provisions of this chapter and with the plan for numbering buildings shall be subject to punishment as provided in section 1-8, for every 30 days that he shall neglect or refuse to number the building.

(f) *Objects in streets to be lighted.*

(1) Building materials, disabled machinery, disabled vehicles, excavations and objects in the streets and highways, between the period of sunset and sunrise, shall be properly identified by warning lights.

(2) It shall be unlawful for any person to remove, change, extinguish or carry off any lantern, signal, sign, light, torch or other device placed on any street, highway or public place within the city to designate or mark obstructions or danger.

(Code 1980, §§ 25-1—25-6)

Sec. 25-2. Vegetation, waste materials and objects in rights-of-way adjacent to private property.

(a) *Maintaining of vegetation by owner of abutting property; definitions.*

(1) All owners, lessees or other persons in charge of property within the city are required to maintain complete vegetative coverage of an approved grass species or

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other ground cover plantings approved by the city manager on the unpaved public right-of-way abutting their property. This maintenance responsibility includes the maintenance of grass, trees, shrubs, hedges, and/or any other approved landscape plantings; the replacement of dead plantings or grass; and the maintenance of the swale grading, including the filling of holes such as land-crab or snake holes. Grass must not exceed a height of six inches.

(2) Landscaping located on private property shall not obstruct or hinder pedestrian or vehicular traffic by encroaching on or over public sidewalks, alleys, streets or other public ways.

(3) For the purposes of this subsection and subsections (b)—(f) of this section, the term "property owner" means the persons shown on the county real estate tax records as the owner of the property, and the term "public right-of-way" means the paved and unpaved area of a highway, roadway, street or alley, or other such strip of land, reserved for public use, whether established by prescription, easement, dedication, gift, purchase, eminent domain or any other legal means.

(b) *Removal of waste material by owners of abutting property.* All property owners within the city are required to remove all waste material, junk or other debris from the public right-of-way abutting their property. If after the passage of 24 hours following notification of a violation, waste material, junk or other debris has not been removed, the city may remove such materials and charge and collect from the property owner its costs incurred.

(c) *Placement of shrubbery, signs, tree trimmings by owner of abutting property.* It is prohibited to have signs, tree trimmings, refuse and all other articles or materials within the public right-of-way.

(d) *Maintenance of driveway and other entrances by owner of abutting property.* It shall be the responsibility of the owner of the property whose driveway or other entrance to his property intersects the public right-of-way to maintain the driveway or other entrance, including, without limitation, that portion which is on the public right-of-way.

(e) *Exclusions.* The prohibitions contained in subsections 25-2(a)—(d) of this section shall not apply in the following situations:

(1) Properly packaged trash, waste material, refuse and other articles may be placed on the unpaved public right-of-way no more than 24 hours before the next scheduled pickup.

(2) Property owners are not required to maintain the paved surface of the public streets.

(3) Property owners may place mailboxes in the unpaved public right-of-way provided that no such mailbox exceeds 23½ inches in length, 11½ inches in width, or 13½ inches in height, and no horizontal cross section of a pedestal supporting a mailbox exceeds one square foot in area.

(4) Vehicular parking in the public right-of-way shall be governed by other applicable laws, ordinances or regulations; however, in those cases where parking in the right-of-way is permitted, wheel stops may be used.

(5) The prohibitions against placing or maintaining any object or material in the public right-of-way shall not apply to the city or its authorized agents, nor shall they apply to franchised public utilities operating within the scope of their easements or franchises.

(6) Shrubbery and hedges may be placed in the public right-of-way no closer than five feet from the roadway in all zoning districts. Vision clearance shall be maintained as required in article IV, division 8 of chapter 32.

(7) The city manager shall maintain a list of prohibited species of trees which are injurious to the public and determined to create a possible nuisance, safety hazard or damage to public property. Trees not on that list may be placed in the public

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right-of-way. Vision clearance shall be maintained as required in article IV, division 8 of chapter 32.

(8) Sprinkler systems may be placed in the public right-of-way no closer than ten feet from the roadway.

(9) Dome-shaped decorative markers, also known as button markers, may be placed in the public right-of-way, provided that such markers have rounded surfaces and no straight edges and are separated by a minimum of two feet.

(10) Columns, light posts or planters may be placed in the public right-of-way in single-family zoning districts, provided that such objects are no closer than ten feet from the roadway and provided that such items shall not be placed between a public sidewalk and roadway.

(11) Items which are permitted to encroach by this section but do not do so in conformity with this section, and were in existence prior to April 15, 1986, may remain, provided they do not violate the vision clearance requirements of section 32-384(g) or the prohibition from placing items in the right-of-way between a public sidewalk and the roadway contained in subsection (e)(10) of this section. This subsection shall not be deemed to permit encroachment or installation subsequent to April 15, 1986, of prohibited items, which items shall be deemed illegal and subject to immediate removal.

(f) *Risk and responsibility of abutting property owner for shrubbery, hedges, trees, sprinkler systems, columns, light posts, planters, and button markers; performance by city; assessment of costs against property.*

(1) Shrubbery, hedges, trees, sprinkler systems, columns, light post, planters and button markers authorized in subsection (e) of this section are placed in the public right-of-way at the risk of the abutting property owner.

(2) It shall be the responsibility of the abutting property owner to maintain all such shrubbery, hedges, trees, sprinkler systems, columns, light posts, planters, and button markers.

(3) If the city or another governmental entity, or a public utility operating within the scope of its easement, determines that any encroaching item, including but not limited to shrubbery, hedge, tree, sprinkler system, column, light post, planter, or button marker that was placed in the public right-of-way must be removed or modified, it shall be the duty of the abutting property owner to remove or modify the item and to bear all associated costs, including the costs of replacement if desired.

(4) If the city directs the abutting property owner to remove or modify, within a prescribed period of time, any encroaching item, including but not limited to any shrubbery, hedge, tree, sprinkler system, column, light post, planter, or button marker placed in the public right-of-way, and the owner fails or refuses to comply with such directive, the city may cause the work to be done and assess the costs as a charge and lien against the property.

(Code 1980, §§ 25-7—25-12)

Secs. 25-3—25-30. Reserved.

ARTICLE II. LAND IMPROVEMENT ON PUBLIC PROPERTY*

DIVISION 1. GENERALLY

Sec. 25-31. Short title.

This article shall be known and may be referred to as the "Basic Land Improvement Ordinance Regulating and Governing the Development of Public Property by Other Than City Forces" and may be generally referred to as the "Basic Land Improvement Ordinance."

(Code 1980, § 25-20)

*__Cross reference—__Minimum property maintenance and occupancy code, ch. 14.

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Sec. 25-32. Statement of purpose.

It is the purpose of this article that all work undertaken on public property be performed under the supervision of the city and in conformance with plans and specifications provided by the city or approved by the city.
(Code 1980, § 25-21)

Sec. 25-33. Permits and procedures generally.

(a) *Permits.*

(1) The owner or his bona fide agent is required to take out an improvement permit with the city for all land improvement occurring on public property (excluding the placement of utility poles, overhead facilities and anchors).

(2) No improvement, alteration or redesign of any existing public property or facility shall be permitted without a city improvement permit issued for such specific improvement.

(b) *Procedure.*

(1) An application for an improvement permit shall be filed with the city building department. There shall be an application fee commensurate with the type of improvement requested and at the rate as set by the building code.

(2) Each application shall be accompanied with a proposed map and/or plan indicating the exact nature of the desired improvements.

(3) The acceptance of the improvement permit by the applicant shall constitute his legal acceptance of all the pertinent obligations, and the applicant shall be held responsible for fulfilling all the requirements as recorded and such obligation shall terminate only upon the final inspection and approval of such improvement by an authorized city inspector.

(Code 1980, §§ 25-23, 25-24)

Sec. 25-34. Abutments; bridges; culverts.

An application for securing a permit to build, alter or improve any abutments, bridges and culverts must be accompanied by a set of detailed plans and specifications drawn by or under direction of a state registered engineer. These plans and specifications, including any changes and additional requirements, must be approved by the city engineer.
(Code 1980, § 25-25)

Sec. 25-35. Bulkheads and retaining walls.

An application for securing a permit to build, alter or improve any bulkhead or retaining wall must be accompanied by a set of detailed plans and specifications. These plans and specifications, including any changes or additional requirements, must be approved by the city engineer.
(Code 1980, § 25-26)

Sec. 25-36. Cuts and excavations.

(a) *Permit required.*

(1) It shall be unlawful for any person to cut, excavate, destroy, deface or remove any portion of any public right-of-way in the city without first obtaining a permit from the building department.

(2) For the purposes of this section, the term "person" shall be as defined in section 1-2, and shall include specifically but not be limited to any private or public corporation, government or franchised utility or its agents and employees, but shall not include any city work forces or private contractors performing work under a contract with the city.

(b) *Application for permit; conditions.*

(1) Any person desiring to do any of the acts listed in subsection (a) of this section shall make application for a permit upon forms provided by the building official at the building department permit desk. An application shall be filled out for each individual job and shall provide the date, location, time and nature of work to be performed as well as the expected time and date when the paved right-of-way

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will be fully restored. The permit shall set forth the standards of restoration for the particular section of the right-of-way affected, and the person obtaining the permit will be required to restore the right-of-way to the condition specified by the permit.

(2) There will be no fee for the permit issued upon the application set forth in subsection (b)(1) of this section.

(3) If emergency conditions require a person to perform the acts prohibited by subsection (a) of this section at a time when the building department permit desk is closed, that person shall obtain a permit for the emergency work on the next regular business day when the building department permit desk is in operation.

(4) Franchised utilities may, in lieu of applying for individual job permits, apply for a blanket permit on a yearly basis. Any utility using a yearly permit shall furnish the city, through the director of public works, with a weekly work schedule showing the jobs to be performed in the coming week, and any emergency work commenced during the prior week without previous notice. This schedule shall show the equivalent of the information required of an individual job permit. This yearly permit may be rescinded upon 30 days' written notice to the utility if the city determines that the utility is not properly maintaining or restoring its excavations, or providing sufficient and adequate information to the city concerning the work it is performing.

(c) *Inspections; safeguards.*

(1) Upon receipt of the properly completed application and issuance of a permit, the building department shall transmit the information concerning such application and permit to the department of public works.

(2) The department of public works through its director or his designated subordinate shall have the authority to inspect any job site where work described in subsection (a) of this section is being performed, both during the work and following the restoration of the paved right-of-way at the conclusion of the work.

(3) The purpose of the inspection shall be to determine that proper safeguards are maintained while the right-of-way is torn up and that complete restoration of the right-of-way is made at the completion of the job.

(4) Where practical, all excavations will be backfilled at the completion of the normal workday. All excavation, whether backfilled or not, shall be properly safeguarded with barricades and lights until complete restoration of the right-of-way is completed.

(Code 1980, §§ 25-27—25-27.2)

Sec. 25-37. Driveways and parking aprons.

(a) No private driveways or parking aprons shall be constructed on public right-of-way except in accordance with conditions of a permit.

(b) All applications for permits to construct driveways or parking aprons must be accompanied by a map or plan showing such improvement. The city engineer shall check and approve such map or plan so as to provide proper drainage, and such approved map or plan shall become a part of the application.

(c) All permits for parking aprons in the public right-of-way shall be issued on the basis that any such improvement may be altered and removed by the city at any time at no cost to the city. The city shall not be required to replace such altered or removed improvements.

(d) In areas which have curb, gutter and sidewalk, all driveways shall be constructed in conformance with official design and construction standards of the city.

(e) In areas where there is no curb or gutter, all driveways shall be constructed of concrete, asphaltic concrete or interlocking concrete paver stone in conformance with the official design and construction standards of the city.

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(f) No person shall be permitted to pave or build up the parkway with an impervious material without providing adequate drainage as required by the city engineer.
(Code 1980, § 25-28)

Sec. 25-38. Design and construction standards.

The following exhibit shall be a part of this article and shall constitute the official design and construction standards of the city:

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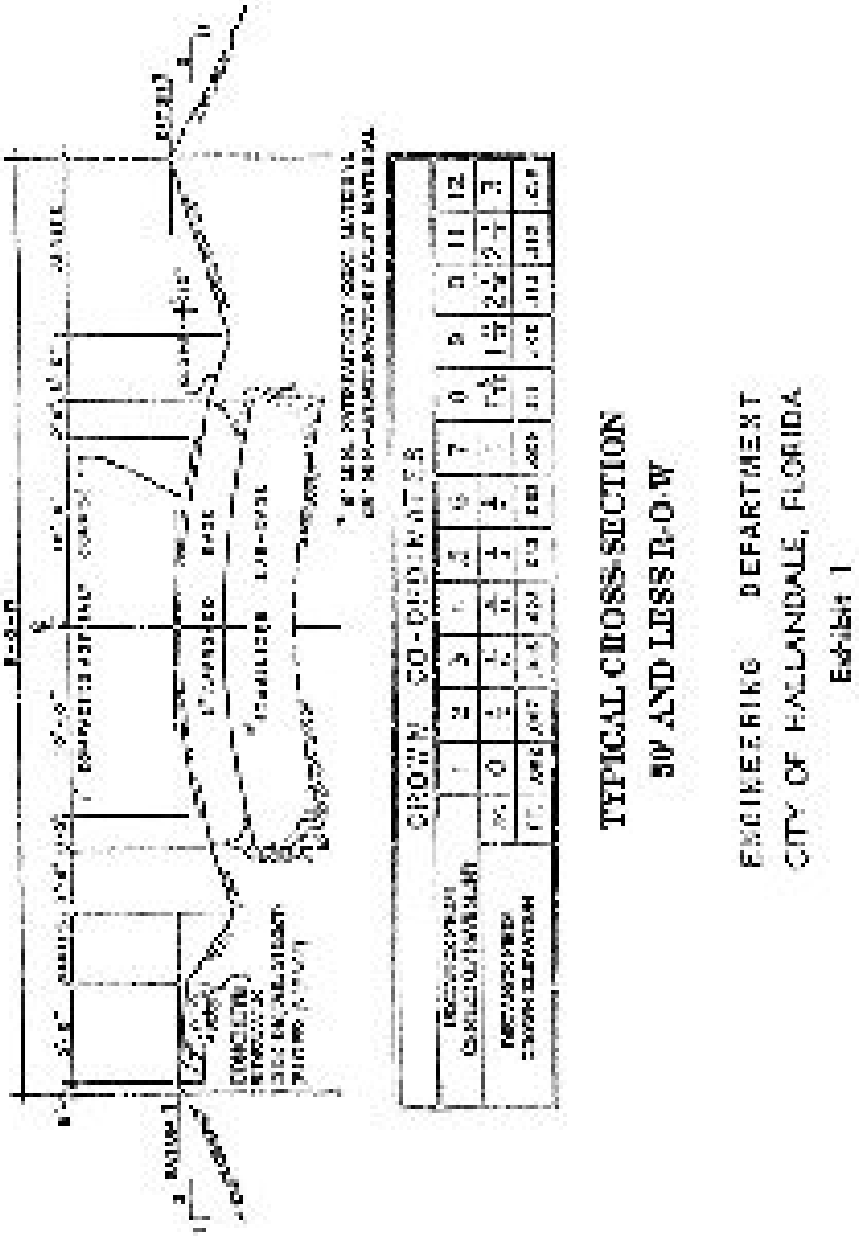

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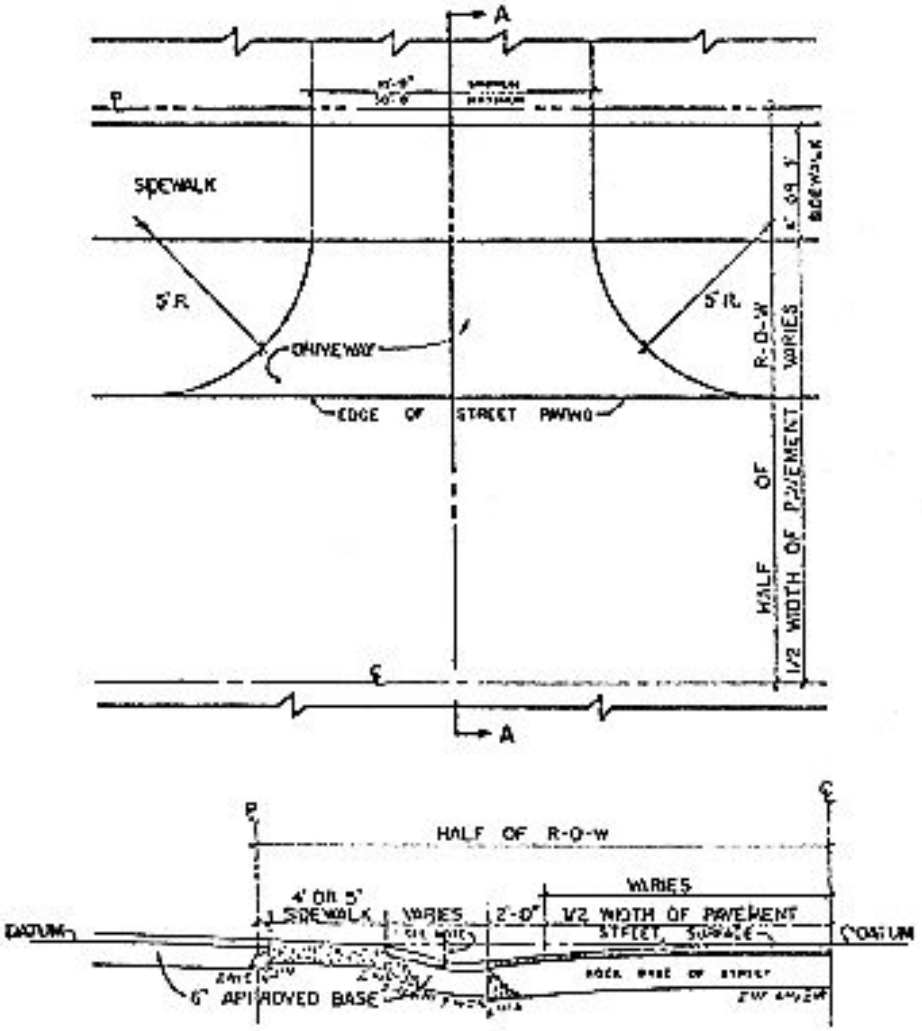

NOTE: DEPTH OF SWALE IS BASED ON SLOPE OF 1/2" = 1' FROM EDGE OF PAVING. SEE TYPICAL STREET PAVING DETAIL SHEET FOR PARTICULAR R/W WIDTH.

SECTION "A-A"

TYPICAL
DRIVEWAY DETAIL WITHOUT CURB & GUTTER

ENGINEERING DEPARTMENT
CITY OF HALLANDALE, FLORIDA

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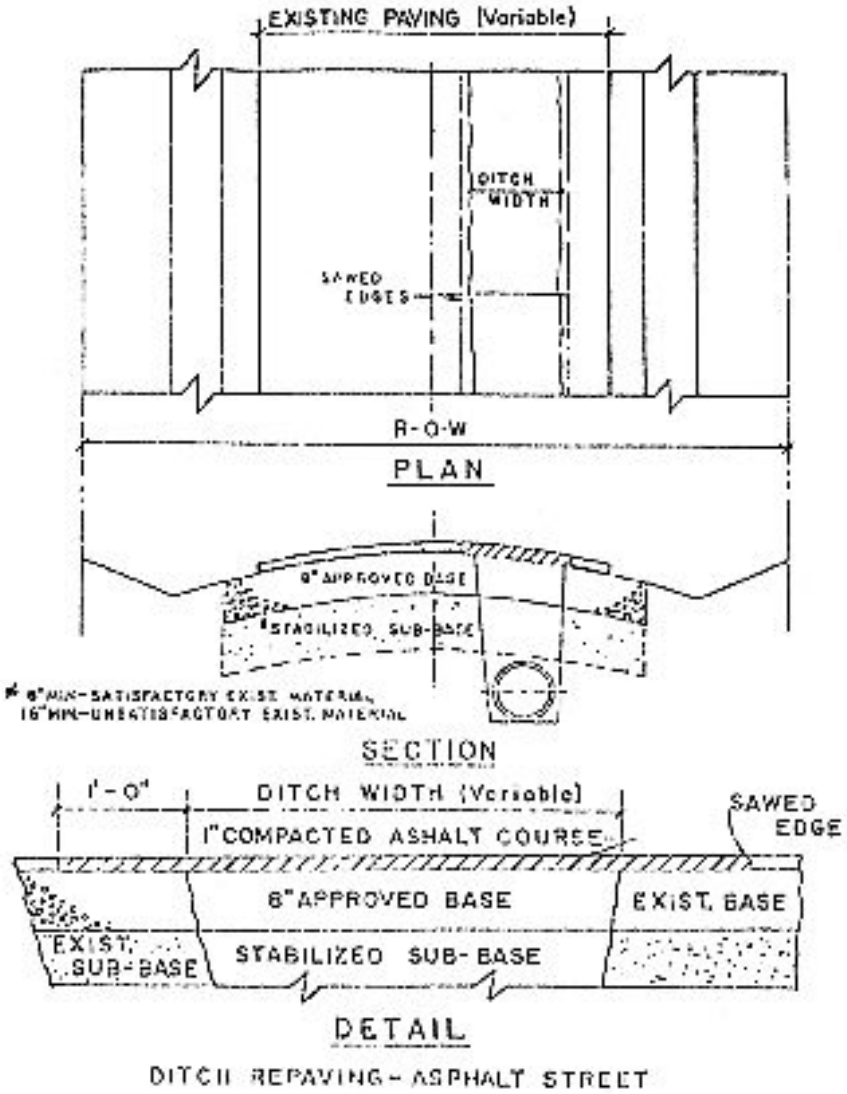

(Code 1980, § 25-29)

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Sec. 25-39. Swales.

(a) It is the responsibility of the owner of property abutting a street public right-of-way to provide and maintain a graded pervious swale in the nonpaved portion of the public right-of-way. The swale shall be centered between the edge of the street pavement line and the edge of the sidewalk nearest to the street if a sidewalk is installed or at a location approved by the city manager if no sidewalk exists. The swale slopes shall fall a minimum one-half inch vertically to every one foot horizontally, measured from the edge of the street pavement and from the edge of the sidewalk closest to the street. The vertical slope dimensions of the swale shall be measured to the top of the sod when it is installed. The city manager has discretion to modify slope requirements based on consideration of specific drainage needs of a particular area.

(b) Owners of existing, developed, single-family, residential property in compliance with article IV, division II of chapter 32, as of February 17, 1995, are exempt from the requirement of providing a swale.

(c) If the city determines a nonconforming swale area is responsible for substantial flooding, the abutting property owner may be directed to construct a swale in compliance with this section. If within 30 days from written notification the owner fails to comply with such directive, the city may cause the work to be done and assess and collect its costs incurred.
(Code 1980, § 25-30; Ord. No. 2000-19, § 1, 9-5-2000)

Secs. 25-40—25-60. Reserved.

DIVISION 2. SIDEWALKS

Sec. 25-61. Duty of owner of abutting property to maintain sidewalks; procedure.

(a) It shall be the duty of all owners of real property in the city that abuts any constructed public sidewalks to keep and maintain those sidewalks in good repair at all times.

(b) If any defect in any such sidewalk shall be brought to the attention of the city manager through report made by a member of the public or otherwise, the city manager or his designee may notify the owner of the real property abutting the sidewalk of the need for such repair and that such repair must be completed within 30 days from the receipt of the notice.

(c) Upon receipt of the notice, the property owner shall have 30 days to complete the required repairs to the satisfaction of the building official. Failure to do so shall constitute a violation of this Code.

(d) The form and manner of giving of the notice shall be governed by section 25-65.
(Code 1980, § 25-40)

Sec. 25-62. Standards for sidewalks.

The width of each sidewalk constructed shall be five feet, and the thickness shall be four inches. The elevation of each sidewalk shall be at least two inches above the crown of the road on which the property faces or abuts, and the pitch shall be one-fourth inch to a foot toward the road. At a curb cut where vehicles will be entering and exiting over a sidewalk, that portion shall be six inches thick and require a six-by-six gauge, ten-inch-by-ten-inch road mesh. The material to be used in the construction, the grade, and the method and manner of constructing, reconstructing and repairing sidewalks abutting public streets in the city shall be as prescribed and approved by the building official, based upon generally accepted public sidewalk construction and repair standards.
(Code 1980, § 25-41)

Sec. 25-63. Report of needed sidewalks to city commission.

Any person may report to the city commission places and sites within the city where it is necessary or advisable, by reason of any unsafe, unsanitary or dangerous condition affecting the public health, safety or general welfare of the city or its inhabitants or for any other reason, for public sidewalks to be constructed or reconstructed.
(Code 1980, § 25-42)

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Sec. 25-64. Issuance of notice to owner to construct or reconstruct; alternative procedures.

Upon the approval by the city commission of the report required in section 25-63, the city commission may give or cause to be given written notice to the owner of the property abutting upon the sidewalk or proposed sidewalk, directing the property owner to construct or reconstruct, as the case may be, the sidewalk or proposed sidewalk abutting his property, pursuant to the requirements of sections 25-65 and 25-66. The commission may determine that it is advisable to utilize special assessments for the construction or reconstruction of the sidewalks, pursuant to the special assessment procedures set forth in this Code or the law of the state, in which event those procedures shall be followed in lieu of the procedures of this division.
(Code 1980, § 25-43)

Sec. 25-65. Contents of notice to property owner; service on owner.

If special assessments are not to be used, the notice required by section 25-64 shall direct the abutting property owner, as determined by the latest tax records, within 30 days after date of the notice, to complete the construction or reconstruction. The notice shall be served personally or mailed to the address of each property owner, if the address, by reasonable diligence, can be obtained by the city clerk; if the address of the property owner is unknown or cannot be obtained by reasonable diligence, or if the notice is returned unclaimed, a copy of the notice directed to the owner shall be published in a newspaper of general circulation in the county once each week for two consecutive weeks (two publications being sufficient) directing the owner to complete the construction or reconstruction within 30 days after the last publication of such notice.
(Code 1980, § 25-44)

Sec. 25-66. Failure of owner to comply with notice; performance by city; assessment of cost against property.

If the abutting property owner shall fail or refuse to do and perform the construction or reconstruction on any sidewalk or proposed sidewalks within the time prescribed in the notice, under the provisions of section 25-64, the city commission may cause the work to be done and assess the cost as a charge and lien against such property. This procedure shall be discretionary and supplementary to the special assessment procedure, and may be utilized when, in the sole discretion of the commission, the special assessment procedure would be of such duration that the public health, safety and welfare would be threatened.
(Code 1980, § 25-45)

Sec. 25-67. Reconstruction of sidewalks constructed or repaired contrary to requirements.

Any sidewalk constructed contrary to standards established by ordinance of the city or other applicable law or regulation may be ordered reconstructed or made to conform to those standards by the building official, pursuant to the same procedures and sanctions set forth in section 25-61.
(Code 1980, § 25-46)

Sec. 25-68. Duty of owner of property abutting public streets when substantial improvements or buildings are to be constructed on such property.

It shall be the duty of each owner of property abutting the public streets of the city to construct and maintain uniform and substantial sidewalks abutting the public streets when substantial building improvements are constructed upon such property. For the purposes of this division, a substantial building improvement shall exist when there is new construction, reconstruction or a structural addition creating a net floor increase in excess of five percent. Single-family homes and duplexes located in RS-5, RS-6, RS-7 and RD-12 zoning use districts shall be required to construct sidewalks only in cases of new construction or reconstruction exceeding 50 percent of the value of the existing building where construction of a sidewalk will complete or lead to completion of an

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uninterrupted network of sidewalk in the neighborhood where such construction or reconstruction occurs.
(Code 1980, § 25-47)

Sec. 25-69. Building plans required for construction of substantial building improvements on parcels abutting public streets showing location of sidewalks.

Plans submitted to the city in connection with the application for a building permit for the construction of substantial building improvements, as defined in section 25-68, upon any parcel of land abutting a public street within the city shall show the width, material, grade, and location of such required and proposed sidewalks. No permit may be issued until the location and manner of construction are approved by the building official.
(Code 1980, § 25-48)

Cross reference—Building, construction and condominiums, ch. 8.

Sec. 25-70. New plats subdividing or resubdividing lands must make adequate provisions for sidewalks.

All new plats subdividing or resubdividing lands situate in the city must contain adequate provisions for the construction of sidewalks along public streets.
(Code 1980, § 25-49)

Sec. 25-71. Bond of owner in new plats subdividing or resubdividing lands situate in the city.

The city may require as a condition precedent to its giving approval to all new plats subdividing or resubdividing lands situate in the city that the owner of the lands being subdivided must give a good and sufficient bond to the city conditioned that the owner shall cause sidewalks to be constructed along public streets on the lands being subdivided or resubdivided.
(Code 1980, § 25-50)

Sec. 25-72. Exceptions or variances to the provisions of sections 25-68 through 25-70.

If an owner of property abutting a public street in the city desires to obtain a permit for the construction of substantial building improvements on the property or if a person proposes to subdivide lands within the city, and if such person objects to the construction of sidewalks because of the location, size or use of the property involved, such class of persons shall have the right to apply for a variance permit to the city planning and zoning board, for its recommendation to the city commission, which commission shall make the final determination. Such variance shall be noticed, advertised and posted in conformity with the requirements of section 32-967 as to variances. An administrative fee shall be due at the time an application for variance under this section is submitted. Such fee is established and on file in the city clerk's office.
(Code 1980, § 25-51)

Sec. 25-73. Recovery of costs and attorney's fees.

If the city abates an ordinance violation under any section of this article and the property owner fails to pay any charges incurred by the city within 60 days from the date of abatement, the finance director shall file a claim of lien. If a lien for unpaid charges incurred pursuant to this article is not paid in full, the lien may be foreclosed by the city within the same time limitations, and in the same manner as provided by law for the foreclosure of mortgages upon real estate. The city shall in such case be entitled to recover a reasonable attorney's fee.
(Code 1980, § 25-51.1)

Secs. 25-74—25-100. Reserved.

ARTICLE III. VACATION OF STREETS, RIGHTS-OF-WAY, AND EASEMENTS

Sec. 25-101. Application of article.

The procedures set forth in this article shall apply to vacation of streets, alleyways, roads and rights-of-way located in the city, whether or not

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designated as part of the county road system or of the state or federal highway systems, and shall also apply to vacation or release of easements or similar interests.
(Code 1980, § 25-52)

Sec. 25-102. Petition for vacation.

Persons owning property adjacent to or subject to a street or road right-of-way or easement may petition to vacate such street or road right-of-way or easement by submitting to the department of growth management a petition including the following:

(1) Legal description of the street, right-of-way or easement to be vacated.

(2) Certified survey showing the street, right-of-way, easement, or portion sought to be vacated; however, such survey shall show the entire street or right-of-way affected if vacation of only a portion is sought.

(3) A current certificate of a duly licensed title or abstract company or of a licensed attorney showing that the petitioner is the owner of property adjacent to or subject to a street, right-of-way or easement. Warranty deeds, title insurance documents, tax receipts or the like shall not be acceptable for the purposes of this subsection.

(4) If applicable, an agreement in recordable form executed by all property owners abutting a street or right-of-way sought to be vacated stipulating that such owners consent to the vacation, waive any right of use of such street or right-of-way and that such owners enjoy alternate means of access other than the street or right-of-way sought to be vacated.

(5) If applicable, an agreement in recordable form executed by all property owners, served by or intended to be served by a particular easement which is sought to be vacated, stipulating that such owners consent to the requested vacation or release and waive any right of use of such easement or similar interest.

(6) Written consent of all utilities and/or governmental bodies or districts which may have the right to use such street, right-of-way or easement.

(7) An application fee per street, right-of-way or easement to be vacated. Such fee is established and on file in the city clerk's office.

(Code 1980, § 25-53)

Sec. 25-103. Review of petition.

(a) Upon submission of a properly completed petition for vacation, notice of a proposed city commission meeting to consider the vacation shall be given by certified mail by the city clerk to any property owner adjoining or abutting the street, right-of-way or easement sought to be vacated at the address, as reflected on the most recent tax rolls. Failure by any person to receive such notice shall not invalidate any action taken by the city commission in respect to a petition for vacation.

(b) The following shall be considered in determining whether to grant or deny a petition for vacation:

(1) Whether any adjoining or abutting property owner will be denied convenient access or otherwise adversely affected by a proposed vacation;

(2) Whether the general public will be adversely affected by a proposed vacation;

(3) Whether a present or reasonably foreseeable need exists or will exist for the street, right-of-way or easement sought to be vacated.

(c) Following public hearing held pursuant to notice as provided in subsection (a) of this section, the city commission shall grant or deny the petition for vacation only pursuant to ordinance. If the approval of other governmental bodies is necessary for such vacation, such approval shall not be final until all other governmental bodies have approved such vacations.
(Code 1980, § 25-54)

Secs. 25-104—25-114. Reserved.

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ARTICLE IV. COMMUNICATIONS RIGHTS-OF-WAY

Sec. 25-115. Title.

This article shall be known as the "Communications Rights-Of-Way Ordinance."
(Ord. No. 2001-23, § 1, 11-6-2001)

Sec. 25-116. Repealer.

Ordinance No. 1999-14 and Resolution No. 1999-15 are repealed.
(Ord. No. 2001-23, § 2, 11-6-2001)

Sec. 25-117. Definitions.

Abandonment or *abandoned* means the permanent cessation of all uses of a communications facility; provided that this term does not include cessation of all uses of a facility within a physical structure where the physical structure continues to be used.

As builts means plans that show and identify accurate, detailed and dimensional routes and locations of the communications systems placed or maintained, which a registrant at its own cost and expense shall provide the city engineer at the conclusion of its work in the city. As builts shall be certified as to their accuracy by a licensed professional engineer, or licensed surveyor or a qualified person pursuant to F.S. § 471.003(2)(d).

Communications services means the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance.

Communications services providers means any person including a municipality or county providing communications services through the placement or maintenance of a communications facility in public rights-of-way. Communications services providers also includes any person including a municipality or county that places or maintains a communications facility in public rights-of-way but does not provide communications services.

Communications facility or *facility* or *system* means any permanent or temporary plant, equipment and property, including but not limited to cables, wires, conduits, ducts, fiber optics, poles, antennae, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances, and other equipment, appliances or pathway placed or maintained or to be placed or maintained in the public rights-of-way of the city and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer communications services.

FCC means the Federal Communications Commission.

Permit means a permit issued following registration.

Permit fees means those fees identified on Attachment One, as may be amended by ordinance or resolution, established for the issuance of permit(s) for the placement or maintenance of communications facilities in public rights-of-way when those facilities are not facilities of a provider of local communications services as defined in F.S. Ch. 202. Prior to commencing the placement or maintenance of any communications facility the registrant shall obtain a permit and pay permit fees if required. The city retains the authority to supervise, inspect and otherwise retains authority to ensure that the placement or maintenance of a facility complies with all conditions of an issued registration, permit and terms of this article.

Note—Attachment One can be found attached to Ord. No. 2001-23 and is on file in the office of the city clerk.

Person includes any individual, firm, association, joint venture, partnership, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative, and all other groups or combinations, and shall include the city to the extent the city acts as a communications services provider.

Place or maintain or *placement or maintenance* or *placing or maintaining* means to improve, erect, construct, install, maintain, place, repair, extend, expand, remove, restore, occupy, locate or relocate. A communications services provider that owns or exercises physical control over communi-

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cations facilities in public rights-of-way, such as the physical control to maintain and repair, is placing or maintaining the facilities.

Public right-of-way means public utility easement, highway, street, bridge, alley or similar property for which the city is the authority that has jurisdiction and control and may lawfully grant access to pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface. Public right-of-way does not include public property. Public right-of-way does not include any real or personal city property except as described above and does not include city buildings, fixtures, poles, conduits, facilities or other structures or improvement regardless of whether they are situated in the public right-of-way. No reference herein, or in any permit, to public right(s)-of-way shall be deemed to be a representation or guarantee by the city that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a registrant shall be deemed to gain only those rights to use as are properly in the city and as the city may have the undisputed right and power to give.

Registrant means a communications services provider that has registered with the city in accordance with the provisions of this article.

Registration or *register* means the process described in this article whereby a communications service provider provides certain information to the city.
(Ord. No. 2001-23, § 3, 11-6-2001)

Sec. 25-118. Registration.

(a) A communications services provider that desires to place or maintain a communications facility in public rights-of-way in the city shall first register with the city in accordance with this section. Subject to the terms and conditions prescribed in this section and following issuance of a permit and payment of permit fees, if required, a registrant may place or maintain a communications facility in public rights-of-way.

(b) A registration shall not convey any title in the public right-of-way to the registrant. Registration does not excuse a communications services provider from obtaining appropriate access or pole attachment agreements before locating facilities on the city's or another person's facilities. Registration does not excuse a communications services provider from complying with all applicable city ordinances.

(c) Each communications services provider that desires to place or maintain a communications facility in public rights-of-way in the city shall file a single registration with the city, which shall include the following information:

(1) Name of the applicant, proof of authority to do business in the State of Florida;

(2) Name, address and telephone number of the applicant's primary contact person in connection with the registration, and the person to contact in case of an emergency;

(3) The applicant shall state whether it provides communications services facilities as defined in F.S. Ch. 202;

(4) That registrant has received and reviewed a copy of this article;

(5) Registrant's understanding of its waiver of damages against the city, including, but not limited to, delay damages, consequential damages, damage to the communication services provider's equipment and any other damage of any nature;

(6) A copy of the applicant's certificate of authorization or license to provide communications services issued by the Florida Public Service Commission, the Federal Communications Commission, or other federal or state authority, if any;

(7) A sketch of the facility to be placed or maintained and anticipated construction methods and/or techniques, if known at this juncture, to be submitted no later than the time of the application for a permit;

(8) A traffic plan identifying the anticipated disruption in and around the rights-of-way during construction and restoration and a telephone number to call as it applies to registrant pursuant to F.S.

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§ 556.104, if known at this juncture, to be submitted no later than the time of the application for a permit.

(d) *Registration application and permit fees.*

(1) Each applicant for a registration and permit that does not provide local communications services facilities as defined in F.S. Ch. 202, must submit a registration application fee, as set by resolution, with the application which shall not be refunded if the application is withdrawn. Such applicants shall also be required to pay permit fees and linear fee amounts as established by this article (Attachment One) or resolution, and any costs and expenses incurred in connection with reviewing and approving the registration. If the registration application fee is insufficient to cover all costs or expenses incurred by the city in connection with review and approval of the registration, the applicant shall reimburse the city for any such costs and expenses in excess of the registration application fee following receipt of written notice, which shall explain any additional costs or expenses.

Note—Attachment One can be found attached to Ord. No. 2001-23 and is on file in the office of the city clerk.

(2) Each applicant for a registration and permit that does not provide local communications services shall be required to pay an annual fee for the use of the rights-of-way.

(e) The city manager shall review the information submitted by the applicant. Registration shall be effective upon compliance by the applicant with subsections (c) and (d) above, and the city shall notify the applicant of the effectiveness of registration in writing. If there has not been compliance in accordance with subsections (c) and (d) above, the city shall notify the applicant of the non-effectiveness of registration, and reasons for the noneffectiveness, in writing. Noneffectiveness of registration shall not preclude the applicant from filing subsequent applications for registration under the provisions of this section.

(f) Registrant may cancel a registration upon written notice to the city stating that it will no longer place or maintain any communications facilities in public rights-of-way within the city and will no longer need to obtain permits to perform work in public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain any communications facilities in public rights-of-way.

(g) Registration entitles the registrant to apply for a permit, but does not establish a right to place or maintain a communications facility in the public rights-of-way or establish priority for the placement or maintenance of a communications facility in public rights-of-way. Registrations are subject to any future amendment to or replacement of this article and further subject to any additional city ordinances, as well as any state or federal laws that may be enacted.

(h) A registrant shall renew its registration with the city by May 1 of every year, and within 30 days of any change in the information required to be submitted pursuant to subsections (c) and (d). If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may result in the city restricting the issuance of additional permits until the communications services provider has complied with the registration requirements of this article.

(i) In accordance with applicable city ordinances, codes, or regulations, a permit shall be required of communications services providers that desire to place or maintain a communications facility in public rights-of-way. An effective registration shall be a condition of obtaining a permit. Notwithstanding an effective registration, permitting requirements shall apply. A permit may be obtained by or on behalf of a registrant having an effective registration if all permitting requirements are met.
(Ord. No. 2001-23, § 4, 11-6-2001)

Sec. 25-119. Placement or maintenance of a communications facility in public rights-of-way.

(a) A registrant shall not place or maintain a communications facility in public rights-of-way until all applicable permits, if any, have been

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issued by the city. A registrant acknowledges that as a condition of granting such permits, the city may impose reasonable rules or regulations governing the placement or maintenance of a communications facility in public rights-of-way. Permits shall apply only to the areas of public rights-of-way specifically identified in the permit. The city may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits.

(b) As part of any permit application to place a new or replace an existing communications facility in public rights-of-way, the registrant shall provide the following:

(1) The locations of the proposed facilities, including a description of the type of facility to be installed, and the approximate size of facilities that will be located in public rights-of-way, along with a map of the city identifying the routes and locations depicting in color the proposed layout of the work to be placed and maintained, and, the surrounding premises;

(2) A description of the manner in which the facility will be installed (i.e. anticipated construction methods or techniques);

(3) Maintenance or traffic plan for any disruption of the public rights-of-way;

(4) Information on the ability of the public rights-of-way to accommodate the proposed facility;

(5) If appropriate, given the facility proposed, an estimate of the cost of restoration of the public rights-of-way;

(6) The timetable for construction of the project or each phase thereof, and the areas of the city which will be affected;

(7) An engineering plan signed and sealed by a Florida registered professional engineer, or prepared by a person who is exempt from such registration requirements as provided in F.S. § 471.003, identifying the routes and locations of the work and proposed facility, including a description of the systems to be installed, where it is to be located, and the approximate size of facilities and equipment that will be located in public rights-of-way. Facilities shall be placed underground to the extent that similarly situated utilities (electric, communications, etc.) are so required and to the extent not inconsistent with the rules of the Public Service Commission. To the extent not otherwise prohibited by state or federal law, the city shall have the power to prohibit or limit the placement of new or additional communications facilities within a particular area of public rights-of-way.

(c) All communications facilities shall be placed or maintained so as not to unreasonably interfere with the use of the public rights-of-way by the public and the rights and conveniences of property owners who adjoin any of the public rights-of-way. The use of trenchless technology (i.e. directional bore method) for the installation of facilities in the public rights-of-way as well as joint trenching or the co-location of facilities in existing conduit is strongly encouraged, and should be employed whenever feasible. The city manager may promulgate reasonable rules and regulations concerning the placement or maintenance of a communications facility in public rights-of-way consistent with this article and other applicable law.

(d) All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of communications facilities.

(e) During the placement or maintenance of a communications facility, the registrant shall keep, at its own expense, the area immediately at the perimeter of the construction of the communications facility and the rights-of-way and surrounding area clean to a broom sweep and the area within the construction site as clear and clean as possible at all times. Upon completion of any placement or maintenance of a communications facility in public rights-of-way or each phase thereof, a registrant shall, at its own expense, restore the public rights-of-way to its original condition consistent with F.S. § 337.402, and continue to keep the surrounding area immediately at the perimeter of the construction of the

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communications facility and rights-of-way clean to a broom sweep and the area within the construction site as clear and clean as possible at all times. If the registrant fails to restore the area to its original condition, following notice, the city may perform the restoration and charge the registrant with the costs of the restoration.

(f) Removal or relocation at the direction of the city of a registrant's communications facility in public rights-of-way shall be governed by the provisions of F.S. §§ 337.403 and 337.404, as they may be amended.

(g) A registration and permit from the city constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.

(h) A registrant shall maintain its communications facility in public rights-of-way in a manner consistent with accepted industry practice and applicable law.

(i) When excavating in the public rights-of-way, a registrant shall comply with the Underground Facility Damage Prevention and Safety Act contained in F.S. Ch. 556, as it may be amended.

(j) A registrant shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to promote safety to the public and to safeguard work site areas.

(k) Upon request of the city, a registrant may be required to coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a time frame in the subject public rights-of-way and registrant may be required to alter its placement or maintenance schedule as necessary in the public rights-of-way. Registrant agrees to comply with such a request made by the city and waives any claim against the city for delay damages and damages of any type or kind including consequential damages.

(l) A registrant shall not place or maintain its communications facilities so as to interfere with, displace, damage or destroy any facilities, including but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the city or any other person's facilities lawfully occupying the public rights-of-way of the city.

(m) The city makes no warranties or representations regarding the fitness, suitability, or availability of city's public rights-of-way for the registrant's communications facilities and any performance of work, costs incurred or services provided by registrant shall be at registrant's sole risk. Nothing in this section shall affect the city's authority to add, vacate or abandon public rights-of-way, and the city makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for communications facilities.

(n) The city has the right to inspect communications facilities placed or maintained in public rights-of-way to ensure compliance with this article.

(o) A permit application to place a new, replace or maintain an existing communications facility in public rights-of-way must include plans showing the routes and locations of the proposed installation of facilities in the public rights-of-way. If the plans so provided require revision based upon actual installation, the registrant shall promptly provide revised plans to the city. The plans shall be in a hard copy format and in compact disc or other electronic format specified by the city, provided the registrant maintains such formats. As required by F.S. § 202.195, specified proprietary confidential business information obtained from a telecommunications company or franchised cable company by a local governmental entity is exempt from the Florida public records law.

(p) The city reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other types of facilities, cables or conduits, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the city in public rights-of-way, occu-

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pied by the registrant. The city further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation, or width of the public rights-of-way.

(q) A registrant shall, on the request of any person holding a permit issued by the city, temporarily raise or lower its communications facilities to permit the work authorized by the permit. The expense of such temporary raising or lowering of facilities shall be paid by the person requesting the same with the exception of the city, and the registrant shall have the authority to require such payment in advance. The registrant shall be given not less than 30 days advance written notice to arrange for such temporary relocation. Registrant shall allow city facilities to be co-located within city's public rights-of-way through the use of a joint trench during registrant's construction project. Such joint trench projects shall be negotiated in good faith between registrant and city and may be subjected to other city rights-of-way requirements. The city shall have the right to request registrants to relocate their facilities at no cost to the city, if the city requires it for public infrastructure improvements.
(Ord. No. 2001-23, § 5, 11-6-2001)

Sec. 25-120. Notice of transfer, sales or assignment of assets in public rights-of-way.

If a registrant transfers, sells or assigns its assets located in public rights-of-way the transferee, buyer or assignee must comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided by such registrant to the city, 30 days before the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register but shall provide notice to the city of the transfer, sale or assignment. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register prior to the effective date of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the city. Registrants shall notify the city of pledges in trust, mortgages or other encumbrances by the registrant of the facility.
(Ord. No. 2001-23, § 6, 11-6-2001)

Sec. 25-121. Design criteria.

The purpose of design criteria for wireless facilities is to establish a coordinated approach to the introduction of wireless facilities in the public rights-of-way.

A wireless facility that is a portion of a communications facility, such as an antenna (wireless facility(ies)), which is attached to a legally maintained vertical structure in the public rights-of-way, such as a light pole or utility pole (vertical structure(s)), shall be subject to the following criteria:

(1) Such wireless facilities shall comply with any applicable Federal Communications Commission standards or other laws;

(2) The design, construction, and installation of such wireless facilities shall comply with any applicable local building codes;

(3) No commercial advertising shall be allowed on such wireless facilities and vertical structures;

(4) Any accessory equipment and related housing in the public rights-of-way that are used in conjunction with such a wireless facility shall comply with any applicable ordinances or laws governing the placement and design of such equipment. Vertical structures, such as towers, whose sole purpose is to serve as a mounting device for antennae, are prohibited from being placed in the public rights-of-way unless applicable zoning and land use laws or regulations allow such structures to be placed within the zoning district in which such public rights-of-way are located or to which they are adjacent;

(5) Each communications services provider shall place or maintain its facilities to accommodate the reasonable utilization of its facilities by additional registrants.

(Ord. No. 2001-23, § 7, 11-6-2001)

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Sec. 25-122. Revocation of registration and/or suspension of permits.

(a) The city may revoke a registration or suspend a permit for work in the public rights-of-way for one or more of the following reasons:

(1) Violation of federal or state law, a registration or permit condition, including conditions set forth in the registration or permit, this article or applicable city ordinances, resolutions, laws, codes or regulations governing placement or maintenance of communications facilities in public rights-of-way;

(2) Misrepresentation or fraud by registrant in a registration or permit application to the city;

(3) Failure to properly renew or ineffectiveness of registration;

(4) Failure to relocate or remove facilities as required by the city;

(5) Failure to provide as builts and at the request of the city or physically locate equipment and appliances placed or maintained;

(6) When federal or state authority suspends, denies or revokes a registrant's certification or license to provide communications services or its authority to do business in the State of Florida;

(7) When the registrant's placement or maintenance of a communications facility in the public rights-of-way presents a danger to the public or other users of the public rights-of-way and the registrant fails to remedy the danger promptly after the receipt of written notice;

(8) When the registrant ceases to use all of its communications facilities in public rights-of-way.

(b) In the event of termination, the former registrant shall:

(1) Notify the city of the assumption or anticipated assumption by another registrant of ownership of the registrant's communications facilities in public rights-of-way; or

(2) Provide the city with an acceptable plan for disposition of its communications facilities in public rights-of-way. If a registrant fails to comply with this subsection, the city may take possession of the facilities or require the registrant within 30 days of the termination to remove some or all of the facilities from the public rights-of-way and restore the public rights-of-way to its original condition before the removal.

(c) A terminated registrant shall take the necessary steps to render safe every portion of the communications facilities remaining in the public rights-of-way.

(d) In the event of termination of a registration, this section does not authorize the city to cause the removal of communications facilities used to provide another service to another person who owns or exercises physical space in the facilities and holds a valid certification or license with the governing federal or state agency, if required for provision of such service, and is registered with the city, if required.
(Ord. No. 2001-23, § 8, 11-6-2001)

Sec. 25-123. Enforcement and remedies.

The city manager is empowered to terminate, revoke, suspend, or deny a registration or deny an application for renewal of a registration and/or permit for violations of this article or other applicable law. The decision of the city manager may be appealed by the registrant to the city commission by filing a written request for an appeal with the city clerk within ten days of the city manager's written decision. Within 60 days of receiving the request for an appeal, the city commission shall take evidence and hear the appeal. The city clerk shall notify the registrant in writing of the date of the appeal hearing. After hearing the evidence presented, the city commission shall decide whether to uphold, modify or reverse the city manager's

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decision. The registrant may then seek review of the city commission's decision by filing a petition for certiorari with the circuit court.
(Ord. No. 2001-23, § 9, 11-6-2001)

Sec. 25-124. Conditional use of public rights-of-way.

If the registrant desires to use its existing facilities or to construct new facilities for the purpose of providing other utility or nonutility services to existing or potential consumers or by providing any other services other than the provision of communications services, or for providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from city for such activities.
(Ord. No. 2001-23, § 10, 11-6-2001)

Sec. 25-125. Existing communications facilities in public rights-of-way.

A communications services provider with an existing communications facility in the public rights-of-way has 60 days from the effective date of this article to comply with the terms of this article, including, but not limited to registration.
(Ord. No. 2001-23, § 11, 11-6-2001)

Sec. 25-126. Insurance.

(a) A registrant shall provide, pay for and maintain satisfactory to the city the types of insurance described in this section. A registrant shall not allow any contractor or subcontractor to commence work on its contract or subcontract until the contractor or subcontractor has complied with the insurance requirements of this article. The required insurance must be obtained and maintained for the entire period the registrant has facilities in the public rights-of-way, and for a period thereafter as specified in the minimum coverages described below. If the registrant, its contractors or subcontractors do not have the required insurance, the city may order such entities to stop operations until the insurance is obtained and approved. All liability policies shall provide that the city is an additional insured as to the activities under this article. Properly executed certificates of insurance forms and accompanying insurance policies must evidence the required coverages. The certificates must be signed by the authorized representative of the insurance company and it and the accompanying insurance policies shall be filed and maintained with the city annually. Policies shall be issued by companies authorized to do business in Florida. Financial ratings must be no less than "A-VI" in the latest edition of "Best's Key Rating Guide", published by A.M. Best Guide. Thirty days advance written notice by registered, certified or regular mail or facsimile as determined by the city must be given to the city of any cancellation, intent not to renew or reduction in the policy coverages. Evidence of acceptable proof of self-insurance satisfactory to the city or other types of insurance acceptable to the city may satisfy the insurance requirements and by presentation of financial statements which are not more than one year old and signed by the registrant's chief financial officer attesting to the authenticity and accuracy of same and that the financial condition of the registrant is at least as stated therein or stronger.

(b) The limits of coverage of insurance required by registrant and its contractors and subcontractors shall be not less than the following:

Comprehensive general liability insurance to cover liability, bodily injury and property damage. Exposures to be covered are: premises, operations, products/completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

(1) *Bodily injury:*

i.	Each occurrence	$1,000,000.00
ii.	Annual aggregate	$1,000,000.00

(2) *Property damage:*

i.	Each occurrence	$1,000,000.00
ii.	Annual aggregate	$1,000,000.00

(3) *Personal injury:*

Annual aggregate $1,000,000.00

(4) Completed operations and products liability shall be maintained for two years after

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the abandonment of the facility by the registrant (in the case of the registrant) or completion of the work for the registrant.

(5) Property damage liability insurance shall include coverage for the following hazards: X explosion, C collapse, U underground.

(c) Workers' compensation insurance shall be maintained to comply with statutory limits for all employees, and in the case any work is sublet, each registrant shall require the subcontractors similarly to provide workers' compensation insurance for all the latter's employees unless such employees are covered by the protection afforded for each registrant. Each registrant and its contractor and subcontractors shall maintain employers liability insurance. The following limits must be maintained:

(1)	Workers' compensation	Statutory
(2)	Employer's liability	$500,000.00 per occurrence

(d) *Comprehensive Auto Liability*

(1) *Bodily injury*

i.	Each occurrence	$1,000,000.00
ii.	Annual aggregate	$3,000,000.00

(2) Property Damage

i.	Each occurrence	$1,000,000.00
ii.	Annual aggregate	$3,000,000.00

Coverage shall include owned, hired, and nonowned vehicles.

(e) This section shall not affect the city's rights, privileges and immunities contained in F.S. § 768.28 nor in subsection 25-118(c)(5) of this article. Insurance under this section shall run continuously with the presence of the registrant's facilities in the public rights-of-way and any termination or lapse of such insurance shall be a violation of this section and subject to the remedies set forth in this article. Notwithstanding the foregoing, the city may, in its sole discretion, require increased or decreased levels of insurance for any other object placed in the rights-of-way.
(Ord. No. 2001-23, § 12, 11-6-2001)

Sec. 25-127. Indemnification.

A registrant shall, at its sole cost and expense, indemnify, hold harmless, and defend the city, its officials and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the city arising out of the placement or maintenance of registrant's communications systems or facilities in the public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this article, provided, however, that a registrant's obligation hereunder shall not extend to any claims caused by the gross negligence or wanton or willful acts of the city. This provision includes, but is not limited to, the city's attorneys' fees incurred in defending against any such claim, suit or proceedings. The city agrees to notify the registrant in writing, within a reasonable time of the city's receiving notice, of any issue it determines may require indemnification. Nothing in this section shall prohibit the city from participating in the defense of any litigation by its own counsel and at its own cost.
(Ord. No. 2001-23, § 13, 11-6-2001)

Sec. 25-128. Construction bonds.

Prior to issuing a permit where the work thereunder will require the placement, maintenance, improvement of and/or restoration of public rights-of-way, the city may require a performance, payment or other construction bond in an amount not less than the cost to the registrant to restore the public rights-of-way unless the city waives same if the security fund in section 25-129 is deemed sufficient by the city to cover the restoration of the rights-of-way.

(a) Twelve months after the completion of the restoration in public rights-of-way to its original condition, as determined by the city's risk manager, the registrant may eliminate the bond. How-

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ever, the city shall subsequently require a new bond for any subsequent work in the public rights-of-way.

(b) The construction bond shall be issued by a surety qualified to do business in Florida and having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the risk manager and shall provide that: "For twelve months after issuance of this bond, this bond may not be canceled or allowed to lapse, until sixty days after receipt by the city, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

(c) Should a registrant subject to such a construction bond fail to complete their work in a safe, timely and competent manner in accordance with the provisions of the permit, the city may recover from the principal and surety of the bond, any damages or loss suffered by the city as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, or the cost of performing the work, plus a reasonable allowance for attorney's fees.

(e) This section shall not affect the city's rights, privileges and immunities contained in F.S. § 768.28, nor in subsection 25-118(c)(5) of this article.
(Ord. No. 2001-23, § 14, 11-6-2001)

Sec. 25-129. Security fund.

Before a registrant receives a permit to place or maintain a communications facility in public rights-of-way or as applicable after the effective date of this article, the registrant shall be required to file with the city for approval, an annual bond having as a surety a company having a minimum rating of A-1 in Best's Key Rating Guide, cash deposit or irrevocable letter of credit in the minimum sum of $25,000.00 or other appropriate amount, which shall be referred to as the security fund. The security fund shall be maintained from such time through the earlier of: (1) transfer, sale, assignment or removal of all communications facilities in public rights-of-way; or (2) 12 months after the termination or cancellation of any registration.

The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon registrant by the provisions of this article. Should a registrant fail to perform its duties and obligations imposed upon the registrant by the provisions of this article, the security fund may be deemed forfeited. There shall be recoverable, jointly and severally from the principal and surety of the security fund, any damages or loss suffered by the city as a result, including the full amount of any compensation, indemnification or cost of removal, relocation or abandonment of any facilities of the registrant in public rights-of-way, plus a reasonable allowance for attorney's fees.
(Ord. No. 2001-23, § 15, 11-6-2001)

Sec. 25-130. Abandonment of a communications facility.

(a) A registrant shall provide the city with 30 days notice prior to abandoning a communications facility owned by a registrant in the public rights-of-way.

(b) The city may direct the registrant by written notice to remove all or any portion of such abandoned facility at the registrant's sole expense if the city determines that the abandoned facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such facility:

(1) Compromises safety at any time for any public rights-of-way user or during construction or maintenance in public rights-of-way;

(2) Prevents another person from locating facilities in the area of public rights-of-way where the abandoned facility is located when other alternative locations are not reasonably available; or

(3) Creates a maintenance condition that is disruptive to the public rights-of-way use. In the event of (2), the city may require the third person to coordinate with the registrant that owns the existing facility for joint removal and placement.

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(c) In the event that the city does not direct the removal of the abandoned facility, the registrant, by its notice of abandonment to the city, shall be deemed to consent to the alteration or removal of all portions of the facility by the city or another person at such third person's cost. If the registrant fails to remove all portions of an abandoned facility as directed by the city, the city may perform such removal and charge the cost of the removal against the registrant.
(Ord. No. 2001-23, § 16, 11-6-2001)

Sec. 25-131. Reports and records.

(a) The city shall provide within 30 calendar days written notice, if reasonably possible, but in no event less than five business days written notice to a registrant and the registrant shall provide the city access to all books and records related to the construction, maintenance, or repair of the facility in the rights-of-way to the extent the city's review of the books and records is necessary to manage its rights-of-way.

(b) All nonproprietary or nonconfidential books and records may be copied by the city. To the maximum extent permitted by F.S. § 202.195, as amended, such books and records shall be kept confidential and exempt from the provisions of F.S. § 119.07(1). A registrant is responsible for obtaining or maintaining the necessary possession or control of all books and records related to the construction, maintenance or repair of a facility, so that it can produce the documents upon request. Books and records must be maintained for a period of three years, except that any record that is a public record must be maintained for the period required by state law.

(c) For purposes of this section, the term books and records shall be read expansively to include information in whatever format stored. Books and records requested shall be produced to the city at City Hall.

(d) If any books and records are too voluminous, or for security reasons cannot be copied and moved, a registrant may request that the inspection take place at some other location mutually agreed to by the city and the registrant. The registrant must pay all travel and additional copying expenses incurred by the city in inspecting those documents or having those documents inspected or copied.

(e) A registrant shall provide the city the following within ten calendar days of its receipt:

(1) Notices of deficiency or forfeiture related to the operation of the facility in connection with the public rights-of-way; and

(2) Copies of any request for protection under bankruptcy laws, or any judgment, or a judgment discharge, or other plan related to a declaration of bankruptcy by any person, operator or by any business entity, partnership or corporation that owns or controls the registrant directly or indirectly.

(f) In addition, the city, may, at its option, and upon reasonable notice to the registrant, inspect the facilities in the public rights-of-way to ensure the books and records, in fact, reflect the operations of the facility and to promote the health, welfare and safety of its residents.
(Ord. No. 2001-23, § 17, 11-6-2001)

Chapters 26, 27

RESERVED

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Chapter 28

TRAFFIC, MOTOR VEHICLES AND BOATS*

Article I. In General

Sec. 28-1. Authority to impound vehicles.
Sec. 28-2. Towing vehicle from private property without owner's consent; penalties for violations.
Sec. 28-3. Administrative fee and lien for vehicles which are towed.
Sec. 28-4. Authority to erect stop and yield signs.
Sec. 28-5. Operation of bicycles on sidewalks.
Sec. 28-6. Parking of vehicles and equipment in residential areas and districts.
Sec. 28-7. Parking of commercial vehicles and equipment in nonresidential areas and districts.
Sec. 28-8. Restricted swim areas and boat wakes.
Sec. 28-9. Truck routes.
Sec. 28-10. Stopping and parking prohibitions and restrictions.
Sec. 28-11. Authority to remove vehicles.
Sec. 28-12. Application of traffic laws.
Sec. 28-13. Fines for stopping, standing and parking violations.
Sec. 28-14. Withholding of license tags.
Sec. 28-15. Solicitation upon streets, intersections, medians separating intersections, paved roadways and other places of vehicular travel.
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Article III. Parades

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Sec. 28-92. Permit required; exceptions.
Sec. 28-93. Permit application.
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***Cross references—**Ambulances, ch. 3; doing business from vehicles, § 7-412; abandoned vehicles on public ways or grounds, § 13-40; parking and storage of wrecked or junked motor vehicles, § 13-41; abandoned or derelict vessels and floats in public waters, § 13-42; offenses and miscellaneous provisions, ch. 19; sleeping out-of-doors or in vehicles, temporary shelters, or property of another, § 19-1; streets, sidewalks and other public ways, ch. 25; boats, docks and piers, § 32-291 et seq.; off-street parking and loading, § 32-451 et seq.

State law references—Uniform Traffic Control Act, F.S. ch. 316; powers of city thereunder, F.S. §§ 316.006(2)—316.008, 316.640(3), 316.645, 316.650, 316.189.

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Article IV. Parking Meters

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Sec. 28-171. Powers of city.
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ARTICLE I. IN GENERAL

Sec. 28-1. Authority to impound vehicles.

Members of the police department are authorized to remove a vehicle from a street to the nearest garage or other place of safety, or a garage designated or maintained by the police department, under the following circumstances:

(1) When any vehicle is left unattended upon any bridge, causeway or viaduct, where such vehicle constitutes an obstruction to traffic.

(2) When a vehicle upon a street is so disabled as to constitute an obstruction to traffic, or the person in charge of the vehicle is by physical injury incapacitated to such an extent as to be unable to provide for its custody and removal.

(3) When a vehicle is found being operated on the streets and is not in proper condition.

(4) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a hazard or obstruction to normal movement of traffic.

(5) When any vehicle is left unattended upon a street continuously for more than 24 hours and may be presumed to be abandoned.

(6) When the driver of such vehicle is taken into custody by the police department and such vehicle would thereby be left unattended upon a street.

(7) When removal is necessary in the interest of public safety because of fire, flood, storm or other emergency reason.

(Code 1980, § 28-1)

State law reference—Removal of derelict vehicles, F.S. § 705.101 et seq.

Sec. 28-2. Towing vehicle from private property without owner's consent; penalties for violations.

(a) This section shall apply to the removal or towing of any motor vehicle from private property within the city without the consent of the registered owner, operator or person in control of that vehicle.

(b) The towing or removal of any vehicle from private property within the city without the consent of the registered owner, operator or person in control of that vehicle is subject to strict compliance with the following conditions and restrictions:

(1) Any towed or removed vehicles must be stored at a site within five miles of the point of tow. That site must be open for the redemption of vehicles seven days per week, from 8:00 a.m. to 11:00 p.m., and, when closed, shall have prominently posted a sign indicating a name and telephone number within the county where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle, the operator has one hour to return to the site or be in violation of this section. That line shall be kept open for receipt of these calls at all times; and if that line is busy for five continuous minutes, it shall create a rebuttable presumption that the line has been disconnected in violation of this section.

(2) The person towing or removing the vehicle shall, within 30 minutes of such towing or removal, notify the police department of such towing or removal; the storage site; the time it was towed or removed; and the make, model, color and license plate number of that vehicle, and shall obtain the name of the person at the police department to whom such information was reported and note that name on the trip record.

(3) If the registered owner, operator or person in control of the vehicle shall arrive at the scene prior to removal or towing of the vehicle, the vehicle shall be disconnected from the towing or removal apparatus; and that person shall be allowed to remove the vehicle without interference upon the payment of a reasonable service fee.

(4) The rebate or payment of money or any other valuable consideration from the person towing or removing vehicles to the owners or operators of the premises from

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which the vehicles are towed or removed, for the privilege of removing or towing those vehicles, is prohibited.

(5) Except for single-family residences, and except for instances where notice is personally given to the owner, operator or person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable for unauthorized vehicles and subject to being removed at the owner's or operator's expense, any property owner or lessor or person authorized by the property owner or lessor, prior to towing or removing any vehicle from private property without the consent of the owner, operator or person in control of that vehicle, must post a notice meeting the following requirements:

a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within five feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign each 25 feet of lot frontage.

b. The notice must clearly indicate, in not less than two-inch-high light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "Tow Away Zone" must be included on the sign in not less than four-inch-high letters.

c. The notice must also provide the name and current telephone number of the person towing or removing the vehicles if the property owner, lessor or person in control of the property has a written contract with the towing company.

d. The sign structure containing the required notices must be permanently installed with the bottom of the sign not less than four feet above ground level and be continuously maintained on the property for not less than 24 hours prior to the towing or removal of any vehicles; and prior to the towing or removal of any vehicle, the following must be fully complied with:

1. All existing signs and all new signs must have a permit from the city.

2. A fee for the permit must be paid for each premises prior to issuance of the permit. Such fee is established and on file in the city clerk's office.

3. Plans for the sign must be submitted to the building official, who shall inspect the completed sign prior to issuing the permit.

4. Under no circumstances shall a permit be issued prior to inspection of the complete sign and the sign has been approved by the building official as being in conformity with the sign code and this section.

(6) Any person who tows or removes vehicles and proposes to require the owner, operator or person in control of the vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the police department a complete copy of the current rates to be charged for such services, and post at the storage site an identical rate schedule and any written contracts with the owners, lessors or persons in control of such property which authorize such person to remove vehicles.

(7) Any person towing or removing any vehicles from private property without the consent of the owner, operator or person in control of the vehicle shall, on any trucks or other vehicles used in towing or removal, have clearly indicated, in at least two-inch letters, the name, address and telephone number on the driver and passenger side doors.

(8) When a vehicle has been towed or removed pursuant to this section, it shall

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forthwith be brought directly to the licensed storage site and shall be kept in any temporary holding area.

(9) When a vehicle has been towed or removed pursuant to this section, it must be released to its owner or custodian within one-half hour after requested. Any vehicle owner, custodian or agent shall have the right to inspect the vehicle before accepting its return; and no release or waiver of any kind may be required from any vehicle owner, custodian or agent as a condition of release. A detailed, signed receipt showing the legal name of the person towing or removing the vehicle must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

(c) Violation of the provisions of this section shall constitute grounds for revocation or suspension of the occupational license of that person. Upon a determination by the city manager that there constitutes sufficient grounds for revocation or suspension, the manager shall file written charges with the city commission and give copies to the alleged violator. After an adversary hearing conducted with proper notices, the city commission, upon the presentation of substantial competent evidence, may dismiss the charges or revoke or suspend the license in question.

(d) Violation of any provision of this section shall be punishable by 60 days in jail, a $500.00 fine, or both. Each separate occurrence where a vehicle has been towed in violation of this section shall constitute a separate violation.
(Code 1980, § 28-1.1)

Sec. 28-3. Administrative fee and lien for vehicles which are towed.

(a) When the city undertakes to enforce violations of this article by code enforcement activities involving vehicles that may be towed, it shall be the duty of the owner to remove the vehicle after notification or posting that a violation exists and must be corrected. Failure to comply with the notice shall constitute a violation of this section, punishable as provided in section 1-8, and shall subject the vehicle to removal by the city, imposition of a fee and lien as provided in this section, and tow charges.

(b) If the owner fails to remove such vehicle in a timely manner, the city shall cause the removal of such vehicle, in which case the city will bill the owners a charge to cover the city's administrative expenses. Such charge will constitute a lien upon such real property or abutting real property and upon the vehicle itself; and whenever a bill for such charge remains unpaid for more than 30 days, the city may file with the clerk of the circuit court for the county a claim of lien to bear interest at the legal rate. This claim of lien statement shall contain a legal description of the premises, and the vehicle, owner's name, the expenses and costs incurred, the date of such expenses, and a notice that the city claims a lien for this amount. A copy of the claim shall be mailed to the owner. If the lien for unpaid charges incurred pursuant to this section is not paid in full, the lien may be foreclosed by the city in the same manner as provided by law for the foreclosure of mortgages upon real estate. The city shall in such case be entitled to recover a reasonable attorney's fee.

(c) If the owner shall appear and claim the vehicle, the city, or the towing company for the city, shall collect an administrative fee from such person, which fee is established and on file in the city clerk's office. Such a payment shall be credited to any bill or lien which may have been imposed pursuant to subsection (b) of this section.

(d) For purposes of this section, the term "owner" shall mean, jointly and severally, all persons responsible for removal of the motor vehicle, including the owner or person in possession of the property on which the vehicle is located or of the property abutting the right-of-way on which the vehicle is located and the registered owner or other actual owner of the vehicle, and owner as otherwise defined in this Code.

(e) For purposes of this section, towed vehicles subject to the fee provided in this section are defined as all vehicles found in violation of the applicable codes of the city and abandoned, immovable, wrecked, derelict and others that require activities by code enforcement personnel

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and staff of the city but shall not include vehicles towed as police tows pursuant to section 28-1(1)—(4), (6) and section 28-171.
(Code 1980, § 28-1.2)

Sec. 28-4. Authority to erect stop and yield signs.

(a) *At through streets.* Whenever any ordinance designates and describes a through street, or where any street is designated as a through street by the traffic engineer, it shall be the duty of the traffic engineer to place and maintain a stop sign or yield right-of-way sign on each street intersection such through street or intersecting that part described and designated as such by any ordinance, except at those intersections which are controlled by automatic signals or other traffic control devices.

(b) *At other than through streets.* The traffic engineer is authorized to determine and designate intersections where a particular hazard exists upon other than through streets and to determine whether a vehicle shall stop at one or more entrances to any such intersections, and shall erect a stop sign or yield right-of-way sign at every place where he shall find a stop required, except at those intersections which are controlled by automatic signals or other traffic control devices.
(Code 1980, §§ 28-2, 28-3)

Sec. 28-5. Operation of bicycles on sidewalks.

It shall be an infraction for bicycles to be operated by any person upon the sidewalks of the city.
(Code 1980, § 28-4)

Cross reference—Streets, sidewalks and other public ways, ch. 25.

State law reference—Bicycle regulations, F.S. § 316.2065.

Sec. 28-6. Parking of vehicles and equipment in residential areas and districts.

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

Commercial equipment means any vehicle or machinery functionally designed to be used in construction, demolition, excavation, land clearing, development or maintenance, farming other than home gardening, or in other commercial activities. This includes but is not limited to wreckers or tow trucks, or any vehicle equipped with a hoist or other mechanical equipment designed to perform this function. In addition, any truck or vehicle, except those specifically permitted by this chapter, having any one of the following characteristics shall be considered commercial equipment:

(1) Scale weight (vehicle only) in excess of 5,000 pounds.

(2) A height of more than eight feet to the top of the vehicle, including ladders or other attachments.

(3) More than nine feet wide, excluding mirrors.

(4) An overall length in excess of 20 feet.

(5) Having more than two axles.

Passenger automobile means only those automobiles designed primarily to transport private passengers and which are currently licensed for travel on the public roads. This shall include vans and pickup trucks. This does not include vehicles designed for mass public transportation such as buses, nor does it include special-purpose vehicles specially designed primarily for unusual terrain and conditions, such as swamp buggies, track layers, etc.

Recreational vehicle means any vehicle or portable structure designed primarily to provide temporary living quarters for recreation, camping or travel use; either a vehicular structure mounted on wheels, self-powered or designed to be pulled by another vehicle, or a structure designed to be

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mounted upon and carried by another vehicle. This definition is intended to include travel trailer, camping-trailer, camp-bus or house-bus, and truck-camper unit of walk-in capacity.

Residential district means any zoning use district bearing the prefix RS, RD or RM.

Special-purpose vehicle means a vehicle especially designed primarily for unusual terrain and conditions and which is not usually licensed for or used on the public roads, such as swamp buggies and track layers (caterpillar-track drive).

Trailer means a vehicular structure mounted on wheels designed to be pulled by another vehicle.

Utility trailer means a trailer designed to transport materials, goods or equipment. This includes boat trailers.

(b) *General restrictions on parking or storage of vehicles.* All vehicles permitted in this section to be parked or stored in residential districts, residential areas or on residential property:

(1) Must be on property occupied for a permitted principal use.

(2) Must be owned or leased by occupants of the property, their employer, or house guests of the occupants, or placed on such property with the consent of the occupant of such property. Vehicles borrowed from another person for the use of the occupants or their house guests are permitted under this provision.

(3) Must have a currently valid license tag.

(4) Must be parked or stored with wheels and tires mounted and maintained in a movable, roadworthy condition.

(5) May not be used for storage, as an accessory building, occupied in any manner, or connected to utility or electrical service except as necessary to maintain or repair such vehicle.

(c) *Numerical restrictions on special items.* No more than a maximum of one item per category from any two of the four categories listed in this section shall be parked or stored per dwelling unit: utility trailers, recreational vehicles, boats exceeding 12 feet in length or having a cabin or roof structure, and special-purpose vehicles. Similar items in excess of these restrictions may be stored or parked in a completely enclosed building. For the purposes of this restriction, a boat stored upon a boat trailer shall be deemed to be from one category and not two.

(d) *General provisions.*

(1) Commercial equipment shall not be parked or stored in a residential district, residential area or on residential property between the hours of 9:00 p.m. and 6:00 a.m. the following morning unless parked or stored within a completely enclosed building.

(2) Items other than commercial equipment may be parked or stored outside a completely enclosed building within residential districts, residential areas or on residential property only as permitted as follows:

a. Automobiles may be parked in the public road right-of-way, in the front yard, and in the corner street side yard. However, vans and pickup trucks used for commercial activities and/or which have signage attached shall not be parked on the public road right-of-way. A resident may park only one taxi on his property if the taxi is owned or operated by the resident.

b. Automobiles, boats, trailers, utility trailers, special-purpose vehicles and recreational vehicles may be parked in the side yard and the rear yard and may not exceed ten feet in height; however, recreational vehicles not exceeding 15 feet in height may be parked pursuant to this provision. Items parked in the side yard and rear yard must be screened by a fence, wall or hedge conforming to applicable height restrictions.

c. These provisions do not permit parking or storage of junked, wrecked or inoperable vehicles. Items other than those specifically permitted in this

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subsection are not permitted to be parked or stored in a residential district, residential area or on residential property except within a completely enclosed building.

(e) *No access to side or rear yard.* Where physically impossible to gain access to side or rear yards, a permitted vehicle may be parked in the front yard on a hard-paved surface at least five feet from the lot line.

(f) *Variance.* The city commission may, upon application, grant a variance from the terms of this section for hardship or other reasons in accord with its intention. Such variance application shall be heard at a public hearing which is noticed and posted in conformity with the provisions of section 32-967 as to variances but shall not be required to be advertised. An administrative fee, which is established and on file in the city clerk's office, shall be due at the time an application for a variance is submitted.

(g) *Exceptions enumerated.* Nothing in this section is to prohibit the reasonable parking and use of any vehicle or equipment at a location while performing lawful and authorized work, public or private, at the location, including:

(1) Tradesmen performing service work or making deliveries of merchandise.

(2) Public utility service work.

(3) Temporary uses permitted by the city commission.

(4) Temporary uses accessory to valid construction permits, under supervision of the city.

(h) *Violation; penalty.* It is declared unlawful and a violation of this Code, punishable as provided in section 1-8, to park, store or permit or allow to be parked or stored any vehicle, equipment, boat or trailer in violation of the provisions of this section.
(Code 1980, § 28-6)

Sec. 28-7. Parking of commercial vehicles and equipment in nonresidential areas and districts.

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

Commercial equipment means the same given in subsection 28-6(a).

Nonresidential district means any zoning use district other than those bearing the prefix RS, RD or RM.

(b) *Restrictions.*

(1) Commercial equipment shall not be parked or stored in the public right-of-way in any nonresidential district or nonresidential area or on the public right-of-way abutting nonresidential property between the hours of 9:00 p.m. and 6:00 a.m. the following morning.

(2) The parking of commercial equipment on nonresidential property is permitted provided the owner or person having the use of the commercial equipment holds a current and valid occupational license to conduct business from the property on which the commercial equipment is parked.

(c) *Parking or storage.* Vehicles and commercial equipment must be parked or stored on a hard-paved surface.

(d) *Exceptions enumerated.* Nothing in this section shall prohibit the reasonable parking and use of commercial equipment in accordance with other applicable laws and regulations at a location regulated in this section while performing the following lawful and authorized work at such location:

(1) Tradesman performing service work or making deliveries of merchandise.

(2) Public utility service work.

(3) Temporary uses permitted by the city commission.

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(4) Temporary uses accessory to valid construction permits under supervision of the city.

(e) *Violation; penalty.* It is declared unlawful and a violation of this Code, punishable as provided in section 1-8, to park, store or permit or allow to be parked or stored any commercial vehicle or commercial equipment in violation of the provisions of this section.

(f) *Variance; hearing; fee.* A variance to the provisions of this section may be granted by the city commission upon a showing of hardship unique to and not created by the applicant. Such variance shall be heard at a public hearing which is noticed and posted in conformity with section 32-967 but shall not require to be advertised. An administrative fee shall be due at the time an application for variance is submitted.
(Code 1980, § 28-6.1)

Sec. 28-8. Restricted swim areas and boat wakes.

(a) It shall be unlawful to operate any boat or vessel upon any waterway in the city at a rate of speed which causes waves to damage or causes damage to docks, wharves, seawalls, boats or personal property contained in boats moored or tied to docks or wharves along such waterways.

(b) When posted, it shall be unlawful to operate any boat, vessel or watercraft at a speed greater than that speed which is necessary to maintain steerage.

(c) The areas located on public beaches within the city as described in Appendix "1" shall be known as restricted boat areas. Such areas shall be marked by the use of buoys as described in Appendix "2."

(d) It shall be unlawful for any watercraft powered by engine to travel within the restricted areas which shall be reserved for swimmers.

(e) The following shall be exceptions to the restrictions set forth in section 28-8 herein:

(1) Emergency and/or law enforcement watercraft; and

(2) Watercraft operated for necessary municipal or governmental tasks.

(f) Any person in violation of this section shall be punished by a fine not to exceed $500.00.
(Code 1980, § 28-7; Ord. No. 97-4, § 1, 3-4-1997; Ord. No. 2004-1, § 1, 1-20-2004)

Editor's note—Ord. No. 2004-1, § 1, adopted January 20, 2004, changed the title of section 28-8 from "Creation of wake by boats" to read as herein set out.

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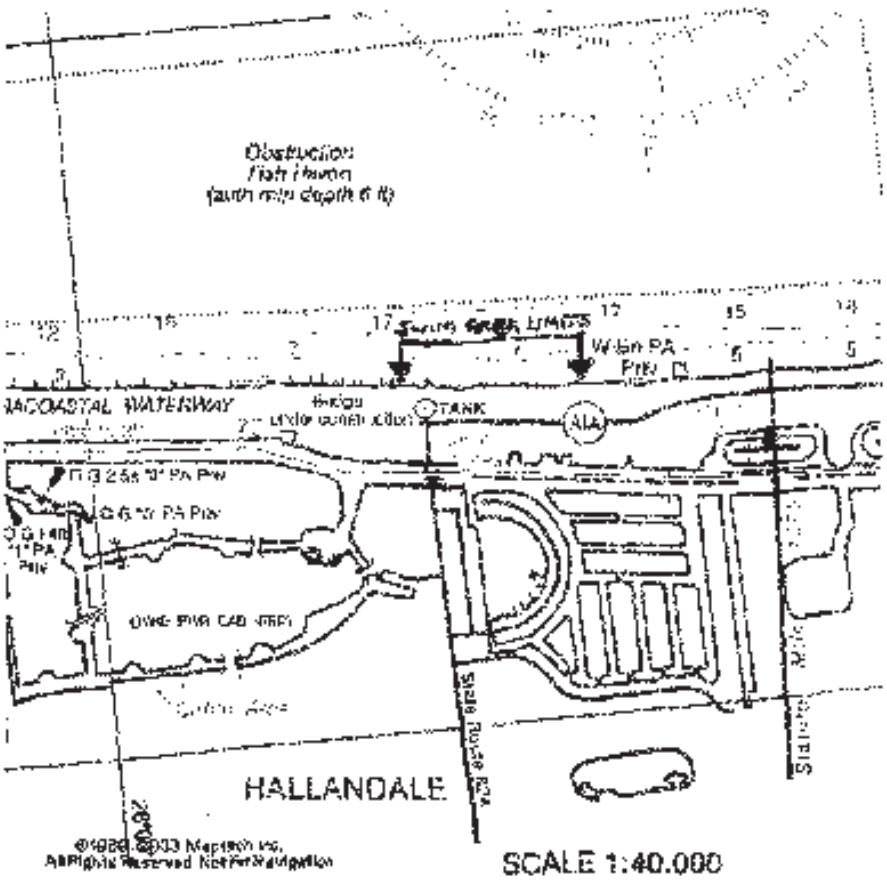

Appendix "1"

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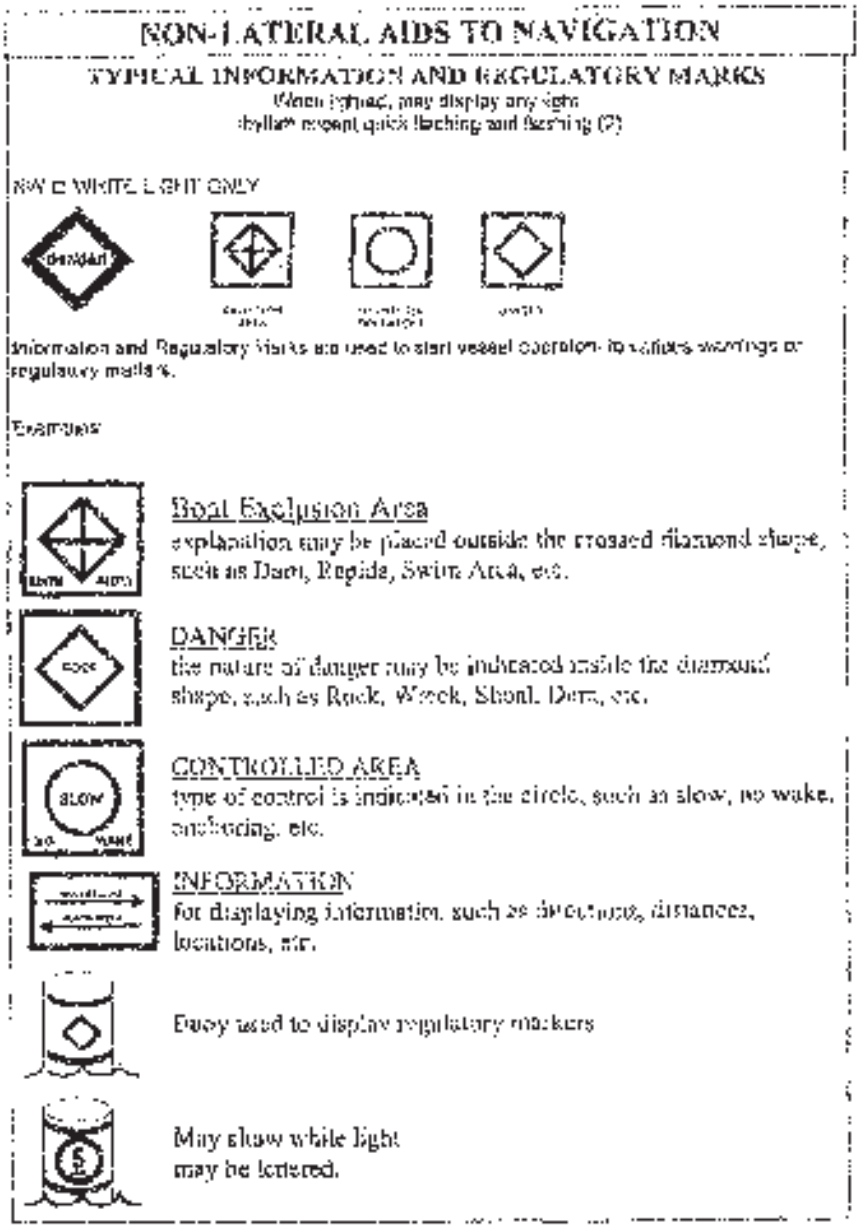

Appendix "2"

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Sec. 28-9. Truck routes.

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

Deviating truck means a truck which leaves and departs from a truck route while traveling inside the city.

Truck means any vehicle designed or operated for the transportation of property and the body weight or combined body and load weight of which exceeds 10,000 pounds and has more than two axles and four wheels.

Truck route means a way over certain streets over and along which trucks traveling in the city must operate.

(b) *Application of regulation.* All trucks within the city shall be operated only over and along established truck routes, except that subsections (b) through (d) of this section shall not prohibit:

(1) *Operation on street of destination.* The operation of trucks upon any street where necessary to the conduct of business at a destination point within the city, provided streets upon which truck traffic is permitted are used until reaching the intersection nearest the destination point.

(2) *Emergency vehicles.* The operation of emergency vehicles upon any street in the city.

(3) *Public utilities.* The operation of trucks owned or operated by the city, public utilities, any contractor or materialman, while engaged in the repair, maintenance or construction of streets, street improvements, or street utilities within the city, or the south side of Holiday Drive.

(4) *Detoured trucks.* The operation of trucks upon any officially established detour in any case where trucks could lawfully be operated upon the street for which the detour is established.

(c) *Truck routes established.* There are established within the city the following truck routes:

(1) Hallandale Beach Boulevard, from A1A to west city limits.

(2) Dixie Highway, from north city limits to south city limits.

(3) A1A, from north city limits to south city limits.

(4) Pembroke Road, from Federal Highway (U.S. 1) to west city limits.

(5) U.S. Highway No. 1, from south city limits to north city limits.

(6) N.E./S.E. First Avenue, from south city limits to north city limits.

(d) *Truck traffic in the city.*

(1) *Generally.* All truck traffic in the city shall proceed only over an established truck route and may deviate only at the intersection nearest to the destination point, and, upon leaving the destination point, shall return to the truck route by the shortest permissible route and proceed to the subsequent intersection nearest each point of destination before deviating again, unless the next point of destination is closer than the truck route intersection, in which case the truck may proceed to the next point of destination by the shortest, most direct route. Compliance with these provisions is mandatory regardless of the fact that it may require a vehicle to depart from the most direct route from its point of origin to its point of destination, or from one point of destination to a subsequent point of destination.

(2) *DeSoto Waterway Bridge.* Notwithstanding any other provisions of this section, trucks picking up or delivering materials, equipment or supplies utilized in construction or land scarification, or any vehicles or equipment utilized in the land scarification or construction process, including without limitation bulldozers, pile driving equipment, cranes, cement mixers, and backhoes, may not, at any time or under any circumstances, be operated over or

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otherwise utilize Atlantic Shores Boulevard from Diplomat Parkway east to the intersection of Three Islands Boulevard, including the DeSoto Waterway Bridge.

(3) *Layne Boulevard.* No truck traffic that has Dade County, Florida, as its point of arrival or point of departure shall operate on or otherwise utilize Layne Boulevard from Hallandale Beach Boulevard south to the Dade County line, unless use of Layne Boulevard is necessary, in compliance with the requirements of this section, to reach a destination point within the city, or the south side of Holiday Drive.

(e) *Enforcement.*

(1) *Clerk maintains maps.* The city clerk shall keep and maintain accurate maps setting out truck routes and streets upon which truck traffic is permitted; the maps shall be kept on file in the office of the city clerk and shall be available to the public.

(2) *Posting of signs.* The appropriate agency or agent of the city may cause all truck routes and those streets upon which truck traffic is prohibited to be clearly signposted to give notice that this section is in effect. Failure to have posted signs upon a street where truck traffic is prohibited shall not excuse a person from compliance with this section.

(Code 1980, §§ 28-9—28-13)

Sec. 28-10. Stopping and parking prohibitions and restrictions.

(a) *Generally.*

(1) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:

a. Stop, stand or park a vehicle:

1. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

2. On a sidewalk.

3. Within an intersection.

4. On a crosswalk.

5. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the state division of road operations of the department of transportation or the county department of transportation indicates a different length by signs or markings.

6. Upon any public street, road, highway or way upon which the public has a right to travel by motor vehicle so as to impede, hinder, stifle, retard or restrain traffic or passage on such place or so as to endanger the safe movement of vehicles or pedestrians traveling on such place.

7. Upon any bridge or other elevated structure upon a highway or within a highway tunnel.

8. On any railroad tracks.

9. At any place where official signs prohibit stopping.

10. Within any parking space specifically designated and marked for the exclusive use of physically disabled persons unless such vehicle displays a parking permit issued for such purpose by the state department of highway safety and motor vehicles and is transporting a person eligible for such parking permit; however, any person who is chauffeuring a disabled person shall be allowed, without need for an identification parking permit, momentary parking in any such parking space for the purpose of loading or unloading a disabled person,

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and no penalty shall be imposed upon the driver for such momentary parking.

11. In any fire lane or fire zone.

b. Stand or park a vehicle, whether or not occupied, except momentarily to pick up or discharge a passenger or passengers:

1. In front of a public or private driveway.

2. Within 15 feet of a fire hydrant.

3. Within 20 feet of a crosswalk in an intersection.

4. Within 30 feet upon the approach of any flashing signal, stop sign or traffic control signal located at the side of a roadway.

5. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance (when property signposted).

6. At any place where official signs prohibit standing.

c. Park a vehicle, whether or not occupied, except temporarily for the purpose of and while actually engaged in loading or unloading passengers:

1. Within 50 feet of the nearest rail of a railroad crossing.

2. At any place where official signs prohibit parking.

d. Move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

(2) Except as otherwise provided in this subsection, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the righthand wheels parallel to and within 12 inches of the righthand curb or edge of the roadway.

(3) Every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its righthand wheels within 12 inches of the righthand curb or edge of the roadway, or its lefthand wheels within 12 inches of the lefthand curb or edge of the roadway.

(b) *On vacant, unimproved property.*

(1) It shall be unlawful for any person to occupy any motor vehicle, trailer, motor home, camper, truck or other vehicle, whether or not self-propelled, on any vacant unimproved property in the city.

(2) It shall be unlawful for any person to park, stop or leave standing any motor vehicle, or other vehicle, on any vacant unimproved real property in the city.

(3) For the purpose of this section, the term "vacant unimproved real property" shall be construed to mean a tract of land which is unpaved and does not contain a structure which is certified for occupancy by human beings.

(Code 1980, §§ 28-14, 28-14.1)

Sec. 28-11. Authority to remove vehicles.

(a) Any unattended vehicle parked in violation of section 28-10(a)(1)a.10 may, in addition to the fines provided in section 28-13, be removed and the expense of removal charged to the owner of the vehicle.

(b) The removal of any vehicle from private property pursuant to this section shall be done in compliance with section 28-2, except that section 28-2(b)(5) shall not apply.

(Code 1980, § 28-14.2)

Sec. 28-12. Application of traffic laws.

Except as otherwise provided, the provisions of this article shall apply to the operation of vehicles wherever vehicles have the right to travel in the city.

(Code 1980, § 28-14.3)

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Sec. 28-13. Fines for stopping, standing and parking violations.

(a) *Schedule; contested citation.*

(1) a. The fines for violations of this Code or ordinances pertaining to improper standing, stopping or parking may be set by resolution.

b. The fines provided for improper parking in a space designated for disabled persons are mandatory minimum fines only and shall not restrict the discretion of an appropriate court to impose a fine not in excess of $250.00.

(2) Any person who legally contests the issuance of a citation for a stopping, standing or parking violation shall not be considered late in payment for the purposes of this subsection.

(b) *Followup notice.* Upon failure to pay the fine provided by such citation within 14 calendar days of its issuance, a followup notice shall be mailed to the owner of the vehicle, informing the owner that the fine must be paid within one week of the date of the notice to avoid the filing of action in the county court.

(c) *Failure to pay fine.* It shall be a separate violation of this Code to fail to pay any fine due on a citation issued for the violation of any section of this Code or ordinance relating to the standing, stopping or parking of vehicles within the city.

(d) *Prosecution authorized.* Upon continued failure of the violator to pay the citation after the time provided in the followup notice has expired, the city prosecutor, or the state attorney if there is no city prosecutor, may institute a prosecution in the county court for violation of this section.

(e) *Violation; penalty.* A violation of this section shall be punishable by a fine not to exceed $100.00, or imprisonment for a period not to exceed five days, or by both fine and imprisonment.
(Code 1980, § 28-15)

Sec. 28-14. Withholding of license tags.

The city manager shall periodically supply to the state department of highway safety and motor vehicles a magnetically encoded tape reel or cartridge that is readable by the installed computer system at the department, listing persons who have three or more outstanding parking violations so that the department may mark the appropriate registration records of the persons so reported. Any person whose name appears on such a list will not be issued a license plate or revalidation sticker until the person's name no longer appears on the list or until he presents a receipt from the city showing that such parking fines have been paid.
(Code 1980, § 28-16)

State law reference—Authority, F.S. § 316.1967(6).

Sec. 28-15. Solicitation upon streets, intersections, medians separating intersections, paved roadways and other places of vehicular travel.

In school zones and where the posted speed exceeds 25 miles per hour, no person shall stand or walk in the streets, intersections, medians separating intersections where traffic flows in opposite directions, paved roadways and other places of vehicular traffic whether or not the vehicles are stopped or moving, for the purpose of soliciting funds, collecting of monies, donations or contributions, freely distributing or handing and receiving of anything by hand to or from the occupants of motor vehicles whether or not money is exchanged, and selling of anything to the occupant of any motor vehicle.
(Ord. No. 2004-17, § 1, 8-3-2004)

Secs. 28-16—28-50. Reserved.

ARTICLE II. COMBAT AUTOMOBILE THEFT PROGRAM*

Sec. 28-51. Adopted.

A combat automobile theft program is adopted by the city to provide that owners of motor vehi-

*__State law reference—__Combat automobile theft program, F.S. § 316.008(6).

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cles may sign a consent form that provides authorization for a law enforcement officer to stop the vehicle when it is being driven between the hours of 1:00 a.m. and 5:00 a.m.
(Code 1980, § 28-61)

Sec. 28-52. Decals.

(a) *Issuance.* The combat automobile theft program will be implemented by consent forms to be promulgated by the city manager and the issuance of bright yellow decals of standard design that should be conspicuously affixed to the bottom left corner of the back window of the owner's motor vehicle. This decal shall be notice of the enrollment of the vehicle in the combat automobile theft program and shall be authority for a law enforcement officer to stop the vehicle within the hours provided.

(b) *Removal.* The owner of the motor vehicle is responsible for removing the decal when terminating participation in the program, or when selling or otherwise transferring ownership of the vehicle.
(Code 1980, § 28-62)

Sec. 28-53. Civil liability.

No civil liability shall arise from the actions of a law enforcement officer when stopping a vehicle with a yellow decal evidencing enrollment in any program established pursuant to F.S. § 316.008(6) when the driver is not enrolled in the program, provided the stop is made in accordance with the requirements of the combat automobile theft program.
(Code 1980, § 28-63)

Sec. 28-54. Registration fee.

A registration fee for the administration of the combat automobile theft program and the cost of the decal may be established, and the Hallandale Beach Crime Watch organization is authorized to organize and administer the program in the city.
(Code 1980, § 28-64)

Secs. 28-55—28-90. Reserved.

ARTICLE III. PARADES*

Sec. 28-91. Definitions.

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

Parade means any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, park or other public place in the city.

Parade permit means a permit as required by this article.
(Code 1980, § 28-40)
Cross reference—Definitions generally, § 1-2.

Sec. 28-92. Permit required; exceptions.

No person may engage in, participate in, aid, form or start any parade unless a parade permit shall have been obtained from the chief of police; except that this article shall not apply to:

(1) Funeral processions.

(2) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities.

(3) A governmental agency acting within the scope of its functions.

(Code 1980, § 28-41)

Sec. 28-93. Permit application.

(a) *Filing period.* An application for a parade permit must be filed with the chief of police not less than 30 days before the date on which it is proposed to conduct the parade.

(b) *Contents.* The application for a parade permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct such parade.

(2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the

*__Cross reference—__Streets, sidewalks and other public ways, ch. 25.

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name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.

(3) The name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct.

(4) The date when the parade is to be conducted.

(5) The route to be traveled, the starting point and the termination point.

(6) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles.

(7) The hours when such parade will start and terminate.

(8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.

(9) The location by streets of any assembly areas for such parade.

(10) The time at which units of the parade will begin to assemble at any such assembly area or areas.

(11) The interval of space to be maintained between units of such parade.

(12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.

(13) Any additional information which the chief of police shall find reasonably necessary to a fair determination as to whether a permit should issue.

(c) *Late applications.* The chief of police, where good cause is shown, shall have the authority to consider any application under this section which is filed less than 30 days before the date such parade is proposed to be conducted.

(d) *Fee.* There shall be paid at the time of filing the application for a parade permit a fee, as established and on file in the city clerk's office. (Code 1980, § 28-42)

Sec. 28-94. Standards for issuance of permit.

The chief of police shall issue a permit as provided for in this article when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

(1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

(2) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and contiguous areas as to prevent normal police protection to the city.

(3) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and contiguous areas.

(4) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such assembly areas.

(5) The conduct of such parade will not interfere with the movement of firefighting equipment en route to a fire.

(6) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.

(7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

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(8) The parade is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be purely for private profit.

(Code 1980, § 28-43)

Sec. 28-95. Notice of rejection of application.

The chief of police shall act upon the application for a parade permit within 14 days after its filing. If the chief of police disapproves the application, he shall mail to the applicant within 21 days after the date upon which the application was filed a notice of his action, stating the reasons for his denial of the permit.

(Code 1980, § 28-44)

Sec. 28-96. Alternative permit.

The chief of police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within seven days after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under this article.

(Code 1980, § 28-45)

Sec. 28-97. Appeal procedure.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the city commission.

(Code 1980, § 28-46)

Sec. 28-98. Notice of issuance to city and other officials.

Immediately upon the issuance of a parade permit, the chief of police shall send a copy to the following:

(1) The mayor and city commission.

(2) The city manager.

(3) The city attorney.

(4) The fire chief.

(5) The director of the department of public works.

(6) The director of the county division of mass transit, the regular routes of whose vehicles will be affected by the route of the proposed parade.

(Code 1980, § 28-47)

Sec. 28-99. Contents of permit.

Each parade permit shall state the following information:

(1) Starting time.

(2) Minimum speed.

(3) Maximum speed.

(4) Maximum interval of space to be maintained between the units of the parade.

(5) The portions of the streets to be traversed that may be occupied by the parade.

(6) The maximum length of the parade in miles or fractions of miles.

(7) Such other information as the chief of police shall find necessary to the enforcement of this article.

(Code 1980, § 28-48)

Sec. 28-100. Duties of permittee.

(a) A permittee under this article shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(b) The parade chairman or other person heading or in charge of such activity shall carry the parade permit upon his person during the conduct of the parade.

(Code 1980, § 28-49)

Sec. 28-101. Revocation of permit.

The chief of police shall have the authority to revoke a parade permit issued under this article upon application of the standards for issuance as set forth in this article.

(Code 1980, § 28-50)

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Sec. 28-102. Public conduct during parades.

(a) *Interference.* No person may unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(b) *Driving through parades.* No driver of a vehicle may drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c) *Parking on parade route.* The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part of a highway constituting a part of the route of a parade. The chief of police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation of such signs. No person shall be liable for parking on a street unposted in violation of this article.
(Code 1980, § 28-51)

Secs. 28-103—28-130. Reserved.

ARTICLE IV. PARKING METERS*

Sec. 28-131. Definitions.

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

Parking lot means any area owned by the city and designated as municipal parking lots.

Parking meter means a mechanical device located upon a public street, sidewalk or parking lot in a place regularly designed as a parking zone, which device shall record a certain number of minutes by the use of a clock mechanism determining the period of time for which parking privileges may be extended to the person so depositing a coin.

Parking meter zone means a certain designated and marked off section of the public street or parking lot within the marked boundaries where the vehicle may be temporarily parked and allowed to remain for such period of time as the parking meter attached thereto may indicate.

Roadway means that portion of a street between the regularly established curblines.

Sidewalk means that portion of a street between the curblines and the adjacent property lines.

Street means every way set apart for public travel, except alleyways, bridle paths and footpaths.

Vehicle means any device by which any person or property may be transported upon a public highway, except those operated upon rails and permanent tracks.
(Code 1980, § 28-20)

Cross reference—Definitions generally, § 1-2.

Sec. 28-132. Zones described.

Parking meter zones are created on the following streets of the city: that part of Block 16 of Seminole Beach which is within the city; that part of Surf Road which is within the city; and from time to time, if traffic conditions require, on such other streets or such other locations as selected by resolution of the city commission for the location of such parking zones.
(Code 1980, § 28-21)

Sec. 28-133. Installing meters; prescribing times.

In parking meter zones, the city manager shall cause parking meters to be installed in such numbers and at such places as in his judgment may be necessary to the regulation, control and inspection of the parking of vehicles, including the reservation of loading zones for commercial vehicles and shall cause parking meter spaces to be designated. The city manager shall fix the time limitations for legal parking in such zones and the hours during the day when the parking meters must be used and when the time limitations shall be effective, in compliance with the provisions of this article, and shall indicate the time limita-

*__State law reference—__Authorized amount of civil penalties for nonmoving violation, F.S. § 318.18.

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tions by designating the limitations on the parking meters or by appropriate signs posted in proximity to the meters in the zones.
(Code 1980, § 28-22)

Sec. 28-134. Location of meters; legend; mechanism.

The parking meters installed in the parking meter zones shall be placed upon the curb immediately adjacent to the individual parking places. Each parking meter shall be placed or set in such manner as to show or display by a signal that the parking space adjacent to such meter is or is not legally in use. Each parking meter installed shall indicate by a proper legend the legal parking time established by the city and when operated shall indicate on and by its dial and pointer the duration of the period of legal parking, and on the expiration of such period shall indicate illegal parking or overparking.
(Code 1980, § 28-24)

Sec. 28-135. Marking spaces; parking within lines.

The city manager shall have markings painted or placed upon the curb and/or upon the street, or in parking lots, adjacent to each parking meter for the purpose of designating the parking space for which the meter is to be used; and each vehicle parking adjacent or next to any parking meter shall park within the lines or markings so established. It shall be unlawful to park any vehicle across any such line or marking or to park a vehicle in such position that the vehicle shall not be entirely within the area so designated by such lines or markings.
(Code 1980, § 28-25)

Sec. 28-136. Placing meter in operation.

When any vehicle shall be parked in any space adjacent to which a parking meter is located in accordance with the provisions of this article, the operator of the vehicle shall, upon entering the parking space, immediately deposit or cause to be deposited a coin of the United States of the denomination required in such parking meter and put such meter in operation; and failure to deposit such coin and put the meter in operation shall constitute an infraction and shall subject such person to the prescribed penalty.
(Code 1980, § 28-26)

Sec. 28-137. Period of parking; parking overtime.

Upon placing a parking meter in operation, the parking space may be lawfully occupied by such vehicle for a period as prescribed and indicated for each coin. If any such vehicle shall remain parked in any such parking space beyond the parking time limit as fixed for the coins deposited in such meter for such parking space, the parking meter shall by its dial and pointer indicate such illegal parking; and in that event, such vehicle shall be considered parked overtime and beyond the period of legal parking time and shall constitute an infraction; and the owner or operator shall be subject to the prescribed penalty.
(Code 1980, § 28-27)

Sec. 28-138. Defacing meters.

It shall be unlawful for any person to deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this article.
(Code 1980, § 28-28)

State law reference—Similar provisions, F.S. § 877.08.

Sec. 28-139. Illegal deposit.

It shall be unlawful to deposit or cause to be deposited in any parking meter any slug, device, metallic substitute, or any other substitute for a coin of the United States.
(Code 1980, § 28-29)

Sec. 28-140. Purpose of charges.

The coins required to be deposited in parking meters are levied and assessed as fees to provide for the proper regulation and control of traffic upon the public streets, and also the cost of supervision and regulation of the parking of vehicles in the parking meter zones created in this article and to cover the cost of the purchasing,

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leasing, acquiring, installation, operation, maintenance, supervision, regulation and control of the parking meters described in this article.
(Code 1980, § 28-30)

Sec. 28-141. Exemptions for veterans.

The Hallandale Beach City Commission recognizes the sacrifices U.S. veterans have made to protect the freedom of the United States and wishes to show their appreciation to those veterans of the United States who have been recognized for specified distinguished and meritorious service. Veterans whose cars properly display a Florida National Guard, U.S. Reserve, Ex-Prisoner of War, Pearl Harbor Survivor or Purple Heart license plate or other verifiable license plates from the State of Florida validly obtained from the State of Florida, shall be exempt from having to pay parking meter fees. Such exemption shall only be applicable to metered parking and shall not be applicable to the city's permitted parking program within residential neighborhoods.
(Ord. No. 2008-31, § 1, 11-19-08)

Secs. 28-142—28-170. Reserved.

ARTICLE V. TOWING

Sec. 28-171. Powers of city.

The city, through the officers of the police department, has the inherent power to protect persons or property, preserve order and to remove vehicles involved in a traffic accident to a place of safety, or to have an authorized towing agency to provide this service. The latter occurs when either the person in charge of the vehicle is incapacitated, has absented himself from the scene, or requests a police officer to obtain an authorized towing agency to perform towing service. In this regard, the city through its police department performs a dual function:

(1) First, the police endeavor to care for the injured and/or arrested persons and for their vehicles and their contents when the individuals are unable to do this for themselves; and

(2) Second, the police must immediately minimize traffic congestion, and reestablish the orderly flow of pedestrian and vehicular traffic.

(Code 1980, § 31-40)

Sec. 28-172. Towing franchise.

(a) In order to provide towing service for all damaged, disabled and abandoned motor vehicles, the city will allow a private towing agency to provide such service on a franchise basis. A towing agency desiring to render such service to the city will be provided with specifications and invited to submit a bid in accordance with such specifications. The award of the bid by the city shall be to the towing agency submitting the highest and best bid which meets all specifications and conditions. After bids are received and a selection made, a certificate of compliance must be furnished within 90 days of the award indicating that all specifications have been met; and failure of the successful bidder to provide the certificate shall be cause for the loss of the franchise. The bid specifications and conditions contained in the notice to bidders and the proposal form and agreement will comprise the contractual instruments between the city and the towing agency, upon acceptance by the city. The city commission shall indicate acceptance by a resolution awarding the franchise and ordering the city manager to enter into the agreement with the successful bidder.

(b) Periodic review of the quality of services performed and the qualifications of the chosen towing agency will take place; and failure to meet with and/or comply with any of the requirements, specifications, rules, regulations or policies pertaining to the application and service to be rendered will subject the towing agency to cancellation of the contract by the city.
(Code 1980, § 31-41)

Sec. 28-173. Application by agency; conditions for approval; withdrawing approval.

(a) A towing agency proposing to render service in the city must submit an application to the city, on forms prepared by the city, which applica-

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tion will be reviewed by the chief of police, who will thereafter make a recommendation to the license department of the city. In no event shall an applicant be given final approval if the applicant does not meet all the requirements for towing services as set forth in this article.

(b) Demonstrated unwillingness or inability to meet with or comply with any of the requirements, specifications, rules, regulations or policies pertaining to the application and service to be rendered will prohibit approval of an initial application submitted by a towing service and may result in the cancellation of the privilege of performing towing services by any towing agency subsequent to its original approval.

(c) If conditions arise or circumstances occur which render the continued approval and assignment of a towing agency to be not in the best interest of the city as determined by the chief of police, the right to withdraw approval and to cancel the towing agency license is reserved; and the exercise of this right will be in the discretion of the chief of police.

(d) A towing agency operating in the city shall meet the following conditions:

(1) The towing agency shall pay a fee and obtain a license as required under section 18-37.

(2) All wrecker-type vehicles operated by the towing agency shall be inspected annually, and proof of inspection shall be submitted with the application and on or before the October 1 date at which the annual occupational license is obtained as described in subsection (d)(1) of this section.

(3) All wrecker-type vehicle operators will have a current state commercial vehicle license.

(4) The storage area of the towing agency must conform with the zoning requirements of the city, existing now and in the future.

(5) The towing agency must own or possess a dependable wrecker-type vehicle possessing such equipment as may be necessary to render towing services.

(6) The towing agency, in its own name, shall secure and pay the premiums for all such policies of insurance as listed as follows:

a. Workers' compensation and employer's liability insurance as required by statute.

b. Public liability insurance in amounts of not less than $250,000.00 per person and $500,000.00 per accident for bodily injury and $50,000.00 per accident for property damage; also products or completed operations coverage, which will insure the towed vehicle (and its contents) from physical loss and damage during the towing and while vehicles are stored at their place of business.

c. Automobile liability insurance covering all owned, nonowned and hired vehicles in amounts as indicated in subsection (d)(6)b. of this section.

d. The towing agency shall furnish copies of the certificates of insurance to the city. No material change or cancellation of the insurance shall be effective without 30 days' prior written notice to the city.

(7) The operator of the wrecker-type vehicle shall be responsible at the scene of an accident to clean the debris from the streets which is caused by the accident.

(8) A reasonable state of cleanliness must be maintained at the business site of the towing agency. Working areas and interior and exterior structures shall be kept free of debris or articles inappropriate or inconsistent with the operation of a towing service.

(9) The occurrence of any of the following events shall constitute cause for canceling

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the license of a towing agency from its approved status, and the towing license shall automatically terminate ipso facto:

a. Adjudication as a bankrupt.

b. The filing and adjudication of insolvency, reorganization or bankruptcy petitions (voluntary or involuntary).

c. Abandonment of the premises or discontinuance of operations.

d. The making of a general assignment for the benefit of creditors.

(Code 1980, § 31-42)

Secs. 28-174—28-200. Reserved.

ARTICLE VI. IMPOUNDMENT

Sec. 28-201. Authorized; controlled substances; prostitution.

(a) A motor vehicle shall be subject to seizure and impoundment whenever a police officer has probable cause to believe that the vehicle:

(1) Contains any controlled substances or cannabis as defined in F.S. ch. 893;

(2) Was used in the purchase, attempt to purchase, sale, or attempt to sell such controlled substances or cannabis;

(3) Was used to facilitate the commission of any act of prostitution, assignation or lewdness as defined in F.S. § 796.07.

(b) Upon seizing the motor vehicle, the police officer shall:

(1) Provide for the towing of the vehicle by the city's authorized towing agent; and

(2) Notify in writing the persons determined to be the owners of the vehicle, any lien holder, leasing entity, and any person who is found to be in control of the vehicle at the time of the seizure, of the fact of the seizure and impoundment of the vehicle, as well as the right to request a preliminary hearing; which request for preliminary hearing must be made in writing by delivery or by certified mail, return receipt requested, to the police department within five days after receipt of the notice of seizure, Saturdays, Sundays and legal holidays excluded, and which notice shall also advise of the right to pay a $500.00 administrative civil penalty plus towing and storage costs, in lieu of requesting the preliminary hearing.

(c) The notices by the police department to be given pursuant to this section shall be provided by certified mail, return receipt requested, within five days from or by hand delivery at the time of the seizure and impoundment of the vehicle to the person in control of the vehicle, the owner of the vehicle, any lien holder, leasing entity, excluding Saturdays, Sundays and legal holidays.

(d) This section shall not apply and the vehicle shall not be seized or impounded if:

(1) The possession, use or sale of the controlled substance and/or cannabis is authorized by F.S. ch. 893 or 499;

(2) The vehicle was stolen at the time it is subject to seizure and impoundment;

(3) The vehicle was operating as a common carrier at the time it was subject to seizure and impoundment; or

(4) A law enforcement agency has expressed its intent, in writing, to institute state forfeiture proceedings on the vehicle.

(Ord. No. 1998-23, § 1, 12-1-1998; Ord. No. 2003-23, § 1, 10-21-2003)

Sec. 28-202. Hearings; administrative penalty.

(a) If the owner of a motor vehicle, or his agent or authorized representative, the person in control of the vehicle, any lien holder, or leasing entity, has made a written request for a preliminary hearing:

(1) The city shall set such hearings within five days of receipt of the written request, excluding Saturdays, Sundays and legal holidays, before a special master or alternate special master of the city. At the hearing, the city shall have the burden to show that there is probable cause to believe that the motor vehicle is subject to

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impoundment and continued seizure under section 28-201. The formal rules of evidence shall not apply at this hearing, and hearsay and circumstantial evidence shall be admissible.

(2) If after the hearing the special master determines that there is probable cause to believe that the motor vehicle is subject to impoundment and continued seizure, he shall order the continued impoundment of the vehicle unless the owner, the person in control of the vehicle, any lien holder, or leasing entity, or his agent or authorized representative pays the city an administrative civil penalty of $500.00 plus the towing and storage cost, or posts with the police department a cash bond in the amount of $500.00, plus the accumulated costs of towing and storing the vehicle. If after the hearing there is a finding of no probable cause, the vehicle shall be released forthwith to the owner or his agent or authorized representative without the imposition of penalties or fees.

(b) The record owner, the person in control of the vehicle, any lien holder, or leasing entity, will also be notified of the right to pay a $500.00 administrative civil penalty plus accumulated towing and storage charges in lieu of the final hearing and the final hearing shall be scheduled and held no later than 30 days after a request. If the owner, the person in control of the vehicle, any lien holder, or leasing entity, or agent appears, the city shall have the burden to show by a preponderance of the evidence that the vehicle was used as set forth in subsection 28-201(a). If after the hearing a finding is made that the vehicle is subject to impoundment and seizure pursuant to subsection 28-201(a), the special master shall enter an order finding the owner of record of the vehicle civilly liable to the city for an administrative penalty of $500.00 plus towing and storage costs. If after the hearing a finding is made that the city did not meet its burden of proof as set forth in this subsection, or that one of the exceptions of subsection 28-201(d) applies, the vehicle shall be released to the owner along with any cash bond posted.

(c) If after the hearing a finding is made that the owner of a vehicle, the person in control of the vehicle, any lien holder, or leasing entity, establishes by a preponderance of the evidence that they neither knew, nor should have known after a reasonable inquiry, that such vehicle was being used or was likely to be used in violation of subsection 28-201(a), and that a bona fide interest in the vehicle had been perfected in the manner prescribed by law prior to such seizure, the vehicle shall be released, along with any cash bond posted. Co-owners shall be afforded the opportunity to establish by a preponderance of the evidence that such co-owner neither knew, nor had reason to know, after reasonable inquiry, that such property was used or was likely to be used in violation of subsection 28-201(a).
(Ord. No. 1998-23, § 2, 12-1-1998; Ord. No. 2003-23, § 1, 10-21-2003)

Sec. 28-203. Administrative penalty.

If an administrative penalty is imposed pursuant to section 28-201 or 28-202, such penalty shall constitute a debt due and owing the city and shall be independent of the city's return or release of the vehicle. If a cash bond has been posted pursuant to section 28-202, the bond shall be applied toward payment of the penalty.
(Ord. No. 1998-23, § 3, 12-1-1998)

Sec. 28-204. Return of vehicle.

Except as provided otherwise in section 28-202, an impounded vehicle shall be released to its record owner, or to the person who is legally entitled to possess the vehicle, upon his payment of the administrative penalty to the city, plus towing and storage fees, unless the vehicle had been sold or otherwise disposed of to satisfy a judgment or enforce a lien as provided by law.
(Ord. No. 1998-23, § 4, 12-1-1998)

Sec. 28-205. Appeal.

The owner of the motor vehicle that has been the subject of a seizure and impoundment pursuant to section 28-201 or 28-202 or the city may appeal the final ruling and decisions of the special master to the circuit court of the Seventeenth Judicial Circuit of the county within 30 days of

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the date of the final order being appealed. The city may charge the appellant a reasonable fee for preparation of the record for purposes of making the appeal.
(Ord. No. 1998-23, § 5, 12-1-1998)

Secs. 28-206—28-224. Reserved.

ARTICLE VII. AUTOMATED SAFETY ENFORCEMENT OF TRAFFIC VIOLATION*

Sec. 28-225. Short title.

This article shall be known and may be referred to as the "Traffic Intersection Safety Act."
(Ord. No. 2008-14, § 1, 6-18-2008)

Sec. 28-226. Adherence to red light traffic control signals.

Motor vehicle traffic facing a traffic control signal's steady red light indication shall stop before entering the crosswalk on the near side of an intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown on the traffic control signal; however, the driver of a vehicle which is stopped at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection of, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection in obedience of a steady red traffic control signal, may make a right turn (unless such turn is otherwise prohibited by posted sign or other traffic control device) but shall yield right-of-way to pedestrians and other traffic proceeding as directed by the traffic control signal at the intersection. Except as provided in this section, it shall be the responsibility of each owner of a motor vehicle to make certain that his or her motor vehicle adheres to the requirements of this section.
(Ord. No. 2008-14, § 1, 6-18-2008)

Sec. 28-227. Definitions.

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

Intersection. The area embraced within the prolongation or connection of the lateral curb line;

***Editor's note—**Ord. No. 2008-14, § 1, adopted June 18, 2008, set out provisions intended for use as Art. VII, §§ 28-226—28-230. For purposes of classification, and at the editor's discretion, these provisions have been included as Art. VII, §§ 28-225—28-231.

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or, if none, then the lateral boundary lines, of the roadways of two roads which join or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.

Motor vehicle. Any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assisted mobility device, or moped.

Notice of infraction. A citation issued for a vehicle entering into the intersection against a steady red traffic control signal.

Owner/vehicle owner. The person or entity identified by the Florida Department of Motor Vehicles, or other state vehicle registration office, as the registered owner of a vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six months or more.

Record images. Images recorded by a traffic control signal monitoring system/device:

(1) On:

(a) Two or more photographs;

(b) Two or more electronic images;

(c) Two or more digital images;

(d) Digital or video movies; or

(e) Any other medium that can display a violation; and

(2) Showing the rear of a motor vehicle and on at least one image, clearly identifying the license plate of the vehicle.

Infraction. A traffic offense whereby a traffic control signal monitoring system established that a vehicle entered an intersection controlled by a duly erected traffic control device at a time when the traffic control signal for such vehicle's direction of travel was emitting a steady red signal.

Special magistrate. The city's code enforcement special magistrate or other magistrate hired by the city.

Traffic control signal. A device exhibiting different colored lights or colored lighted arrows, successively one at a time or in combination, using only the colors green, yellow, and red which indicate and apply to drivers of motor vehicles as provided in F.S. § 316.075.

Traffic control signal monitoring system/device. An electronic system consisting of one or more vehicle sensors, working in conjunction with a traffic control signal, still camera and video recording device, to capture and produce recorded images of motor vehicles entering an intersection against a steady red light signal indication.
(Ord. No. 2008-14, § 1, 6-18-2008)

Sec. 28-228. Traffic enforcement photographic systems.

(a) Violation of this section shall have occurred where a traffic enforcement photographic system captures the following images:

(1) Colored digital image capturing the rear of the motor vehicle;

(2) Colored digital image capturing the motor vehicle behind the stop bar for a traffic control signal during the time the light is steady red;

(3) Colored digital image capturing the motor vehicle entering the intersection in violation of the steady traffic control signal during the time in which the signal is red; and

(4) Digital image of the license plate capturing the license plate of the motor vehicle.

(b) The owner of a motor vehicle under this article shall be responsible for paying the civil fee for the violation in the amount stated annually in the city's fee booklet.
(Ord. No. 2008-14, § 1, 6-18-2008)

Sec. 28-229. Notice of Code violations.

(a) *Issuance of notice of Code violation.* A notice of any violation of the provisions of this article shall be issued by or under the direction of a sworn law enforcement officer of the city police department.

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(b) *Contents of notice.* A notice issued for any violation or provisions of this article shall be in a form prescribed by the city and shall contain the following information:

(1) The name and address of the owner of the motor vehicle involved in the violation;

(2) The registration number of the motor vehicle involved in the violation;

(3) The number or section of the Code violated;

(4) The location of the intersection where the violation occurred;

(5) The date and time of the violation;

(6) A copy of the recorded image of the violation;

(7) The amount of the fee and charges imposed and the date by which the fee and charges must be paid or appealed;

(8) A statement that a law enforcement officer of the police department has reviewed and observed the recorded images evidencing the red light infraction and has found reasonable and probable grounds to believe that an offense has been committed and can identify the license plate number of the violating vehicle;

(9) A statement of the time limit within which to file an appeal and describing the procedures for appealing the notice of Code violation; and

(10) A conspicuous statement that if the owner of the violating motor vehicle fails to pay the civil fee within the time allowed, or fails to timely appeal the violation, the owner shall be deemed to have: (a) waived his or her right to contest the notice of Code violation, and (b) admitted to the violation reflected in the notice of Code violation.

(c) *Manner of delivery of notice.* The notice of Code violation shall be sent by regular first-class and certified mail to the address of the registered owner of the motor vehicle with the appropriate agency of the state in which the motor vehicle is registered. If there is more than one registered motor vehicle owner, the notice of Code violation shall be sent to the first named registered motor vehicle owner as listed with said agency. The city or its designee shall also have the right, but not the obligation, to personally serve the notice of Code violation upon the motor vehicle owner.

(d) *Non-interference with Code violations.* The provisions of this article shall be under the direction of a sworn law enforcement officer of the city police department and no city commissioner or city official shall interfere with the administration of the provisions of this article.
(Ord. No. 2008-14, § 1, 6-18-2008)

Sec. 28-230. Payment of civil fee.

(a) *Failure to pay or appeal notice of Code violation.* Failure to pay the civil fee or file an appeal within 30 days from the date of the notice of violation of this article shall result in the motor vehicle owner paying the costs and attorney's fees required to collect the civil fee in addition to any other fees and charges that may be assessed. If the motor vehicle owner files an appeal and is unsuccessful, the motor vehicle owner shall be responsible for paying the costs and the attorney's fees required to collect the fee, including costs associated with the appeal, in addition to any other fees and costs.

(b) *Suspension of city privileges.* Any motor vehicle owner who fails to pay a fee for a notice of Code violation issued pursuant to the provisions of this article shall be suspended, refused and denied any rights and privileges that such person may otherwise be entitled to enjoy, receive, or benefit from the city as further described in city administrative policy. Any person whose rights and privileges with or from the city have been suspended, refused, and/or denied pursuant to the provisions of this article may purge the suspension and regain entitlement to any rights, benefits, or privileges that have been refused or denied by this article by paying all fees and charges contemplated in this article associated with a violation hereof.
(Ord. No. 2008-14, § 1, 6-18-2008)

Sec. 28-231. Obligation of motor vehicle owner upon issuance of notice of Code violation.

(a) Upon issuance of a notice of Code violation the alleged violator may contest the notice by filing a notice of appeal with the city clerk within

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30 days from the date of the notice of Code violation is mailed to or personally served upon the registered motor vehicle owner. Failure to file the notice of appeal within this time period shall constitute a waiver of the right to contest the notice of Code violation and will be considered an admission.

(b) The notice of appeal must set forth the grounds upon which the registered motor vehicle owner is contesting the notice of Code violation. The permissible grounds for a registered motor vehicle owner to contest a notice of Code violations are:

(1) At the time of the violation, the motor vehicle was being operated without the permission of the motor vehicle owner. This exception applies only if the motor vehicle owner signs and submits an affidavit to the city clerk, within the 30 days after mailing or personal service of the notice of Code violation, which specifically provides that the operator of the motor vehicle was operating the motor vehicle without the permission of the motor vehicle owner and lists the full legal name, current address, and driver's license number of the operator of the motor vehicle, or the affidavit has attached thereto a stolen motor vehicle report that has been filed with a law enforcement agency;

(2) The motor vehicle driver was issued a citation by a law enforcement officer, which was separate and distinct from the notice of Code violation issued under this article, for violating the steady red traffic control signal;

(3) The motor vehicle driver was required to violate the steady red traffic control signal in order to comply with other governing laws;

(4) The steady red traffic control signal was inoperable or malfunctioning; or

(5) Any other reason the trier of fact deems appropriate.

(c) A neutral, unbiased hearing officer such as the code enforcement magistrate shall be appointed by the city to hear appeals pursuant to this section. Within 30 days of the city's receipt of the notice of appeal, provided that the notice of appeal is timely filed, the city shall endeavor to schedule a date for the appeal to be heard.

(d) During a hearing upon any appeal filed pursuant to this section, the recorded images of violation shall be admissible as evidence of the violation.

(e) If the appeal is rejected or denied, the motor vehicle owner must pay all fees and charges of the city clerk within 30 days of the decision upon the appeal.
(Ord. No. 2008-14, § 1, 6-18-2008)

Chapter 29

TREES

Sec. 29-1. Definitions.
Sec. 29-2. Applicability; territory; enforcement.
Sec. 29-3. Types of property.
Sec. 29-4. Permit required; procedure; fee.
Sec. 29-5. Permit exceptions.
Sec. 29-6. Administrative tree waiver.
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Sec. 29-10. Violation; penalty.

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Sec. 29-1. Definitions.

For the purpose of enforcing and administering this chapter, definitions referenced in section 32-8 shall apply. In construing the provisions of this chapter, if no definition is provided and the context will permit, the latest editions of the following publications recognized as authoritative in the scientific and engineering fields shall apply:

(1) "Tree Protection Manual for Builders and Developers" by the Florida Department of Agriculture Division of Forestry;

(2) "Standards for Pruning Shade Trees" by the National Arborist Association;

(3) "Hortus III, Trees Native to Tropical Florida" by Tomlinson;

(4) "500 Plants of South Florida" by Julia Morton;

(5) "Dig Manual" by State of Florida;

(6) "Manual for Plant Appraisers" by Council of Tree and Landscape Appraisers; and

(7) "Arboriculture Second Edition" by Richard W. Harris.

(Code 1980, § 29-1)

Cross reference—Definitions generally, § 1-2.

Sec. 29-2. Applicability; territory; enforcement.

(a) No person shall abuse, cut down, destroy, remove, move or effectively destroy through damaging any tree within the city except as provided in this chapter.

(b) The following are exempt from the prohibition of tree abuse as set forth in this section:

(1) Topiary pruning when the trees are located on owner-occupied property developed for detached single-family or duplex usage, or the trees were not installed to meet minimum landscaping requirements and are identified on an approved landscape plan as appropriate for topiary pruning.

(2) Tree abuse necessary to alleviate a dangerous condition posing an imminent threat to the public or property.

(Code 1980, § 29-2; Ord. No. 2000-10, § 1, 4-4-2000)

Sec. 29-3. Types of property.

The terms and provisions of this chapter apply to real property as follows:

(1) All vacant and undeveloped property.

(2) All property to be redeveloped.

(3) All property where there is to be any addition or alteration, except developed single-family and two-family lots.

(4) The yard areas of all developed property, except developed single-family lots.

(5) All rights-of-way, public or private.

(Code 1980, § 29-3)

Sec. 29-4. Permit required; procedure; fee.

(a) *Required; compliance with chapter.* No person shall directly or indirectly cut down, destroy, remove or move, or effectively destroy through damaging, or authorize the cutting down, destroying, removing or moving, or damaging, any trees situated on property described in this chapter without a permit as provided in this section being obtained. No city official shall issue a permit provided for in this section in violation of the requirements of this chapter.

(b) *Application fee.* Permits for removal, relocation or replacement of trees covered in this chapter shall be obtained by making application, in a form prescribed by the city, for permit to the department of development services. The application shall be accompanied by a permit fee set by resolution (although governmental agencies shall be exempted from permit fees) and a written statement indicating the reasons for removal, relocation or replacement of trees and four copies of a legible site plan drawn to the largest practicable scale indicating the following:

(1) Location of all existing or proposed structures, improvements and site uses, prop-

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erly dimensioned and referenced to property lines, setback and yard requirements and spatial relationships.

(2) Proposed changes, if any, in site elevations, grades and major contours.

(3) Location of existing or proposed utility services.

(4) The location of all trees on the site designating the trees to be retained, removed, relocated or replaced. Groups of trees in close proximity may be designated as clumps of trees with the estimated number noted. Only those trees to be removed, relocated or replaced must be named (common or botanical name) on the site plan. A certified tree survey is required when the property contains five or more trees.

(5) Tree information required in this section shall be summarized in legend form on the plan and shall include the reason for the proposed removal, relocation or replacement.

(6) Applications involving developed properties may be based on drawings showing only that portion of the site directly involved and adjacent structures and incidental landscaping or natural growth.

(7) Applications involving new arterial roads shall not be required to include a detailed site plan.

(8) Starting date and duration of proposed activity.

(c) *Application review.* Upon receipt of a proper application, the department of development services shall review the application, which may include a field check of the site and referral of the application for recommendation to other appropriate administrative departments. The department of development services shall take all steps to ensure a decision on the application within 30 days; however, if more time is required to process the application, a request in writing stating a specified extension of time shall be made to the applicant; however, expiration of the review time does not entitle the applicant to remove the trees which are subject to the application.

(d) *Removal permit issuance.* No permit shall be issued for tree removal unless one of the following conditions exists:

(1) The tree is located in the buildable area, yard area or street right-of-way where a structure or improvement is to be placed and for which a permit application has been filed, and it unreasonably restricts the permitted use of the property, and the applicant has made every reasonable effort to incorporate existing trees and to minimize the number of trees removed.

(2) The tree is diseased, injured, in danger of falling, too close to existing or proposed structures so as to endanger such structures, interferes with utility services, creates unsafe vision clearance, is growing in too close proximity to other trees to permit normal growth and development of affected trees consistent with good forestry practices or where a tree is causing damage to the public right-of-way.

(3) The tree unreasonably restricts bona fide agricultural use of the property and is located in a zoning district which permits agricultural use.

(4) The trees proposed to be removed are the minimum number necessary for use of the property.

(e) *Relocation or replacement permit issuance.* As a condition of the granting of a permit, the applicant must either relocate the trees being removed or replace the trees being removed with suitable replacement trees. If it is determined that an applicant cannot relocate or replace removed trees, the applicant shall pay the appropriate fee into the city's tree preservation trust fund.

(f) *Tree relocation bond requirement.*

(1) Unless otherwise exempted by this chapter, any person conducting tree relocation activities involving specimen trees must post a bond to insure the survival of the trees. The bond must meet the approval of the city attorney and may be in the form of a letter of credit drawn upon banks or savings and loan institutions legally do-

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ing business in the state or other acceptable means as approved by the city attorney. This bond shall be in addition to any other bond required by any other government entity.

(2) The amount of the required bond shall be computed based upon the most current version of the "Guide for Plant Appraisal," published by the International Society of Arboriculture.

(3) Government entities are exempt from bond requirements.

(g) *Release and drawing on bonds.* Tree relocation bonds will be released upon successful tree relocation as set forth in subsection (i) of this section. Bonds involving specimen trees shall be released upon completion of construction activities if it is determined by the city that the trees are not effectively destroyed.

(1) Bonds may be released by the city when a tree removal permit is transferred. The city may require the subsequent permittee to replace the bond prior to agreeing to release the original bond.

(2) If a tree is determined by the city to be effectively destroyed within one year from the date of relocation, the bond shall be drawn upon and funds will be deposited into the city tree preservation trust fund.

(h) *Methodology for payment into tree preservation trust fund.* If it is determined that an applicant cannot relocate or replace removed trees, the applicant shall pay a fee into the city's tree preservation trust fund. The applicant will submit three cost estimates which reflect the dollar value of the trees being removed. Cost estimates must be based upon the species, height, diameter and maturity of the trees; and estimates must be prepared by a licensed nursery. The city will determine the accuracy of the submitted estimates. The applicant is required to make payment for the accepted cost estimate plus the cost for installation. Installation costs are equal to twice the cost of the trees.

(i) *Relocation plan.* If any tree is to be relocated on or off the site, a relocation plan must be submitted and approved by the city prior to granting a tree removal permit. In determining the required relocation or replacement of trees, the designated public agency shall consider the needs of the intended use of the property, together with a realistic evaluation of the following:

(1) Tree canopy coverage shall be determined so there is no loss of coverage upon maturity of the replacement trees.

(2) Number of trees to be removed on the entire property. The replacement canopy coverage shall at least equal the area of canopy coverage which was removed. Relocation of trees on the site will be counted towards equivalent replacement canopy. Relocation of trees off the site shall be counted as half credit towards equivalent replacement.

(3) Area to be covered with structures, parking, and driveways.

(4) Topography and drainage.

(5) Character of the site and its environs.

(6) Ecology of the site.

(7) Characteristics and amount of shrubs, grass and trees proposed for planting on the site by the applicant.

(8) Native trees shall be required to replace native tree canopy coverage that is removed.

(9) For tree replacement requirements of one to five trees, a minimum of one species shall be utilized as a replacement tree. For six to ten replacement trees required, a minimum of two species shall be utilized. For 11 to 20 replacement trees required, a minimum of three species shall be used. For 21 to 50 replacement trees required, a minimum of four species shall be utilized. For 51 of more replacement trees required, a minimum of five species shall be utilized.

(10) For trees removed pursuant to section 29-4(d)(1), an additional 50 percent tree replacement shall be required.

(11) Replacement trees shall be Florida No. 1 quality or better. The diameter of the

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replacement tree shall be equal to or greater than the diameter of the trees being removed. More than one tree may be utilized for replacement if the aggregate sum of the diameters of the replacement trees is equal to or greater than the diameter of the trees being removed. Each replacement tree shall have the largest diameter commercially available in Dade, Broward and Palm Beach counties for the tree species selected, provided that no replacement tree shall have a diameter of less than three inches. Diameter measurements shall be made at four and one-half feet above the ground.

(12) The method to be followed in relocating trees shall be in compliance with the guidelines for tree relocation available in the growth management department.

(13) For tree protection from construction work during any construction, land development or lot clearing, the contractor and the owner of the property subject to this section shall adhere to the requirements as follows:

a. Place and maintain protective barriers around the dripline of all trees to be retained on the site to prevent their destruction or damage. The protective barriers shall be conspicuous enough and high enough to be seen easily by operators of trucks and other equipment. Protective barriers shall be constructed of sturdy material (not flagging or ribbons).

b. Not store or use materials or equipment within the dripline of any tree to be retained on the site unless the activity is being done to protect trees.

c. Not discharge or contaminate the soil within the dripline of any tree to be retained on the site with any construction materials such as paint, oil, solvents, petroleum products, asphalt, concrete, mortar, or other materials that may cause adverse impacts.

d. Clearing of vegetation within the dripline of trees designated for preservation shall only be by hand or light rubber-wheeled equipment that will not damage tree roots.

e. Utilize retaining walls and drywells where needed to protect trees to be preserved from severe grade changes.

f. Pruning of trees to be preserved shall be in accordance with the standards for pruning established by the National Arborist Association or standards for palm pruning as listed in "Arboriculture Second Edition" by Richard W. Harris, as amended.

g. Make no attachments, other than those of a protective and nondamaging nature, to any tree to be retained on the site.

h. Not change the natural grade above the root system within the dripline of any tree to be retained on the site unless it can be demonstrated to the city that it will not damage any tree.

i. Avoid any encroachments, excavations or severe grade changes within the dripline of preserved trees unless it can be demonstrated to the city that it will not impact any tree.

j. Any trees designated to be preserved which are damaged during construction shall promptly be repaired.

(14) Any person who abuses a tree in violation of this article shall:

a. Undertake pruning and other remedial action as determined by the city, not limited to the removal of severely abused trees to protect public safety and property, and corrective pruning to improve the health and form of affected trees. No tree removal permit is required for the removal of severely abused trees that are removed pursuant to city direction.

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b. Plant replacement trees pursuant to the provisions of section 32-385 if the natural habit of growth of the abused tree is destroyed.

(j) *Tree replacement for specimen trees.* A tree appraisal will be performed by the city to determine the dollar value of any specimen tree approved by the city for removal pursuant to subsection (d) of this section. This appraisal shall be pursuant to the "Guide for Plant Appraisal, Eighth Edition," as amended by the Council of Tree and Landscape Appraisers.

(k) *Tree replacement requirements for nonspecimen trees.*

(1) If the city determines that a removed tree cannot be successfully relocated, the tree shall be replaced to compensate for lost canopy coverage.

(2) The following criteria shall be used by the city to determine the tree replacement requirements:

a. The tree canopy coverage of a site shall be determined using any combination of the following methods:

1. Review of aerial photography.

2. On-site inspection.

3. Review of tree survey.

b. A tree that is successfully relocated pursuant to subsection (i) of this section need not be replaced.

c. Native trees must be planted to replace native tree canopy coverage removed.

d. The number required of replacement trees shall be based upon the size of area of impact and the species of replacement trees selected by the applicant. The canopy of the replacement trees at maturity shall at least equal the canopy removed.

(l) *Tree replacement requirements for abused trees.*

(1) Any person who abuses a tree in violation of this chapter shall undertake pruning and other remedial actions as determined by the city, not limited to the removal of severely abused trees, to protect public safety and property, and corrective pruning to improve the health and form of affected trees. No tree removal permit is required for the removal of severely abused trees that are removed pursuant to city direction.

(2) Planting of replacement trees is required if the natural habit of growth of the abused tree is destroyed.

(3) If the city determines that a removed tree cannot be successfully relocated, such tree shall be replaced to compensate for lost canopy coverage. The tree canopy coverage of a site shall be determined using any combination of the following methods: review of aerial photography, on-site inspection, or review of tree survey. Any tree that is successfully relocated need not be replaced. Native trees must be replanted to replace native tree canopy coverage removed. The number of replacement trees required shall be based on the size of area of impact and the species of replacement trees selected by the applicant. The canopy of the replacement trees at maturity shall at least equal the canopy removed.

(4) If the natural habit of growth of the tree is destroyed, the violator shall install a replacement tree. Such abused tree shall be removed if it threatens public safety or property.

(m) *Compliance.* Whenever any work is being done by a person not in compliance with this article, an appropriate enforcement officer may order that work be stopped and such persons performing such work shall immediately cease such work. The work may not resume until such time as the person is in compliance with this article.

(Code 1980, § 29-4; Ord. No. 2000-10, § 1, 4-4-2000; Ord. No. 2004-2, § 1, 2-17-2004)

Sec. 29-5. Permit exceptions.

(a) If any tree shall endanger health or safety and require immediate removal without delay, written authorization may be given by the city

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manager and the tree removed without obtaining a written permit provided the owner of the property can document with photos that such conditions exist.

(b) All state-approved and governmental plant or tree nurseries and botanical gardens shall be exempt from the terms and provisions of this chapter only in relation to those trees which are so planted and growing for the sale or intended sale to the general public in the ordinary course of business or for some public purpose.

(c) All groves of trees in active commercial operation shall be exempt from the terms and provisions of this chapter for bona fide agricultural purposes only.

(d) The types of trees included in the city's list of prohibited trees and noncredit species shall be exempt from the terms and provisions of this chapter other than sections 29-4(d) and 29-9.

(e) County, municipal or franchised utilities, water control districts, and their authorized agents, are authorized to prune trees in a manner that may be defined as tree abuse provided such pruning is necessary to prevent service interruptions, or to restore interrupted service. These agencies are permitted to conduct such pruning upon presentation to the city of the permit obtained from the county permitting such pruning.

(f) Topiary pruning shall only be allowed for trees located on single-family lots or for those trees that were not installed to meet minimum landscaping requirements and are identified on an approved landscape plan as appropriate for topiary pruning, and are located outside of rights-of-way or roadway easements.

(g) Any tree on residential property developed for detached single-family usage is an exception, except for the following:

(1) Previously preserved, relocated or replaced trees that were preserved, relocated or replaced as a condition of granting a tree removal permit; and

(2) Historical trees, specimen trees, or tree abuse.

(h) Under emergency conditions such as hurricanes, wars or natural disasters, county and franchised utilities, water management districts, improvement districts, airports and the state department of transportation may remove a tree in order to prevent an imminent interruption of service or to restore interrupted service.

(i) During emergency conditions caused by a hurricane or other disaster, the provisions of this section may be suspended by direction of the city.

(j) The removal or relocation of planted landscape trees prior to the issuance of a certificate of occupancy is an exception.

(k) Removal of trees, except historical or specimen trees by franchised utilities, water management districts and the state department of transportation after the city and the record of owner of the property on which the trees proposed to be removed are located, receive notification, delivered 15 calendar days prior to tree removal is an exception. The record owners may appeal the tree removal by submitting a letter of appeal to the city prior to expiration of the 15-day period. The appeals process shall be pursuant to section 29-8. Tree removal may proceed after the expiration of the 15-day period, providing no letters of appeal have been received by the city, if:

(1) The utility or agency can prove prior to tree removal that the:

a. Tree will cause a continual disruption of service (specimen palm trees may be removed under this exemption);

b. Easement or property was in actual use prior to the effective date of this section; and

c. Threat of service interruption cannot be remedied by tree pruning in accordance with National Arborist Association Standards of palm pruning in accordance with the standards listed in "Arboriculture Second Edition" by Richard W. Harris, as amended; or

(2) The removal is for the purpose of providing new/additional on-site service to existing development. Under this provision,

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the notification shall be in writing prior to the tree removal. The franchised utility shall not be required to obtain a license but shall comply with all the standards, requirements and conditions of this section.

(Code 1980, § 29-5; Ord. No. 2004-2, § 1, 2-17-2004)

Sec. 29-6. Administrative tree waiver.

When a rare, historical or valuable tree is located in the buildable area of a lot, in a manner that unreasonably restricts the development of the parcel, the city may waive certain landscaping or parking standards that may be required by article IV, divisions 8 and 11 of chapter 32. In order to waive such requirements, it must be found that the location of the tree unreasonably restricts the development of the parcel as it may be developed if the trees were not on the property. The city shall use the following criteria in making a determination:

(1) The applicant must submit an architectural site plan of the proposed development which shows that the proposal would meet all applicable development standards of chapter 32 for the proposed use on the parcel.

(2) The site plan must include the location, height, species and diameter of the existing trees which restricts the development.

(3) The proposed waiver meets the criteria for granting a variance as provided in section 32-965.

(4) An administrative fee as set forth by the city shall be due at the time a request for a tree waiver is submitted.

(Code 1980, § 29-6)

Sec. 29-7. Tree preservation trust fund.

(a) *Establishment of trust.* There is created the City of Hallandale Beach Tree Preservation Trust Fund in the general trust fund of the city for the purpose of accepting and disbursing the replacement fees paid to the city as part of tree removal permits and any other moneys deposited with the city for tree and landscape purposes. This fund shall solely be used for the planting of trees in the city and any other ancillary costs associated with the planting of trees. Ancillary costs shall not exceed 20 percent of the cost of the particular tree planting project.

(b) *Term of existence.* The trust shall be self-perpetuating from year-to-year unless specifically terminated by the city commission.

(c) *Trust assets.* All moneys received under this section from public or private concerns shall be placed in trust for and inure to the use and benefit of the city and its successors and assigns in interest.

(d) *Trust administration.*

(1) Trust funds shall be expended, utilized and disbursed only for the purposes designated by the city commission.

(2) All moneys deposited under this section shall be deposited in the trust, which shall be a separate account established and maintained apart from the other accounts of the city.

(3) Moneys obtained under this section may be accepted on behalf of the city by the department of finance, which shall cause the moneys to be credited to the trust.

(e) *Disbursal or conversion of assets.*

(1) Trust expenditures for planting of trees to be made by the city will be made in accordance with the guidelines of the city pertaining to contracting and purchasing, and any detailed procedures will be reflected in the internal procedures of the city. The disbursement of these moneys shall be under the control of the city commission and, when required, shall be coordinated with city departments.

(2) Trust funds will be used to obtain trees, landscaping, sprinkler systems, and any other items or materials necessary and proper for the preservation, maintenance, relocation or restoration of tree ecosystems, for any public land in the city. These moneys may also be used to cover the

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expense of relocation of trees in the city and the expense of periodically distributing saplings to the public.

(Code 1980, § 29-6.1)

Sec. 29-8. Appeals from decisions of the designated public agency.

(a) Any person aggrieved by any decision of the department of development services in the enforcement of any terms or provisions of this chapter may appeal to the city commission by filing, within 15 days after the date of the decision complained of, a written notice of appeal with the city manager, which shall set forth concisely the decision appealed from and the reasons or grounds for the appeal. Each appeal shall be accompanied by a fee as set by resolution to cover the cost of the appeal proceedings. The city commission shall hear and consider all facts material to the appeal and render a decision promptly.

(b) The city commission may affirm, reverse or modify the decision appealed from, but the city commission shall not take any action which conflicts with or nullifies any of the provisions of this chapter. Reasonable notice of all hearings shall be provided by the city clerk to all affected parties. The decision of the city commission shall be final, and no petition for rehearing or reconsideration shall be considered.

(Code 1980, § 29-7)

Sec. 29-9. Removal of dead or diseased trees.

(a) *When required.* All owners of real property in the city shall be responsible for the removal of dead or terminally diseased trees from their property. Except as otherwise provided in this chapter, such removal shall require a permit.

(b) *Compliance with other regulations.* Disposal of all trees cut down, destroyed or removed within the city shall comply with chapter 32. If any tree cut down, destroyed or removed within the city was required by article IV, division 8 of chapter 32, it shall be replaced and maintained in accordance with that article.

(Code 1980, §§ 29-8, 29-9)

Sec. 29-10. Violation; penalty.

(a) Upon conviction, a violator of any provision of this chapter shall be punished in accordance with the penalties provided by section 1-8. Each tree cut down, destroyed, removed or moved in violation of this chapter shall be a separate violation.

(b) If a person abuses a tree in violation of this section, the violator shall be responsible to undertake pruning and other remedial actions that the city determines are reasonably necessary to protect public safety and property, and to help the tree survive the tree abuse damage if the tree is not a nuisance species.

(c) If the natural habit of growth of the tree is destroyed, the violator shall install a replacement tree. Such abused tree shall be removed if it threatens public safety or property.

(d) Remedial actions and replacement required under this section shall be completed within 60 days of notice from the city that such actions are required. The city may require the violator to immediately undertake remedial actions if the tree is an immediate threat to the public or property.

(Code 1980, § 29-10)

Chapter 30

UTILITIES*

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***Cross references—**Administration, ch. 2; businesses, ch. 7; buildings, construction and condominiums, ch. 8; flood damage prevention, § 8-71 et seq.; health and sanitation, ch. 13; mobile homes and mobile home parks, ch. 17; garbage and sewage disposal for mobile home parks, § 17-15; streets, sidewalks and other public ways, ch. 25; wastewater collection, treatment and disposal, § 32-98; planning for utilities and easements, § 32-99.

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ARTICLE I. IN GENERAL

Sec. 30-1. Definitions.

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

Services includes but are not limited to the following: water, sewer, solid waste collection, fire inspection, recycling, fire line inspection and stormwater drainage.
(Code 1980, § 30-2)

Cross reference—Definitions generally, § 1-2.

Sec. 30-2. Applications.

Applications for services from the city utility and services systems must be made to the city on appropriate forms furnished for that purpose; and each application must be signed by the owner of the property, agent, tenant or consumer.
(Code 1980, § 30-3)

Sec. 30-3. Unpaid water and sewer charges constitute lien on property.

Any unpaid water or sewer charges shall constitute a lien on the property served, whether the user is an owner, tenant or other person lawfully occupying the premises, provided that unpaid water or sewer charges incurred by a former occupant of a rental unit shall not be the basis for a lien against the rental property served except to the extent the present tenant or owner has benefited directly from the service provided to the former occupant. The city may elect to foreclose such lien in accordance with law for the collection of all charges, penalties and interest due; and if an action is filed, the city shall also be entitled to recover reasonable attorneys' fees. Additionally, the charges for utilities and services shall constitute and are imposed as special assessment liens against the real property served and shall be liens equal in rank and dignity with the lien of ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved from the time the bill for services becomes delinquent according to its terms. Such liens need not be recorded.
(Code 1980, § 30-1)

State law reference—Limitation on utility service liens, F.S. § 180.135.

Sec. 30-4. Deposit required for city services.

(a) The city shall collect a services deposit from any person making application for service with the city.

(1) For those applicants in buildings utilizing master meters who request separate meters, whose monthly usage will be subtracted from the master meter, to avoid paying the sewer charge for swimming pools, sprinklers and cooling towers, a separate deposit will not be required. However, the applicant will have to pay for the meter, monitoring the installation, and the administrative charge. The administrative charge would apply to each of these meters. If two separate meters are installed and have separate billings, a deposit is collected for each meter.

(2) Where delinquent payment experience indicates, with respect to a particular water user, that the existing deposit is insufficient to guarantee payment of water charges, the city manager may increase the amount of the required deposit by an amount sufficient to guarantee payment of water charges.

(3) Where the city manager requires the increase of any deposit, notice shall be sent to the user or person in whose name the account is maintained, at the address shown in departmental records; and the required additional deposit shall be paid not later than 30 days from the date of the notice. If any additional deposit required by such notice is not timely paid, all services shall be discontinued and the premises of such delinquent customer disconnected from the utility and services system of the city immediately upon the expiration of such 30 days; and a disconnecting charge and a reinstallation charge shall be made by the city. The provisions

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of this chapter pertaining to discontinuance of service and disconnection from the utility and services system and reconnection shall, except as provided in this subsection, be applicable.

(4) When a deposit is increased pursuant to the standards set forth in this section, the user shall have the right to appeal the decision of the city manager to the city commission by filing a letter of objection within the 30-day period provided in subsection (a)(3) of this section with the city manager. The matter shall then, as soon as practicable, be heard by the city commission which may either affirm, reverse or modify the decision of the city manager. During such appeal, the water service shall not be disconnected.

(b) No existing deposit shall be increased unless a delinquency history occurs.

(c) Such deposits shall bear no interest and shall remain with the city as long as the customer continues to receive services, to guarantee the payment of such services, penalties and interest.
(Code 1980, § 30-5)

Sec. 30-5. Purpose of deposit; refund on disconnection.

Deposits required in this article shall be and constitute a guarantee to the city that all sums of money due by virtue of the furnishing of all services included in the monthly services billing to the person making such deposit are fully paid; and upon the payment of all such sums, the city shall, upon the discontinuance of all service, refund and return to the person making such deposit the amount of such deposit or the net amount of the deposit, after deducting such sums as may be due the city.
(Code 1980, § 30-6)

Sec. 30-6. Fund to which deposit payable.

The water revenue fund is designated as the fund to receive all services deposits made under the provisions of this article.
(Code 1980, § 30-7)

Sec. 30-7. Rates, fees and charges generally.

Any rate, fee, charge or penalty provided for in this chapter shall be set and/or revised by resolution of the city commission, on file in the city clerk's office.
(Code 1980, § 30-8)

Sec. 30-8. Fees for connection to utility and services systems.

Connection charges shall apply to bring city utilities and services to the owner's property line.
(Code 1980, § 30-9)

Sec. 30-9. Service rates schedule.

The following schedule shall determine the amount to be charged for service availability:

(1) *Base charge.* Any residence or business, other than a bulk rate user, shall pay a monthly base charge. The base charge shall be assessed for so long as the services remain available to the property, whether the service is turned on or off. For the purpose of this section, each unit of any building having separate units which has a certificate of occupancy for commercial purposes, for residential purposes or for both such purposes, and each mobile home space of any mobile home park shall be considered a separate user. Each dwelling unit, or motel or hotel room, shall, without limitation, be considered a unit.

(2) *Users generally.* Any residence or business, other than a bulk rate user, shall pay, in addition to the base charges described in subsection (1) of this section, a monthly rate for usage as set by resolution; except water meters used exclusively for irrigation or swimming pool purposes shall not be subject to sewer service charges.

(3) *Monthly base charges and monthly rates.* The monthly base charges for services and the monthly rates are established by resolution. Special or unusual situations are to be negotiated with the city manager.

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(4) *Fire hydrant rental.* The city shall pay a fee as set by resolution and on file in the city clerk's office to the credit of the waterworks system for public fire protection service.

(5) *Water lines for fire protection purposes.* A separate fee will be charged annually for water service when used for sprinkling systems or other fire protection systems.

(6) *Bulk rate users.* Persons using more than an average of 1,300,000 gallons of water per week between the hours of 9:00 p.m. and 7:00 a.m. the following morning, which is lawfully not returned to the sanitary sewer system, may receive water at a rate per 1,000 gallons of water as set in a large user agreement. Water used at other hours shall be billed at the regular rate.

Service to such users may be discontinued or reduced by the city where it would interfere with existing or reasonably anticipated commitments to provide water for customers other than bulk rate users. Bulk rate users shall provide a meter which records the amount and times of water consumption as a precondition to obtaining bulk rate service and shall further be required to enter into a bulk rate user agreement with the city prior to obtaining bulk rate service.

(Code 1980, § 30-10; Ord. No. 2002-7, § 1, 6-4-2002)

Sec. 30-10. Payment dates; delinquency; disconnection; meter removal; reconnection; charges.

(a) *Monthly billing.* Bills for services shall be rendered monthly unless otherwise decided by the city manager.

(b) *Late charges after 15 days.*

(1) When any services bill, including all applicable service charges, rendered to any user of services has not been paid in full on or before the 15th day after the billed date, a late charge equal to ten percent of the unpaid balance shall be added and shall be due and payable as if such amount had been a part of the services bill as rendered; provided that where a single customer, with a single billing address, receives service for more than one unit, and all such units are on the same or contiguous lots or parcels, a maximum late charge for a single billing cycle may be established by resolution for the first 30 days during which such customer's bill shall have been delinquent; and further, from and after such 30th day, the aggregate amount due, including the late charge, shall be increased by interest computed at the legal rate; and, further, if the customer's services bill payment history shows no delinquent payments during the prior 24-month period, the delinquent penalty shall be waived.

(2) For purposes of determining the amount of any late charge which may be payable, and in computing the amount of interest which may be due, the services bill shall include all services so that the late charge established in this section shall apply in respect of the aggregate amount billed for all services specified herein.

(c) *Disputing of additional charge.* Any person disputing an additional charge based on late payment shall file a statement or make a claim based on the dispute with the finance department within 90 days of making the payment. In such case, the date of a legible postmark affixed by the United States Postal Service appearing on the envelope in which any services bill payment made by mail is contained shall presumptively establish the date of payment; and the finance department shall retain all envelopes containing such payments for 90 days.

(d) *Discontinuance of service and disconnection of premises from system after 30 days; disconnection charge.* If any services bill is not paid within 30 days from the original date of billing, all services shall be discontinued and the premises of such delinquent customer disconnected from the waterworks system of the city immediately upon the expiration of such 30 days; and a disconnecting charge shall be made by the city.

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(e) *Prerequisites to reconnection within 60 days; removal of meter after 60 days.* If within 30 days after disconnection pursuant to subsection (d) of this section the delinquent customer has not paid his bill in full, including disconnection and reconnection charges, the meter on the premises of such delinquent customer shall be removed or locked; and any balance in the deposit fund of such delinquent customer shall be refunded to him, if any remains after the amount of the bill due is deducted.

(f) *Prerequisites to reinstalling meter.* After removal or locking of a meter pursuant to subsection (e) of this section, such meter shall not be reinstalled or reactivated on the same premises until such delinquent bill is paid in full. If the bill exceeds the amount of the deposit in the customer's account with the city, including the disconnecting or locking charge, a new deposit must be paid to the city for such premises, at the current required deposit amount. In addition, the cost of reinstalling or reactivating a meter must be paid.

(g) *Disconnection of service after first day of billing period.* If the disconnection of service is made at any time after the first day of the billing period, the monthly base charge shall be paid plus the amount of any usage that month.
(Code 1980, § 30-11)

Sec. 30-11. Disconnection of service at request of customer.

Any nondelinquent services customer may have a temporary disconnection of services, provided the deposit is retained and a service charge is paid. An additional fee will be charged upon reconnection. Base charges for water service and sewer service and for solid waste collection as provided in section 32-640 shall be collected during the period of a temporary disconnection provided that customers holding disposal permits and serviced by a private hauler holding a hauling permit under section 32-639 at the time of a temporary disconnection shall not be required to pay the base charge for solid waste collection but shall pay the other base charges specified in this section; and further provided that if for any reason the meter registers usage during the temporary disconnection period, the customer shall also be responsible for payment of the required charges in excess of the base charges specified in this section in addition to the reconnection fee. If permanent disconnection is requested, and the deposit withdrawn, there shall be a disconnection charge; and when reconnected, an additional fee shall be required in addition to payment of all outstanding obligations on that account and payment of the then required deposit. If permanent disconnection is requested by a customer, the base charges specified in this section shall become the obligation of the property owner starting with the second full billing cycle following the disconnection and continuing until such time as the account is assumed by a new customer who pays the then required deposit.
(Code 1980, § 30-12)

Sec. 30-12. Temporary connection to the system.

A temporary connection to the city water and sewer system may be made for purposes such as showing unoccupied property or testing the plumbing system on such property or other similar uses of a temporary nature as determined by the city manager. The city manager shall promulgate an administrative policy in order to implement this section.
(Code 1980, § 30-13)

Secs. 30-13—30-40. Reserved.

ARTICLE II. WATER SERVICE

DIVISION 1. GENERALLY

Sec. 30-41. Meters required; exception.

A meter shall be installed in the water connection to each building or outlet, except fire hydrants, whether public or private. The expense of all connections to and extensions from the water service for fire protection purposes shall be borne by the user. No taps will be allowed which may be used for other than fire protection purposes.
(Code 1980, § 30-4)

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Sec. 30-42. Responsibility for plumbing.

(a) *Generally.* All plumbing, pipes, fittings and fixtures shall be maintained in good order and repair so as to be leak free. It shall be the responsibility of the owner of the premises to maintain such plumbing and fixtures in leakfree condition.

(b) *Sanctioning procedures.*

(1) It is found and declared that continued waste of water because of leaking pipes, plumbing systems, fixtures or fittings is a hazard to the public health and safety and that failure to correct such conditions following reasonable notice constitutes an abuse which can and may justify cessation of the water supply service; however, it is declared to be the policy of the city that the sanctions provided by this subsection (b) shall be invoked only after reasonable effort has been made to achieve voluntary compliance by the responsible party; further, this provision is intended to be administered with due regard to the rights and interests of innocent affected parties.

(2) If the growth management director or his designee, following investigation, reasonably believes that the owner of the premises or the person in whose name the service is supplied, or both, has failed to maintain plumbing, pipes, fittings or fixtures in a leakfree condition, the growth management director or his designee shall notify such person of his determination by certified mail, return receipt requested. Such notification shall provide a reasonable time for repair of the pipes, plumbing system, fixtures or fittings not in excess of 30 days and shall further advise the respondent that failure to timely repair the leaking pipes, plumbing system, fittings or fixtures shall result in discontinuance of the respondent's water supply.

(3) Persons so desiring may appeal the proposed action of the growth management director or his designee by filing a written request for a hearing with the city manager's office within five days of the receipt of the letter described in subsection (b)(2) of this section. If such a request is timely filed, the appeal shall be promptly heard by the city manager, who shall at such hearing consider and hear the statements and submitted documents of both the respondent and the director of growth management. The city manager may thereafter affirm, deny or modify the proposed action of the director of growth management or his designee; however, if the city manager shall affirm the director's or his designee's action, the water service shall not be disconnected before the expiration of the time given to make repairs provided in subsection (b)(2) of this section; and further, the city manager may modify the action of the director of growth management or his designee by extending or shortening the time given to make repairs or by modifying the scope of repairs found necessary or the type of repairs previously found to be necessary.

(4) If the condition is not remedied and following the time period specified in subsection (b)(2) of this section if no appeal is filed, or following the hearing provided under subsection (b)(3) of this section if an appeal is filed and violation is upheld, the city shall discontinue water service to the affected premises and the meter to the premises shall be disconnected. A disconnecting charge which is on file in the city clerk's office shall be made, which shall be debited against the deposit the customer maintains with the city.

(5) After the disconnection of a meter pursuant to subsection (b)(4) of this section, such meter shall not be reconnected unless the pipes, plumbing, fittings or fixtures to which water services desired are in leakfree condition and a sum which is on file in the city clerk's office has been paid to the city for reinstallation of the meter, which sum shall be in addition to any disconnection charge provided in subsection (b)(4) of this section.

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(c) *Penalty.* Failure to comply with the requirements contained in this article shall be subject to punishment as provided in section 1-8.
(Code 1980, § 30-14)

Sec. 30-43. Tampering with water plant or system; fraudulent use of water generally.

(a) It is unlawful to injure or knowingly to suffer to be injured any meter, pipe or fittings connected with or belonging to the city water plant or system or to tamper or meddle with any meter or other appliance or any part of such plant or system in such manner as to cause loss or damage to the city; or to prevent any meter installed for registering water from registering the quantity which otherwise would pass through the system; or to alter the index or break the seal of any such meter; or in any way to hinder or interfere with the proper action of just registration of any such meter; or fraudulently to use, waste or suffer the waste of water passing through any such meter, pipe or fitting, or other appliance or appurtenance connected with or belonging to such plant, after such meter, pipe, fitting, appliance or appurtenance has been tampered with, injured or altered.

(b) The existence of any connection, wire, conductor, meter alteration or any device whatsoever which effects the diversion of water without the water's being measured or registered by or on a meter installed for that purpose by the city, or the use or waste of water furnished by the city, without its being measured or registered on a meter provided by the city, shall be prima facie evidence of intent to violate and of the violation of this section by the person using or receiving the direct benefits from the use of water passing through such connection, device or altered meter, or being used without being measured or registered on a meter.
(Code 1980, § 30-30)

State law reference—Similar provisions, F.S. § 812.14.

Sec. 30-44. Illegal connections; diversion of water.

(a) It is unlawful to make or cause to be made any connection with any main service pipe or other pipe, appliance or appurtenance used for or in connection with the city water plant or system in such manner as to cause to be supplied water from such plant to any faucet or other outlet whatsoever without such water's passing through a meter provided by the city and used for measuring and registering the quantity of water passing through the system; or to make or cause to be made, without the consent of the city, any connection with any such plant or system or any main, pipe, service pipe, or other instrument or appliance connected with such plant in such manner as to take or use, without the consent of the city, any water; or to take or use any water from any fire hydrant or other hydrant of such plant or system without the consent of the city.

(b) The existence of any connection, meter alteration or any device whatsoever which effects the diversion of water without its being measured or registered by or on a meter installed by the city, or which effects the use of water furnished by the city without its being measured or registered on a meter, shall be prima facie evidence of intent to violate and of the violation of this section by the person using or receiving the direct benefits from the use of water passing through such connection, device or altered meter, or being used without being measured or registered on a meter.
(Code 1980, § 30-31)

Sec. 30-45. Penalties for tampering or illegal connection or use of water.

It shall be unlawful and a violation of this Code subject to the penalties provided in section 1-8 to violate the provisions of this chapter; and:

(1) A fine will be imposed against anyone making an illegal tap into the city's water system. The owner of a property which has been illegally connected to the city's water system is responsible and liable for the payment of any fine unless the owner can furnish evidence that the illegal tap was made by another individual. In such instance, the property owner is required, within ten days of notification of the violation, to furnish to the city an affidavit setting forth the name and address of the person who made the illegal tap. The affidavit submitted pursuant to this subsection shall be admissible in a proceed-

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ing charging an illegal water tapping violation and shall raise the rebuttable presumption that the person identified in the affidavit is responsible for the illegal water tap.

(2) A fine will be imposed against anyone reconnecting or tampering with a water meter which has been disconnected or locked by city personnel for any reason.

(3) Enforcement may be by the police department or by the alternative procedures in chapter 2 of this Code.

(Code 1980, § 30-31.5)

Sec. 30-46. Prohibited connection of air conditioning system to city water supply system.

(a) After May 17, 1978, no permits shall be issued for the installation of any air conditioning system connected to or using the city water supply system; and it shall be unlawful for any person to install or have installed that air conditioning system or to connect the city's water supply system to any air conditioning system permitted after that date.

(b) For the purposes of this section, the term "air conditioning system" is one or more units for the cooling or dehumidification, or both, of space for human occupancy.

(c) All systems permitted prior to that date and installed under that permit may, after proper inspection and approval, be issued a permit for operation.

(d) Notwithstanding the provisions of subsection (a) of this section, water-cooled air conditioning systems using recirculating water (water towers) designed and sized to cool/heat single-family dwellings shall be permitted in single-family dwellings provided the following criteria are met:

(1) The aggregate tonnage per water tower shall not exceed 15 tons.

(2) One water tower shall be permitted per single-family dwelling.

(3) All condensate water produced by the system shall be captured and routed to the sump of the water tower.

(4) The water tower shall be the next size larger than the aggregate tonnage of the air conditioning units (e.g., if a single-family dwelling has two five-ton units and the available towers are ten, 12 and 15 tons, a 12-ton water tower must be used).

(5) The water tower pipe system shall have a swing checkvalve on the suction pipe of the pump.

(6) The water tower shall have a fan temperature control to govern the water temperature in order to minimize water evaporation.

(7) The water tower shall have a fan control.

(8) All air conditioning units shall be interlocked with the circulating pump of the water tower.

(9) Excess condensate water shall not discharge into the sanitary sewer system or into any body of water.

(10) All specifications, including water consumption, shall accompany the building permit application.

(Code 1980, § 30-32)

Sec. 30-47. Use of fire line water.

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

Water user means an owner, tenant or other person lawfully occupying premises in whose name an account for services is maintained.

(b) *Installation of detecto check meters.* On or before May 16, 1995, all water users are required and directed to install and maintain detecto check meters and detecto checkvalves or backflow preventers on all existing unmetered fire lines.

(c) *Unauthorized consumption; penalties.*

(1) It shall be unlawful for any person to use or consume unmetered fire line water unless such use or consumption is for fire protection.

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(2) Violations of this section shall be subject to the imposition of penalties applicable generally to municipal ordinance violations; and, in addition, persons violating the provisions of this section shall be subject to the jurisdiction of the code enforcement board established by ordinance.

(d) *Unauthorized consumption; charges.*

(1) Whenever fire line water is used or consumed but such use or consumption is not for fire protection, the city shall send to the water user, by certified mail, return receipt requested, a notice requiring him to discontinue such unlawful use or consumption immediately and warning that failure to do so will result in the city's installing a full flow meter at his expense, the approximate amount of which shall be included in the notice. The water user shall pay the appropriate charges for the water estimated by the city to have been unlawfully used or consumed. Any utility bill that includes charges for estimated use or consumption as provided in this section shall also contain a notice of the utility user's right to appeal such charges.

(2) If unlawful use or consumption of fire line water continues for more than 20 days after the water user receives notice pursuant to subsection (d)(1) of this section and a timely appeal is not filed, the city shall send to the water user, by certified mail, return receipt requested, a notice advising him of the city's intention to install a full flow meter at his expense, the approximate amount of which shall be included in the notice. Such notice shall also advise him of his right to appeal the city's decision.

(e) *Appeal to city commission.* Within 30 days of any services bill that includes charges for estimated use or consumption as provided in subsection (d) of this section, and within 30 days of notice of the city's intention to install a full flow meter pursuant to subsection (d)(2) of this section, the water user shall have the right to file an appeal of the decision to the city commission, subject to the following procedures:

(1) The water user shall be granted a hearing on the matter before the city commission.

(2) A time and place for the hearing shall be established promptly upon receipt of the water user's request.

(3) The water user shall be given written notice of the time and place of the hearing.

(4) At the hearing, the water user shall be given an opportunity to be heard and to show why the decision should be modified or withdrawn.

(5) After the hearing, the city commission shall sustain, modify or withdraw the decision under review.

(6) The city commission, for due cause or where hardship exists, may modify or waive the requirements set forth in subsections (a)—(f) of this section.

(f) *Installation of full flow meters.*

(1) If the city gives notice of its intention to install a full flow meter and a timely appeal is not filed, the city shall promptly install, at the expense of the water user, a full flow meter with required appurtenances.

(2) If the city gives notice of its intention to install a full flow meter and such decision is sustained by the city commission on appeal, the city shall promptly install, at the expense of the water user, a full flow meter with required appurtenances.

(3) After the installation of the full flow meter as provided in this subsection, the city shall bill the water user for all use or consumption measured by such meter that is not for fire protection.

(g) *Annual inspection and inspection fee.* The city manager or his designee is directed and required to provide an annual inspection and

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testing of all fire line metering systems. There shall be an annual inspection fee, which is subject to amendment by resolution.
(Code 1980, §§ 30-33—30-33.6)

Secs. 30-48—30-70. Reserved.

DIVISION 2. RESERVED*

Secs. 30-71—30-100. Reserved.

DIVISION 3. WATER SHORTAGE

Sec. 30-101. Intent and purpose.

It is the intent and purpose of this division to protect the water resources of the city from the harmful effects of overutilization during periods of water shortage and allocate available water supplies by assisting the South Florida Water Management District in the implementation of its water shortage plan.
(Code 1980, § 30-40)

Sec. 30-102. Definitions.

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

District means the South Florida Water Management District.

Water resource means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water, and water percolating, standing or flowing beneath the surface of the ground.

Water shortage condition means a state when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

Water shortage emergency means that situation when the powers which can be exercised under F.A.C. ch. 40E-21, pt. II, are not sufficient to protect the public health, safety, or welfare; or the health of animals, fish or aquatic life; or a public water supply; or commercial, industrial, agricultural, recreational or other reasonable uses.
(Code 1980, § 30-41)

Cross reference—Definitions generally, § 1-2.

Sec. 30-103. Application of division.

The provisions of this division shall apply to all persons using the water resource within the geographical areas subject to the water shortage or water shortage emergency, as determined by the district, whether from public or privately owned water utility systems private wells, or private connections with surface water bodies. This division shall not apply to persons using treated effluent or saltwater.
(Code 1980, § 30-42)

Sec. 30-104. Amendments to water shortage plan.

F.A.C. ch. 40E-21 is incorporated in this section by reference as a part of this Code of Ordinances.
(Code 1980, § 30-43)

Sec. 30-105. Declaration of water shortage; water shortage emergency.

The declaration of a water shortage or water shortage emergency within all or any part of the city by the governing board or the executive director of the district shall invoke the provisions of this division. Upon such declaration, all water use restrictions or other measures adopted by the district applicable to the city shall be subject to enforcement action pursuant to this division. Any violation of the provisions of F.A.C. ch. 40E-21, or any order issued pursuant to that chapter, shall be a violation of this division.
(Code 1980, § 30-44)

*__Editor's note—__Ord. No. 2008-26, § 1, adopted Oct. 15, 2008, repealed former Div. 2, §§ 30-71—30-84. The former Div. 2 pertained to water connection impact fee. See also the Code Comparative Table.

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Sec. 30-106. Enforcement.

Every police officer, code enforcement officer or sheriff having jurisdiction in the area governed by this division shall, in connection with all other duties imposed by law, diligently enforce the provisions of this division. In addition, the city manager may also delegate enforcement responsibility for this division to agencies and departments of city government in accordance with state and local law.
(Code 1980, § 30-45)

Sec. 30-107. Penalties.

(a) Violation of any provision of this division shall be subject to the following penalties:

(1) First violation, $50.00.

(2) Second and subsequent violations, a fine not to exceed $250.00 and/or imprisonment in the county jail not to exceed 60 days.

(b) Each day in violation of this division shall constitute a separate offense. In the initial stages of a water shortage or water shortage emergency, law enforcement officials may provide violators with no more than one written warning. The city, in addition to the criminal sanctions contained in this section, may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this division.
(Code 1980, § 30-46)

Secs. 30-108—30-130. Reserved.

DIVISION 4. WATER CONSERVATION

Sec. 30-131. Water users to accept provisions of division.

No water service shall be furnished to any person by a public or private utility unless such person agrees to accept all the provisions of this division. The acceptance of water service shall be in itself the acceptance of the provisions of this division.
(Code 1980, § 30-47)

Sec. 30-132. Use of recovery system and cutoff systems required.

(a) The term "vehicle wash" means any building or premises for washing motor vehicles using a chain conveyor or other method of moving the vehicle along or in which the vehicle moves under its own power and automatically or semiautomatically applies cleaner, brushes, rinse water or heat for drying.

(b) The term "recovery system" means a system which collects water employed to wash vehicles and recycles such water for reuse at a vehicle wash. Such system shall be designed to minimize water consumption by a vehicle wash.

(c) All vehicle washes shall employ a liquid recovery system to recycle water used to wash vehicles.

(d) Existing vehicle washes shall comply with this requirement within nine months of the effective date of Ordinance Number 87-27.

(e) All self-service stalls, wash operations or persons using a hose to wash vehicles or trailers shall employ a trigger for such hose which cuts off the supply of water when pressure on the trigger is released.
(Code 1980, § 30-48)

Sec. 30-133. Restrictions on landscape irrigation.

(a) Landscape irrigation for existing installations shall be restricted for odd numbered buildings to the hours of 4:00 a.m. to 8:00 a.m., Monday, Wednesday, and Saturday, and even numbered buildings to the hours of 4:00 a.m. to 8:00 a.m. Tuesday, Thursday, and Sunday; low-volume irrigation systems, or low-volume hand watering using a self-canceling shut off nozzle, shall not be restricted, provided that water shall be cut off or shut off from use while the principal reason for its use is not being performed; neither shall watering of new landscaping planted for less than 30 days be restricted. If the South Florida Water Management District imposes restrictions that exceed the city's ordinance, the city shall conform to such restrictions.

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(b) Irrigation systems may be operated outside restricted hours for the purpose of system repair and maintenance, as well as landscape maintenance activities, such as required application of water to apply fertilizer, herbicides and pesticides.

(c) If the district imposes restrictions on landscape irrigation for new and existing installations, which are more restrictive than those imposed by this section, such more restrictive regulations shall apply in the geographic areas of the county subject to such more restrictive regulations.

(d) All other uses of the water resources as defined in this article, including but not limited to commercial uses such as car washers, cleaning of structures such as barns, agricultural, nursery and golf course uses, shall be restricted pursuant to the rules, orders and regulations issued from time to time by the district, provided that water shall be cut off or shut off from use while the principal reason for its use is not being performed.
(Code 1980, § 30-49; Ord. No. 2007-04, § 1, 4-18-2007)

Sec. 30-134. Serving of water by restaurants.

In an effort to reduce water consumption, restaurants within the city shall not permit, or allow, nor serve water to any customer of the restaurant, unless the customer specifically requests it.
(Ord. No. 2007-04, § 2, 4-18-2007)

Sec. 30-135. Distribution of plants and trees by the city.

Trees and plants distributed by the city to the public shall be of a type that are resistant to drought conditions.
(Ord. No. 2007-04, § 3, 4-18-2007)

Secs. 30-136—30-160. Reserved.

ARTICLE III. SEWER SERVICE*

DIVISION 1. GENERALLY

Sec. 30-161. Definitions.

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

Availability means that the sewer system or lines are available to any owner of property where such property is situated within 300 feet of any sewer line or main, and it is not necessary to cross the private property of another to make connection.

Human excrement means the bowel and kidney discharges of human beings.

Sanitary water closet means any flush toilet which is properly connected with the city sewer or a septic tank of approved construction.

Septic tank means an underground cavity with watertight walls into which flows the effluent of sanitary water closets and from which the effluent does not come to the surface of the ground.
(Code 1980, § 13-70)

Cross reference—Definitions generally, § 1-2.

Sec. 30-162. Sanitary method of disposal.

Every residence and/or building within the city in which human beings reside, are employed or congregate shall be required to have a sanitary method of disposing of human excrement, namely, either a sanitary water closet that is connected with the city sewer or with an approved type septic tank.
(Code 1980, § 13-71)

Sec. 30-163. Water closet required; flushing capacity.

(a) It shall be unlawful to dispose of any human excreta within the city except in a sanitary water closet.

***State law reference—**Sewage disposal requirements, F.S. § 403.085 et seq.

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(b) Water closet tanks for all building or plumbing permits issued after the effective date of the ordinance from which this section is derived shall meet the following requirements:

(1) Water closet tanks shall have a flushing capacity sufficient to properly flush the water closet bowls with which they are connected, as provided in the current edition of the South Florida Building Code as adopted from time to time by the county board of rules and appeals.

(2) There is created a presumption that a water closet using a maximum of 3½ gallons of water during the flushing cycle shall have a flushing capacity sufficient to properly flush the water closet bowl with which it is connected; therefore all water closet tanks shall be of a design that provides a maximum flush not to exceed 3½ gallons of water.

(Code 1980, § 13-72)

Sec. 30-164. Responsibility of landlord.

It shall be unlawful for any person owning or leasing any premises in the city to permit the disposal of any human excrement on any property, leased or rented by any such person or his agent, except in a sanitary water closet where sewage lines are available.
(Code 1980, § 13-73)

Sec. 30-165. New structures.

No person shall build or remodel or cause to be built or remodeled any structure used for human habitation or occupancy within the city which is within 300 feet of a public sanitary sewer line unless it is provided with water-carried sewer facilities.
(Code 1980, § 13-74)

Sec. 30-166. Approved septic tank.

No septic tank other than those approved by the state division of health shall be constructed within the city.
(Code 1980, § 13-75)

Sec. 30-167. Privies prohibited.

It shall be unlawful to keep or maintain any privy or dry closet within the city.
(Code 1980, § 13-76)

Sec. 30-168. Maintenance of plumbing system; responsibility of owner.

The owner of the property shall be responsible for maintaining and keeping clean the sewer pipe leading and connecting from the plumbing system to the city main sewers.
(Code 1980, § 13-77)

Sec. 30-169. Cutoff of water for failure to maintain sewer pipe.

Failure to keep the sewer pipe clean and maintained in proper manner, viz, the pipe leading from the plumbing system to the city main, will give the city the right to cut off the water connection, which shall not be reconnected until the sewer pipe is cleaned and maintained properly. In these instances where the owner has his own private water supply, the city shall have the right to cut off such water supply to the plumbing system; and the owner shall have no right to reconnect his own private water supply until the sewer pipe leading from the plumbing system to the city main has been maintained and cleaned and in proper condition. Any violation of this section by reconnecting his private water supply or the connection from the city water main, until such sewer pipes are cleaned and maintained properly, shall be considered a violation of this Code and subject to the punishment provided in section 1-8.
(Code 1980, § 13-78)

Sec. 30-170. Connections with sewer; when required; compliance.

The owner of each lot or parcel of land within the city upon which lot or parcel of land any building or trailer used as a dwelling is now situated or shall hereafter be situated, for either residential, commercial or industrial use, shall connect or cause such buildings or trailers to be connected with the public sewer system of the city and use the facilities of such sewer system, within three months after notification so to do by the city

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clerk. All such connections shall be made in accordance with rules and regulations which shall be adopted from time to time by the city commission, which rules and regulations shall provide for a charge for making any such connections in such reasonable amount as such commission may fix and determine; however, no connection shall be required where the sewer system or line is more than 300 feet from such lot or parcel of land; and no person shall be required to cross the private property of another to make such sewer connections.
(Code 1980, § 30-50)

Sec. 30-171. Sewer connections may be made by city.

If any such owner of any lot or parcel of land within the city shall fail and refuse to connect with and use the facilities of the sewer system of the city after notification by the city clerk, as provided in section 30-170, the city shall be authorized to make such connections, entering on or upon any such lot or parcel of land for the purpose of making such connection. The city shall thereupon be entitled to recover the cost of making such connection, together with reasonable penalties and interest and attorney's fees, by suit in any court of competent jurisdiction. In addition and as an alternative means of collecting such cost of making such connections, the city shall have a lien on such lot or parcel of land for such cost, which lien shall be an equal dignity with the lien of state and county and municipal taxes. Such lien may be foreclosed by the city in the same manner provided by the law for the foreclosure of mortgages upon real estate.
(Code 1980, § 30-51)

Sec. 30-172. Consent and supervision of city for connection.

No person shall be allowed to connect any sewer owned by the city without the written consent of the city, and the connection with such sewer shall only be made under the direction and supervision of the city.
(Code 1980, § 30-52)

Sec. 30-173. Connection of old plumbing.

Whenever it is desirable to connect old plumbing with the city sewer main, the owner or plumber contemplating doing such work shall notify the city plumbing inspector, who will inspect the old plumbing and notify the owner or plumber what alterations will be necessary to place the old plumbing in an acceptable condition for connection with the sewer main. Any owner or plumber who shall make any connection without the approval of the plumbing inspector shall upon conviction be subject to punishment as provided in section 1-8.
(Code 1980, § 30-53)

Sec. 30-174. Service rates; charges imposed.

There is established and levied a schedule or system of rates and charges for sanitary sewage disposal service against each person owning, maintaining, operating or using any buildings in the city, inhabited or used by human beings as a place of residence, business or otherwise, that shall be connected with or available to connection with any line of the sanitary sewer system.
(Code 1980, § 30-54)

Sec. 30-175. Additional charge in Sanitary Improvement District No. IV.

(a) Each owner of real property located within the boundaries of Sanitary Sewer Improvement District No. IV shall, prior to connecting to the city sewer system, pay, in addition to the fee covering the physical costs of connection, a sanitary sewer utility user capital contribution charge per square foot of the entire land area of the site or parcel of land connecting to the system.

(b) The moneys collected pursuant to this subsection shall be kept and placed in a separate interest-bearing account, designated the sanitary sewer utility user capital fund, to be used only for payment, or reimbursement of various city funds having made payment, of the cost and expense of past, present and future expansion of the sanitary sewer system within the district.

(c) Payment of the capital contribution charge shall be in accordance with the following provisions:

(1) At the time of connection, the property owner, as shown on the latest records of

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the county property appraiser, will be rendered a bill indicating the total capital contribution charge. The property owner may pay it in full, or choose to pay it in 12 equal quarterly installments. However, any property owner who has not connected to the city's system prior to January 1, 1994, shall not be entitled to elect the 12-payment option.

(2) If the property owner chooses to pay the charge in quarterly installments, the city will send a bill, separate from the water and sewer bill, for each installment; and payment will be due on or before the 15th day after the date of billing. There shall be no interest on this unpaid balance.

(3) If any quarterly payment is not paid when due, there shall be added a penalty at the rate of one percent per month until paid. If any quarterly payment is not made within the 30 days from the date of billing, the city may make the entire remaining balance due and payable at once; and if the payment is not paid within 30 days of the date of acceleration, the entire amount due, including penalties and reasonable attorney's fees, may be foreclosed in the same manner as provided by law to foreclose mortgages. All unpaid balances, including penalties and reasonable attorney's fees, shall constitute a lien on the property, coequal with all other municipal liens, until satisfied or released.

(Code 1980, § 30-55.1)

Sec. 30-176. Payment; bills; delinquency.

Bills for the monthly sewage disposal fees shall be rendered on the services bill described in section 30-10 and are subject to all of its provisions.

(Code 1980, § 30-56)

Sec. 30-177. Collection where owner has private water supply.

Where sewage disposal fees are not paid in accordance with provisions outlined in this division, in those instances where the owner has his own private water supply, the city shall have a right to cut off such water supply to the plumbing system; and the owner shall have no right to reconnect his own private water supply until the sewage disposal fees shall have been paid in full. Any violation of this provision by reconnecting his private water supply, until such sewage disposal fees are paid in full, shall be considered a violation of this Code and subject to the penalties provided in section 1-8.

(Code 1980, § 30-57)

Sec. 30-178. No service free.

No sewage disposal service shall be furnished or rendered free of charge to any person whatsoever; and the city and each agency, department or instrumentality which uses the sewage disposal service shall pay for such service at the rates fixed by this article.

(Code 1980, § 30-58)

Sec. 30-179. Illegal use of sewer plant or system.

It shall be unlawful for any person, without the consent of the city, to tap any pipe or main belonging to the city sewer plant or system for the purpose of using such plant or system from such pipe or main, or for any other purpose; or without the consent of the city to use such plant or system; or to willfully injure, interfere with or destroy any pipe, main, fitting or appliance of such plant or system without the consent of the city.

(Code 1980, § 30-59)

Sec. 30-180. Penalties.

Any person violating any of the provisions of this article shall upon conviction for each such offense be subject to punishment as provided in section 1-8. Any failure or refusal by an owner to connect to the city sewer system after notification to do so, or any failure or refusal to pay the charges or rates provided in this article shall be construed to be a violation of this Code.

(Code 1980, § 30-60)

Secs. 30-181—30-200. Reserved.

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DIVISION 2. INTERIM PACKAGE SEWAGE TREATMENT PLANTS

Sec. 30-201. Limitation on issuance of permits.

No permits shall be granted for the construction of interim package sewage treatment plants within the city, subject to the exceptions as specifically set forth in this division.
(Code 1980, § 13-85)

Sec. 30-202. For temporary installation; conditions.

The city will issue permits for the temporary installation of the interim package sewage treatment plants which have been previously approved by the city commission, subject, however, to each of the following conditions, all of which shall survive the issuance of such permit and construction of such facility:

(1) A permit to construct such sewage treatment facility has been issued by the state department of environmental regulations.

(2) A permit to construct such sewage treatment plant has been issued by the county pollution control department.

(3) That such plant will be concealed from public view with landscaping and such other requirements as the building department, the utilities department and the impact board may require after examination and approval of the final plans and drawings for such facility.

(4) Such facility shall be constructed in compliance with all applicable rules, regulations, laws and ordinances of the city, including but not limited to supervision during construction by a city registered engineer to ensure property compliance with the requirements as set forth in appendix "A" of Ordinance No. 1009, on file in the city clerk's office.

(5) The applicant shall, at his expense, construct, install, operate and maintain such facility plus all service lines and other appurtenant equipment necessary to serve such sewage treatment facility.

(6) The applicant shall, at such time as sewer service into a public collection is available for direct hookup, dismantle and remove the interim package sewage treatment plant, and further will perform and pay for all required installation, engineering, etc., including hookup charges, connection charges to tie into such public sewer main within 90 days.

(Code 1980, § 13-86)

Sec. 30-203. Permit application procedure.

The following procedure shall be followed by all persons applying for a permit from the city to construct a package sewage treatment facility:

(1) The applicant shall design and provide the city with the plans and specifications for the facility and, when accepted by the city, will be considered as approved plans and specifications (in accordance with design criteria in appendix "A" of Ordinance No. 1009 on file in the city clerk's office).

(2) The applicant shall be required to obtain a permit from the city to construct a package sewage treatment facility. The scope of the particular project shall be as described in the state "Application for Permit To Construct Wastewater Pollution Sources." The applicant will pay a fee for preparation and review of the application, an amount established and on file in the city clerk's office. Payment is to be made at the time the application is approved and a permit is issued by the city.

(3) Upon approval by the city commission, the applicant shall enter into a written agreement with the city, assuming the responsibility for the operation of the package sewage treatment facility, and agreeing to connect the subject property to the public collection system at such time the sewer lines are constructed to a point on the improved public street nearest to the applicant's project. (See appendix "B" of Ordinance No. 1009, on file in the city clerk's office). This agreement shall be

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executed when the applicant is granted approval to construct and install a package sewage treatment facility.

(Code 1980, § 13-87)

Sec. 30-204. Responsibility for operation.

The applicant for a permit under this division shall assume the responsibility for the operation of the package sewage treatment facility, and his responsibilities shall be as follows:

(1) The applicant shall provide competent, trained, licensed operators for such facility, and in addition will deposit a cash bond representing five percent of the construction costs of the sewage plant and lift station with the city, which sum shall be retained by the city until dismantling and removal of the plant, and can be utilized by the city to supply or to contract for the supply of necessary services for such operation and maintenance.

(2) The posting of a deposit of such sum shall not relieve the record title holder of full compliance with the requirement of supplying competent, trained, licensed operation and proper maintenance of the facility.

(3) The title owner of record of the physical location of the facility will be held responsible and liable by and to the city for all that is done on, in or about the operation and maintenance of such facility by any agent or tenant or other person not in the employ of the city who may gain access to such facility relevant to such operation or maintenance.

(4) Any person who has apparent authority or control, actual or constructive, of the premises shall be constituted and construed to be the agent of the owner for the purpose of any notices served by the city; and such notices shall be deemed to have been properly served if delivered to the premises of the owner or if mailed to the owner, directed to or left or delivered to his address as shown on the records of the city. All notices relating to the operation and maintenance of such facility affecting or likely to affect more than one owner shall be deemed to have been properly given or served if advertised at least once in a newspaper of general circulation.

(5) The applicant has assured and agreed and represented and warranted upon applying for a permit from the city to construct a package sewage treatment facility that he is the owner of the subject property and has authority to bind himself and all of his heirs and assigns and does so bind himself and his heirs and assigns to consent to the imposition of an operation and maintenance sewer service charge to be levied by the city if the city determines the charge to be required in order to properly operate and maintain such facility upon failure to do so with competent help as set forth in this section.

(Code 1980, § 13-88)

Sec. 30-205. Compliance prerequisite to issuance of certificate of occupancy.

The city will issue no certificates of occupancy for buildings already under construction or building permits for new construction for buildings requiring a package sewage treatment facility until the owner and/or developer has complied with the terms and requirements of this article and has obtained approval of the city commission, which approval shall not be unreasonably withheld.

(Code 1980, § 13-89)

Secs. 30-206—30-240. Reserved.

ARTICLE IV. STORMWATER MANAGEMENT UTILITY

Sec. 30-241. Definitions.

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

Director means the city manager or those to whom he has charged the interpretation, administration or enforcement of this Code, or selected portions of this Code.

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Equivalent residential unit (ERU) means the statistical average horizontal impervious area of a residential property within the city which has been determined to be 0.022 acres. The horizontal impervious area includes but is not limited to all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks.

Impervious area means the area of land, measured in a horizontal plane, that has impervious surface.

Impervious surface means a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes but is not limited to semi-impervious surfaces such as compacted clay, as well as streets, roofs, sidewalks, parking lots and other similar surfaces.

Undeveloped property means that which has not been improved by the addition of any building, structure or impervious surface. For new construction, a property shall be considered developed pursuant to this article:

(1) Upon issuance of a certificate of occupancy, or upon completion of construction or final inspection if no such certificate is issued; or

(2) Where construction is at least 50 percent complete and construction is halted for a period of three months.

(Code 1980, § 13-80)

Cross reference—Definitions generally, § 1-2.

Sec. 30-242. Stormwater management utility fee.

(a) A stormwater utility fee is imposed upon each lot and parcel within the city for services and facilities provided by the stormwater management utility. For purposes of imposing the stormwater utility fee, each residential dwelling unit shall be billed a flat fee established for residential units as the rate established for one equivalent residential unit (ERU).

(b) All nonresidential properties shall be billed based on their estimated impervious area divided by the ERU impervious area and then multiplied by the rate established for one ERU. The estimated impervious area of a nonresidential property shall be determined by multiplying the property area by the appropriate impervious factor as follows:

Use Designation	*Impervious Factor*
Commercial (B-O)	0.80
Commercial	0.85
Industrial	0.85
Commercial Recreational	0.25
Public and Institutional	0.75

Formula: stormwater utility fee for nonresidential property =

$$\text{ERU Rate} \times \frac{\text{total area of property (in acres)} \times \text{Impervious factor}}{\text{ERU (in acres)}}$$

The minimum fee for any nonresidential parcel shall be equal to the rate for one ERU.

(c) Undeveloped property and city-owned property shall be exempt from the stormwater utility fee.

(d) The city commission may, by resolution, change the average impervious area of one ERU.

(e) The rate for one ERU shall be established in the schedule of fees and charges ("fee book"). This rate may be amended by resolution of the city commission.

(Code 1980, § 30-81)

Sec. 30-243. Billing and payment; penalties.

(a) Bills or statements for the stormwater utility fee shall be rendered at least annually for all properties subject to the fee. Bills shall be payable in the same manner and are subject to the same penalties as set forth in this chapter for water bills. Any unpaid stormwater utility fees shall constitute a lien against the property, which lien shall be prior to all other liens on such property except the liens of state, county and municipal taxes and shall be on a parity with the lien of such state, county and municipal taxes. Such lien, when delinquent for more than 30 days, may be foreclosed by the city in the manner provided by state law for the foreclosure of mortgages on real property.

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(b) The bill or statement for the stormwater utility fee shall be sent to the owner of the property as determined from the tax rolls. The appropriate billing interval shall be determined by the director.

(c) The owner of a property is ultimately responsible for all fees imposed under this article.
(Code 1980, § 30-82)

Sec. 30-244. Adjustment of fees.

(a) Requests for adjustment of the stormwater utility fee shall be submitted through the director, who shall be given authority to administer the procedures and standards, and review criteria for the adjustment of fees as established in this section. All requests shall be judged on the basis of the amount of impervious area on the site, or the need for additional/enhanced stormwater facilities. No credit shall be given for the installation of facilities required by any agencies having jurisdiction for stormwater management. The following procedures shall apply to all adjustment requests of the stormwater utility fee:

(1) Any owner who has paid his stormwater utility fees and who believes the impervious area determination to be incorrect may, subject to the limitations set forth in this article, submit an adjustment request to the director.

(2) Requests for adjustment of stormwater utility fees shall be in writing on forms provided by the city, shall set forth in detail the grounds upon which relief is sought, and shall be filed with the director along with a processing fee as set by resolution.

(3) Adjustment requests made during the first calendar year that the stormwater utility fee is imposed will be reviewed by the director within a four-month period from the date of filing of the adjustment request. Adjustments resulting from such request shall be retroactive to the beginning of billings but shall not exceed one year.

(4) The owner requesting the adjustment may be required, at his own cost, to provide supplemental information to the director, including but not limited to survey data and engineering reports, performed by either a registered professional land surveyor (R.P.L.S.) or a professional engineer (P.E.) currently registered in the state. Failure to provide such information may result in the denial of the adjustment request.

(5) Adjustments to the stormwater utility fee will be made upon the granting of the adjustment request, in writing, by the director. Denials of adjustment requests shall be made in writing by the director.

(b) The director or his designee shall prepare an administrative policy which sets forth an appeal procedure to be followed by an owner whose request for adjustment is denied. Such procedure shall be designed so that an owner may receive timely review of a denial of adjustment and shall provide for a final appeal of an adverse determination to the city commission.
(Code 1980, § 30-83)

Sec. 30-245. Program responsibility.

It shall be the duty of the director to administer the stormwater utility program. The director shall keep an accurate record of all properties benefiting from the services and facilities of the municipal stormwater management utility and make changes in accordance with the ERU rate and the ERU area established in this article or by resolution.
(Code 1980, § 30-84)

Sec. 30-246. Stormwater utility enterprise fund.

There shall be established a stormwater utility enterprise fund for the deposit of all fees and charges collected by the stormwater utility. These funds shall be for the exclusive use of the city's stormwater management utility, including but not limited to the following:

(1) Stormwater management services.

(2) Operation and maintenance of the stormwater management system.

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(3) Project costs for approved improvements to the municipal stormwater management system.

(4) Administrative costs associated with the management of the stormwater utility.

(5) Costs required for the city to comply with the NPDES stormwater permit requirements.

(6) Debt service of stormwater related capital improvements.

(7) Funding of studies associated with the planning of the stormwater related infrastructure.

(Code 1980, § 30-85)

ARTICLE V. WATER AND WASTEWATER IMPACT FEES

Sec. 30-247. Short title.

This article shall be known and may be cited as the "City of Hallandale Beach Water and Wastewater Impact Fee Ordinance."
(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-248. Authorization.

This article is enacted pursuant to law, and F.S. ch. 180 which provides local municipalities with the authority to establish and operate water and wastewater utility systems.
(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-249. Commission findings.

The Hallandale Beach City Commission hereby makes and expresses the following findings, purposes, and intent:

(1) Significant growth is expected to occur in the areas that are provided water and wastewater utility services by the city.

(2) Growth within the service area has resulted in the need to expand the water production and distribution system, to expand the wastewater transmission system, and to negotiate available, treatment (purchased) capacity with the City of Hollywood to accommodate the demands imposed by such growth without decreasing the current level of utility services at the cost of existing users.

(3) Expansion of water and wastewater utility services to accommodate new growth shall promote and protect the interests and general welfare of the residents of Hallandale Beach.

(4) In order for future growth to pay more equitably the cost of expanding the water production and distribution system and the wastewater system to meet the demands imposed by such growth, the city commission finds that the adoption of water and wastewater impact fees, to be levied as one-time charges upon new users (connections) or new demand on the system created through expansions or renovations, is an appropriate and equitable method of capital cost recovery.

(5) The intent of the water and wastewater impact fees is to recover only the pro rata share of the costs incurred to meet the demands of growth.

(6) In order for the city to recover the carrying costs associated with providing new capacity today to meet the needs of future growth, the city commission recognizes that the adoption of accrued guaranteed revenue charges (AGRCs) would reimburse the city for the costs of constructing and maintaining water and wastewater capacity in advance of new growth, and that such charges provide equity between existing and future customers of the water and wastewater system (the "system").

(7) The report entitled "City of Hallandale Beach, Florida Water and Wastewater Impact Fee Study", dated July 2008, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of additional water and wastewater transmission capital facilities in the city and the estimation of accrued guaranteed revenue charges.

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(8) The commission's intent is to expend the water and wastewater impact fees collected pursuant to this article only for the purposes for which they were collected, specifically, to defray the capital cost incurred to meet the demands imposed by growth.

(9) The commission's intent is to recognize the revenues received from the accrued guaranteed revenue charges as unrestricted and available for any lawful purpose of the system since such revenues are collected to reimburse the city for operating carrying costs.

(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-250. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted to give this article its most reasonable application, consistent with state and federal law and other city and county regulations. The following words and phrases shall have the following meanings unless the context requires otherwise:

Building means any structure whether temporary or permanent, built for the support, shelter, or enclosure of persons or property of any kind. This term shall include tents, trailers, mobile homes, or any vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintenance during the term of a building permit.

Building permit means an official document or certificate issued by the authority, city or county, having jurisdiction authorizing the commencement of construction of any building or parts thereof; the term also includes construction plan approval for new mobile home development and new recreational vehicle spaces.

City commission or *city* means the City Commission of the City of Hallandale Beach, Florida, a political subdivision of the state.

Comprehensive plan means the comprehensive plan of the City of Hallandale Beach adopted and amended pursuant to the local government Comprehensive Planning and Land Development Act.

Dwelling unit means any housing unit for the purpose of providing residential shelter; each single-family residential unit, residential condominium, duplex, triplex, mobile home, modular housing, manufactured home, or multiple family unit designated or intended to provide human habitation.

Encumbered, in reference to funds for capital improvements, means funds committed in the capital improvements program for a specified improvement on a specified time schedule.

Equivalent residential unit (ERU) is the level of service (LOS) expressed as the amount of usage (gallons) allocated on an average daily basis, and whereas one ERU represents the reserved capacity (average daily usage) of one residential unit.

Existing structure means a structure for which a building permit was issued before the effective date of this article.

Land means the earth, water and air above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

New structure means a structure for which the building permit was issued on or after the effective date of this article.

Non-residential structure means any building which encloses space for the occupancy by persons or their activities, other than residential dwellings, including but not limited to professional buildings, commercial and industrial buildings, hotels, and motels.

Residential structure means dwelling unit as defined above.

Schedule of impact fees means the schedule of fees incorporated in section 30-253 of this article.

Schedule of accrued guaranteed revenue charges (AGRCs) means the schedule of charges incorporated in section 30-254 of this article.

System means the water and wastewater systems of the city.

(Ord. No. 2008-26, § 2, 10-15-2008)

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Sec. 30-251. Applicability.

This article shall apply within the water and wastewater service territory of the City of Hallandale Beach, including those areas that are annexed into the city after the effective date of this article.
(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-252. Payment of water and wastewater impact fees and AGRC.

Imposed. Any person who seeks to connect to the city's water and/or wastewater system, or whom expands and/or changes the use of an existing facility beyond the current reserved capacity for such facility is hereby required to pay a water and/or wastewater impact fee in the manner and amount set forth in the schedule of impact fees, and is required to pay a water and/or wastewater accrued guaranteed revenue charge in the manner and amount set forth in the schedule of accrued guaranteed revenue charges.

Residential basis. The residential water and wastewater impact fees and accrued guaranteed revenue charges are based on equivalent residential units (ERUs). An ERU shall mean any structure which provides living accommodations for a single family (single-family residence). A residential structure shall be charged according to the number of ERUs located in each structure. The city defines an ERU as 350 and 315 gallons per day for the water and wastewater systems, respectively.

Non-residential basis. The non-residential water and wastewater impact fees and accrued guaranteed revenue charges are based on a charge per gallon of capacity reservation. Each development's water and wastewater capacity reservation is determined using unique attributes for various facilities that estimate water demand. The non-residential attributes are based on the guidelines presented in FAC Chapter 64E, which is included as Appendix A of the impact fee report. FAC Chapter 64E is a recognized source of estimating water and wastewater demands of non-residential enterprises throughout the State of Florida. The estimated demand per development unit is then multiplied by the appropriate charge per gallon to calculate the appropriate water and wastewater impact fees and accrued guaranteed revenue charges.
(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-253. Schedule of water and wastewater impact fees.

(a) *Specified uses.* The water and/or wastewater impact fee shall be payable when the building permit is issued for one or more dwelling units or when a request for capacity is requested using the following schedules:

Water Impact Fee Schedule

Residential		
Dwelling Type	*ERU Factor per Unit*	*Impact Fee per Unit*
Single-family	1.00	$1,318.00
Duplex	0.73	962.00
Triplex, 4-plex, 5-plex, condo or co-op apartments	0.60	791.00
Triplex/3 meters	0.67	883.00
Duplex/2 meters	0.80	1,054.00
Single house and apartment	0.67	883.00
Trailer or trailer park	0.47	619.00
Townhouse	0.87	1,147.00
4-plex/4 meters	0.53	698.00

Non-Residential [*]		
		Impact Fee
Cost per gallon of capacity reservation		$3.77
[*] Amount multiplied by the total reserved gallons as determined using non-residential designations within Appendix A of the impact fee report.		

Wastewater Impact Fee Schedule

Residential		
Dwelling Type	*ERU Factor per Unit*	*Impact Fee per Unit*
Single-family	1.00	$572.00
Duplex	0.73	417.00
Triplex, 4-plex, 5-plex, condo or co-op apartments	0.60	343.00
Triplex/3 meters	0.67	383.00
Duplex/2 meters	0.80	458.00
Single house and apartment	0.67	383.00
Trailer or trailer park	0.47	269.00
Townhouse	0.87	498.00
4-plex/4 meters	0.53	303.00
Non-Residential [*]		
		Impact Fee
Cost per gallon of capacity reservation		$1.82
[*] Amount multiplied by the total reserved gallons as determined using non-residential designations within Appendix A of the impact fee report.		

(b) *Unspecified uses.* If the type of connection that is being applied for is not readily specified on the schedule of water and wastewater impact fees or Appendix A of the impact fee study report, the city manager or designee shall determine the appropriate fee by considering demographic or other documentation, which is available.

(c) *Change in use or density.* In the case of change in use, redevelopment, or expansion or modification of an existing use of a site, the water and wastewater impact fee shall be based upon the net increase in the water and wastewater capacity reservation for the new use as compared to the most intense previous use.
(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-254. Schedule of water and wastewater accrued guaranteed revenue charges.

(a) *Specified uses.* The water and/or wastewater AGRCs shall be payable when the building permit is issued for one or more dwelling units or when a request for capacity is requested using the following schedules:

Water Accrued Guaranteed Revenue Charge Schedule

Residential AGRC Per ERU - Month Ending [*]

Water System	*October*	*November*	*December*	*January*	*February*	*March*	*April*	*May*	*June*	*July*	*August*	*September*
Fiscal Year 2009	$0.00	$6.28	$12.56	$18.84	$25.12	$31.40	$37.68	$43.96	$50.24	$56.52	$62.80	$69.08
Fiscal Year 2010	$75.36	$81.64	$87.92	$94.20	$100.48	$106.76	$113.04	$119.32	$125.60	$131.88	$138.16	$144.44
Fiscal Year 2011	$150.72	$157.00	$163.28	$169.56	$175.84	$182.12	$188.40	$194.68	$200.96	$207.24	$213.52	$219.80
Fiscal Year 2012	$226.08	$232.36	$238.64	$244.92	$251.20	$257.48	$263.76	$270.04	$276.32	$282.60	$288.88	$295.16
Fiscal Year 2013	$301.44	$307.72	$314.00	$320.28	$326.56	$332.84	$339.12	$345.40	$351.68	$357.96	$364.24	$370.52
Fiscal Year 2014	$376.80	$376.84	$376.84	$376.84	$376.84	$376.84	$376.84	$376.84	$376.84	$376.84	$376.84	$376.84

[*] Reflects the one-time charge to be paid per ERU.

Non-Residential AGRC Per Gallon - Month Ending [*]

Water System	*October*	*November*	*December*	*January*	*February*	*March*	*April*	*May*	*June*	*July*	*August*	*September*
Fiscal Year 2009	$0.00	$0.02	$0.04	$0.06	$0.08	$0.10	$0.12	$0.14	$0.16	$0.18	$0.20	$0.22
Fiscal Year 2010	$0.24	$0.26	$0.28	$0.30	$0.32	$0.34	$0.36	$0.38	$0.40	$0.42	$0.44	$0.46
Fiscal Year 2011	$0.48	$0.50	$0.52	$0.54	$0.56	$0.58	$0.60	$0.62	$0.64	$0.66	$0.68	$0.70
Fiscal Year 2012	$0.72	$0.74	$0.76	$0.78	$0.80	$0.82	$0.84	$0.86	$0.88	$0.90	$0.92	$0.94
Fiscal Year 2013	$0.96	$0.98	$1.00	$1.02	$1.04	$1.06	$1.08	$1.08	$1.08	$1.08	$1.08	$1.08
Fiscal Year 2014	$1.08	$1.08	$1.08	$1.08	$1.08	$1.08	$1.08	$1.08	$1.08	$1.08	$1.08	$1.08

[*] Reflects the one-time charge to be paid per gallon.

Wastewater Accrued Guaranteed Revenue Charge Schedule

Residential AGRC Per ERU - Month Ending [*]

Wastewater System	*October*	*November*	*December*	*January*	*February*	*March*	*April*	*May*	*June*	*July*	*August*	*September*
Fiscal Year 2009	$0.00	$2.73	$5.46	$8.19	$10.92	$13.65	$16.38	$19.11	$21.84	$24.57	$27.30	$30.03
Fiscal Year 2010	$32.76	$35.49	$38.22	$40.95	$43.68	$46.41	$49.14	$51.87	$54.60	$57.33	$60.06	$62.79
Fiscal Year 2011	$65.52	$68.25	$70.98	$73.71	$76.44	$79.17	$81.90	$84.63	$87.36	$90.09	$92.82	$95.55
Fiscal Year 2012	$98.28	$101.01	$103.74	$106.47	$109.20	$111.93	$114.66	$117.39	$120.12	$122.85	$125.58	$128.31
Fiscal Year 2013	$131.04	$133.77	$136.50	$139.23	$141.96	$144.69	$147.42	$150.15	$152.88	$155.61	$158.34	$161.07
Fiscal Year 2014	$163.54	$163.54	$163.54	$163.54	$163.54	$163.54	$163.54	$163.54	$163.54	$163.54	$163.54	$163.54

[*] Reflects the one-time charge to be paid per ERU.

Non-Residential AGRC Per Gallon - Month Ending [*]

Wastewater System	*October*	*November*	*December*	*January*	*February*	*March*	*April*	*May*	*June*	*July*	*August*	*September*
Fiscal Year 2009	$0.00	$0.01	$0.02	$0.03	$0.04	$0.05	$0.06	$0.07	$0.08	$0.09	$0.10	$0.11
Fiscal Year 2010	$0.12	$0.13	$0.14	$0.15	$0.16	$0.17	$0.18	$0.19	$0.20	$0.21	$0.22	$0.23
Fiscal Year 2011	$0.24	$0.25	$0.26	$0.27	$0.28	$0.29	$0.30	$0.31	$0.32	$0.33	$0.34	$0.35
Fiscal Year 2012	$0.36	$0.37	$0.38	$0.39	$0.40	$0.41	$0.42	$0.43	$0.44	$0.45	$0.46	$0.47
Fiscal Year 2013	$0.48	$0.49	$0.50	$0.51	$0.52	$0.52	$0.52	$0.52	$0.52	$0.52	$0.52	$0.52
Fiscal Year 2014	$0.52	$0.52	$0.52	$0.52	$0.52	$0.52	$0.52	$0.52	$0.52	$0.52	$0.52	$0.52

[*] Reflects the one-time charge to be paid per gallon.

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(b) *Change in use or density.* In the case of change in use, redevelopment, or expansion or modification of an existing use of a site, the water and wastewater AGRCs shall be based upon the net increase in the water and/or wastewater capacity reservation for the new use as compared to the most intense previous use.
(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-255. Exemptions.

Definitions. For the purpose of this section, the terms listed below shall have the meanings shown:

Affordable housing shall mean housing intended for occupancy by persons of low or moderate income as defined in F.S. § 420.9071, or any successor statute, and as to which the monthly rent or mortgage payment does not exceed 30 percent of the income levels specified for persons of low or moderate income in F.S. § 420.9071 or any successor statute.

Developer shall mean the person or entity responsible for developing and constructing affordable housing.

Other available funds shall mean any funds so designated by the city to be used for economic development incentives.

It is the intent of this article that all new users (connections) or new demand on the system created through expansions or renovations, pay its apportioned share of capital costs and carrying costs as outlined in section 30-254; therefore, all impact fees and AGRCs calculated are to be collected. The purpose of this section is to encourage development of affordable housing through the use of other available funds. When other available funds are designated and available for economic development incentives, the city reserves the right to waive direct payment of the impact fees and/or AGRCs by the developer and to pay the charges from the other available funds account.

Applicants for building permits who wish to seek an exemption from water and wastewater impact fees and/or AGRCs shall apply for the exemption on forms prescribed by the city manager or his designee. The applicant must certify that the property is within a community redevelopment district and that upon completion the dwelling unit(s) will qualify as affordable housing and will be maintained as affordable housing in accordance to city policy after issuance of a certificate of occupancy. If the dwelling units are not maintained as affordable housing, then the impact fees and/or AGRCS which would have been payable but for this exemption shall be due and payable at once, prorated on an annual basis for the number of years less than the amount designated by city policy during which the dwelling units will not be maintained as affordable housing.

Any exemption sought must be approved by the city manager before it takes effect. Applicants will be expected to meet with the city manager or his or her designee to provide evidence in support of their claim to an exemption. No exemption shall be automatic and it shall be within the sole discretion of the city manager whether to grant or deny any exemption, based not only on the criteria specified herein to qualify for the exemption but also on the availability of other available funds and such other considerations as the city manager deems appropriate in the public interest.

No other exemptions and/or provisions are expressed or implied by this section.
(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-256. Required time of payment.

Impact fees and AGRCs must be paid prior to the issuance of a building permit. A building permit will not be issued until these fees have been paid.
(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-257. Financing policy.

In order to be eligible for financing required payments of water and/or wastewater impact fees and AGRCs, the cumulative fees must exceed $20,000.00. In addition, the development or project for which financing is being sought must qualify either as affordable housing as defined in this article, or must constitute a commercial or industrial venture.

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Any applicant who seeks to finance impact fees and AGRCs shall apply on forms promulgated by the city manager or his or her designee, and shall include with the application proof of qualification as affordable housing, or a commercial or industrial venture. Any application for financing must be approved by the city manager, which shall have sole discretion to approve or reject any application based on the criteria in this article, the financial health and status of the trust funds created by this article, and such other factors as the city manager deems relevant in the public interest. Financing of impact fees and AGRCs is not a matter of right.

(1) *Financing terms.*

a. Financing will be established at a five-year fixed rate, which the rate shall be equal to the prime rate which is available at that time at local banking institutions.

b. The customer shall pay 20 percent of the total impact fees and AGRCs at the time financing is extended and the balance shall be paid over five years and the deferred balance shall bear interest at the prime rate available at local banks on the date the financing is extended.

c. The impact fee and AGRC obligation shall be paid in monthly installments.

d. The balance due to the city may be paid in full at any time before the maturity date without payment of penalty.

(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-258. Water and wastewater impact fee reserve accounts established.

There is hereby established two non-lapsing reserve accounts; the water impact fee reserve account and wastewater impact fee reserve account.

Impact fees collected pursuant to this article shall be placed in the appropriate reserve account.

Funds withdrawn from the water impact fee reserve account and wastewater impact fee reserve account shall be used in accordance with the provisions of this article.

(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-259. Use of impact fee funds.

At least once each fiscal year, the city manager or designee shall present to the city commission a proposed capital improvement program for water and wastewater services assigning funds from the impact fee reserve accounts to specific improvement projects and related capital costs. Monies not assigned in any fiscal year shall be retained in the impact fee reserve accounts until the next fiscal year.

(1) *Debt service.* In the event that bonds or other debt instruments are issued for advance provision of water production and distribution capital requirements and/or wastewater collection capital requirements for which the impact fees were intended to fund the growth related demands, impact fees may be used to pay debt service on such bonds or other debt instruments to the extent that the proceeds of the bonds (and a pro rata share of the cost of issuance) are expended upon the capital facilities.

(2) *Water production and distribution services.* Funds collected for water production and distribution services can be used for the purpose of acquiring or expanding capital equipment and/or facilities under the jurisdiction of the city.

(3) *Wastewater collection services.* Funds collected for wastewater collection services can be used for the purpose of acquiring or expanding capital equipment and/or facilities under the jurisdiction of the city.

(Ord. No. 2008-26, § 2, 10-15-2008)

Sec. 30-260. Personal liability, lien for collection.

Any person securing a building permit, and any person performing activities for which a building permit is required, and all owners of the land upon which such activities are performed, shall be

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jointly and severally liable for the water and wastewater impact fees and AGRCs imposed by this article. In addition to any other remedy provided by law, the city may proceed in a court of competent jurisdiction to collect such fee from any or all of such persons as provided by law. The term person means any natural person, corporation, limited liability company, partnership, firm or other entity or organization, and with regard to any entity which is not a natural person, shall include the officers and directors of any corporation; the general partners of any general or limited partnership, the members of any limited liability company, and the equity owners of any other entity not specifically listed.

Failure to pay the water and/or wastewater impact fees and AGRCs when determined by the city as required to satisfy the impact of development shall result in the amount becoming a lien against the property, as provided for herein. The city shall provide written notice of the fees due by one of the following: (1) personal service, (2) certified United States mail, return receipt requested, or (3) Federal Express or other equivalent overnight letter carrier. Upon failure to pay the fees within 30 days of the date of notice, a notice of lien shall be served by one of the following: (1) personal service, (2) certified United States mail, return receipt requested, or (3) Federal Express or other equivalent overnight letter carrier, advising the property owner that the city shall file a claim of lien against the property in question. Once recorded, the claim of lien may be foreclosed as provided for in F.S. chs. 170 and 173, or in the same manner as a real estate mortgage, or in any other manner now or hereafter specified by applicable law. The lien for unpaid impact fees shall be coequal with the lien for state, county, special district, and other taxes and superior in right to all other liens and encumbrances, including mortgages and judgment liens regardless of the date of creation or perfection thereof. The liens shall have duration of 20 years from the date of issuance of the building permit.
(Ord. No. 2008-26, § 2, 10-15-2008)

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Chapter 31

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Chapter 32

ZONING AND LAND DEVELOPMENT CODE*

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***Cross references—**Planning and zoning board, § 2-231 et seq.; annual approval of alcoholic beverage establishments for zoning, § 5-3; sale near schools or playgrounds, § 7-413; buildings, construction and condominiums, ch. 8; flood damage prevention, § 8-71 et seq.; swimming pools, § 8-171 et seq.; proper zoning for mobile home parks, § 17-11; streets, sidewalks and other public ways, ch. 25.

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Sec. 32-82. Landscape screening.
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ARTICLE I. GENERAL PROVISIONS

Sec. 32-1. Title.

This chapter shall be known and may be cited by the title of "Hallandale Beach Zoning and Land Development Code."
(Code 1980, app. A, art. I, § 1)

Sec. 32-2. Purpose and intent.

(a) It is the purpose and intent of the city to provide land use planning and development criteria, standards and regulations to promote, protect and improve, in accordance with present and future needs, the public health, safety, comfort, good order, appearance, convenience, morals, law enforcement and fire protection and general welfare of the citizens and residents of the city to:

(1) Provide for orderly growth, development and environmental protection;

(2) Provide a vehicle of coordination for all planning and development decisions with area, county, regional, state and federal planning agencies and authorities;

(3) Prevent the overcrowding of land and avoid undue concentration of population; and

(4) Facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing and other requirements and services.

(b) It is further the purpose of this chapter to:

(1) Conserve the value of land, buildings and resources;

(2) Protect the character and maintain the stability of residential, commercial and industrial areas;

(3) Provide for efficiency and economy in the process of development for the appropriate and best use of all land for preservation, protection, development and conservation of our natural resources of land, water and air; and

(4) Provide for convenience of traffic and circulation of people and goods, for healthful and convenient distribution of population, for adequate public utilities and facilities, and for promotion of the civic amenities of beauty and visual interest.

To accomplish these objectives and goals, the regulations and standards have been designed with reasonable consideration to carry out the foregoing legislative purposes and intent in the best interest of all citizens and residents of the city.

(c) It is the expressed intent of the city in adopting this chapter to implement the adopted comprehensive plan or elements of such plan; and to that end this chapter is based on, related to, consistent with, and a means of implementation for, such plan or elements of such plan.
(Code 1980, app. A, art. I, § 2)

Sec. 32-3. Scope of regulations.

The provisions of this chapter shall apply to all land, water, buildings and structures now or hereinafter located in the territorial limits of the city.
(Code 1980, app. A, art. I, § 3)

Sec. 32-4. Legal effect.

This chapter, together with the adopted comprehensive plan or elements of such plan, shall fully regulate and control all land development in the city; and no land development shall take place in the city except in conformity with the provisions of this chapter, and this chapter shall be enforced by any means provided by law or this chapter. The issuance or granting of any permit or approval shall not be deemed or construed to be a permit for or an approval of any violation of this chapter, and the issuance of such a permit or approval shall not prevent the appropriate city official from thereafter requiring the correction of the permit or approval to bring them in full compliance with this chapter.
(Code 1980, app. A, art. I, § 4)

Sec. 32-5. Conflict with other ordinances.

Where this chapter may be in conflict with any other ordinances or resolutions, the provisions of this chapter shall govern unless any existing ordinances or resolutions are more restrictive or

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impose higher standards or requirements and have not been expressly repealed, in which event those restrictions shall apply.
(Code 1980, app. A, art. I, § 5)

Sec. 32-6. Severability.

(a) If any section or provision of this chapter or any portion of this chapter, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this chapter as a whole or in part other than the part declared to be invalid, unless otherwise specifically provided in this section.

(b) Whenever any condition or limitation is included in an order authorizing a conditional use, variance, waiver, exemption, exception, approval, extension or similar action, unless otherwise specifically provided in the order, it shall be conclusively presumed that the authorizing body or officer considered such condition or limitation necessary to carry out the spirit and purpose of this chapter or the requirement of some provision of this chapter, and to protect the public health, safety and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful, binding and enforceable, and if the imposition of such condition or limitation is declared invalid by a court of competent jurisdiction, the authorization is revoked.

(c) Wherever this chapter provides for the granting of a conditional use, variance, waiver, exemption, exception, extension or similar action, subject to meeting certain standards, requirements and procedures set forth in this chapter, it shall be conclusively presumed that such provision is nonseverable from the standards, requirements and procedures that pertain to it, and that such provision would not have been made a part of this chapter except subject to such standards, requirements and procedures; and if a court of competent jurisdiction shall declare any of such standards, requirements or procedures to be invalid, such decision shall invalidate the provision to which such standards, requirements or procedures pertains.
(Code 1980, app. A, art. I, § 6)

Sec. 32-7. Language.

(a) The rules stated in this section for the construction of language shall apply to the text of this chapter.

(b) The particular shall control the general. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or summary table, the text shall control.

(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(d) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.

(e) A building or structure includes any part. The term "used for" includes "arranged for," "designed for," "maintained for" or "occupied for." The term "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

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

(1) The term "and" indicates that all the connected items, conditions, provisions, or events shall apply.

(2) The term "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

(3) The term "either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.

(g) The term "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
(Code 1980, app. A, art. II, § 1)

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Sec. 32-8. Definitions.

The following words, terms and phrases mean:

Abandon means to discontinue a use for more than 180 consecutive days.

Accessory retail sale means a use which is incidental to and serves the principal use, and is limited to no more than 25 percent of the total industrial or warehouse floor area of the principal building, and where the sale of goods and merchandise is limited to those products manufactured and/or assembled in the building.

Accessory use or structure means a use or detached structure on the same lot or parcel under the same ownership, and of a nature customarily incidental and subordinate to the principal use or structure. An accessory use or structure:

(1) Is subordinate to and serves the principal building or principal use.

(2) Is subordinate in area, extent or purpose to the principal building or principal use served.

(3) Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served.

(4) Is located in the same zoning district as the principal building or principal use served.

Uses which are not customarily incidental to residential use or which attain the proportion of a principal use are not permitted as an accessory use. The character of the building determines what are the customarily incidental uses which are permitted in connection with its use; and the character of the accessory structure is determined by its main, principal and dominant use.

Accessway means a means of providing ingress or egress of vehicular traffic between a public right-of-way and driveway.

Acre means a parcel of land or water which has a horizontal plane area of 43,560 square feet.

Acreage, net, means the horizontal plane area of a lot or parcel of land, exclusive of public road rights-of-way and easements, public use area dedications, lakes and watercourses, and any other easement constituting a substantial impairment of the fee.

Act means the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. §§ 163.3161—163.3211.

Adult bookstore means an establishment having a substantial or significant portion of its stock in trade in books, magazines, periodicals, still or motion pictures, video cassettes, CD-ROM's, laser disks, digital video disks, instruments, devices or paraphernalia, or other materials which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas. A substantial or significant portion of its stock in trade shall be deemed to occur when ten percent or 400 square feet (whichever is less) of the floor area of the establishment contains the items listed above.

Adult cabaret or theater means an establishment, whether licensed for sale of alcoholic beverages consumed on the premises or not, presenting performances or other live activity having as a dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

Adult entertainment business means any body rub or bathhouse establishment, adult bookstore, adult motion picture theater, adult mini motion picture theater, adult cabaret or theater, escort service, body painting studio, encounter parlor, sex consultation business, nude photography studio, nude modeling business, nude dancing studio, dating service, or any other similar adult entertainment business. "Dating service," "escort service," "body painting studio," "encounter parlor," "sex consultation business," "nude photography studio," "nude modeling business," "nude dancing studio," or any other similar adult entertainment business, however styled, means, without limitation, any place of business which advertises or conducts activities for compensation, that are designed or intended to establish a sexual or

social communication, engagement or relationship, whether on or off the premises, between its clients and its employees.

Adult mini motion picture theater means an enclosed building with a seating capacity for less than 50 persons, used for presenting material having as a dominant theme or presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified anatomical areas or specified sexual activities for observation by patrons.

Adult motion picture theater means an enclosed building with a seating capacity of 50 or more persons, or an open-air drive-in facility of any size or capacity, used for presenting material having as a dominant theme or presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

Alcoholic beverage establishment means any establishment devoted primarily to the sale of alcoholic beverages for consumption on the premises.

Alley means a through public right-of-way less than the minimum required street width which affords only a secondary means of access to abutting property and is commonly located to the rear of a property.

Alteration means any change, rearrangement, enlargement, extension, or reduction of any structure on the same site.

Amusement machines means electronic game machines or devices, including video games; other amusement devices, including but not limited to jukeboxes, pinball or any other mechanical machine, other than those dispensing merchandise, coin-operated or otherwise.

Anatomical areas, specified, means:

(1) Less than completely and opaquely covered:

a. Human genitals and pubic regions;

b. Buttock; and

c. Female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Animal hospital means a facility which provides for the medical and surgical care of animals.

Antenna means a transmitting and/or receiving device used in communications that radiates or captures electromagnetic waves, including directional antennas, such as panel and microwave dish antennas, and omnidirectional antennas, such as whips, excluding radar antennas, amateur radio antennas and satellite dish antennas.

Antenna, roof-mounted, means an antenna mounted above the roofline of a building or portion of buildings designed for human occupancy or use, excluding elevator shafts, air conditioning units or other mechanical or functional features.

Awning means an accessory structure, either permanent or retractable, which is supported by an open framework and is covered by cloth, vinyl, metal or similar material.

Bar means the same as "*Alcoholic beverage establishment.*"

Blighted area means an area in which there are a substantial number of slum, deteriorated or deteriorating structures and conditions which endanger life or property by fire or other causes or one or more of the following factors which substantially impairs or arrests the sound growth of a municipality and is a menace to the public health, safety, morals, or welfare in its present condition and use:

(1) Predominance of defective or inadequate street layout;

(2) Faulty lot layout in relation to size, adequacy, accessibility or usefulness;

(3) Unsanitary or unsafe conditions;

(4) Deterioration of site or other improvements;

(5) Tax or special assessment delinquency exceeding the fair value of the land; and

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(6) Diversity of ownership or defective or unusual conditions of title which prevents the free alienability of land within the deteriorated or hazardous area.

Body rub or *bathhouse establishment* means any establishment having a fixed place of business, other than a massage establishment licensed and regulated under F.S. ch. 480, which advertises or administers, as a substantial or significant portion of its business activity, without limitation, baths, showers, sauna baths or similar devices.

Breast height means a height of 4½ feet above the natural grade.

Buildable area means that portion of a site within the yard area on which a structure or improvements may be erected.

Building means any 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 height means the vertical distance from the average finished grade of all exterior corners to the highest point of the building, less those structures permitted to extend beyond the height of the building.

Building permit means any permit for the erection or construction of a new building required by section 301.1 of the South Florida Building Code, 1977, Broward Edition, as amended, or any permit for an addition to an existing building which would:

(1) Create one or more additional dwelling units; or

(2) Involve a change in the occupancy of a building as described in section 104.7 of the South Florida Building Code, 1977, Broward Edition, as amended.

Building site means 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 trade shop means a shop where a trade is practiced, and where materials are prepared, assembled or otherwise processed, usually to specifications, for use in the interior or exterior construction or improvement of buildings, and includes but is not limited to the shops of a cabinetmaker, carpenter, electrician, plasterer, plumber, roofer, stonecutter, welder, glass company, or other building contractor.

Caliper, tree, means the diameter at breast height (DBH) of the trunk of all trees 4½ feet above the ground.

Canopy coverage means the areal extent of ground within the dripline of the tree.

Church means the same as "*Place of worship.*"

Clinic, medical, means a facility, which provides only for outpatient treatment and has no overnight accommodations, wherein professional services concerning personal health of humans are administered by medical doctors, chiropractors, osteopaths, optometrists, dentists or any other such profession which may lawfully be practiced in the state.

Club, private, means a building or facility owned or operated by associations and organizations of a social or fraternal character not operated for profit. Private clubs shall not include nightclubs or any other institutions operated as a business.

Common lot line means a line dividing one lot or parcel from another.

Communication tower means a guyed, monopole or self-support/lattice tower, constructed as a freestanding structure, containing one or more antennas intended for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication, excluding radar towers, amateur radio support structures and satellite dish antennas.

Comprehensive land use plan means the adopted future land use plan element of the city which meets the requirements of the county land use plan and of F.S. § 163.3177.

Conditional use means a use which, when specifically listed as such, may be permitted with certain stipulated conditions that will serve to ensure that the use will assimilate more properly

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into the neighborhood without negative effects. Additional unlisted conditions may also be required if deemed appropriate by staff, the planning and zoning board, and the city commission.

Consignment shop means an establishment wherein goods such as clothing, shoes and/or accessories for adults and/or children are sold by the operator of the shop, acting as the agent for the owner of such goods, in return for a percentage of the profits, or other consideration. Such goods may be comprised of used goods and/or new goods. As used within this definition, "used goods" shall be limited to wearing apparel and accessories to such apparel, which are clean and not stained, abraded or worn out in any area, and which (but for the sole fact that the item was previously owned) are generally merchantable as first quality merchandise.

Convalescent home means the same as "*Nursing home.*"

County commission means the Board of County Commissioners of Broward County.

County land use plan means the future land use plan element for all the county adopted by the county commission in conformance with the requirements of the county charter and F.S. § 163.3177.

Cul-de-sac means a public or private street or driveway having one end permanently terminated. That end shall be designed in a circular configuration providing a radius greater than that of the street right-of-way which can accommodate vehicular turning in one continuous forward movement.

Day care center means any establishment which provides for the care of more than five 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 shall also include nurseries and kindergartens, but not foster homes.

Density means the number of residential dwelling units permitted based upon a prorated per acre ratio as prescribed in each residential zoning district. Permitted density is always expressed as dwelling units per net acre.

Destruction of the natural habit of growth means pruning that causes irreparable damage and permanent disfigurement to a tree such that, even with regrowth, the tree will never regain the original characteristics of its tree species, and is a danger to the public or property.

Developed means that point in time when the building and site have received final inspections.

Development means the construction or reconstruction of a building or structure, the alteration of a building or structure so as to increase its size or capacity, the relocation of any existing building or structure on another parcel, the carrying out of any building or mining operation or the making of any material change in the use or appearance of any structure or land, or the use of land for any uses, or any change of use or establishment of any new uses. Existing development is that existing on the effective date of this chapter, and new development is that for which the necessary permit is issued after the effective date of this chapter, or, if a permit is not required, which is commenced after the effective date of this chapter.

Development permit means any building permit, subdivision, or plat approval, rezoning, variance or other official action of a unit of local government having the effect of permitting the development of land, but does not include any variance or other official action necessary solely for the purpose of issuing a permit, other than a building permit, pursuant to the South Florida Building Code, 1977, Broward Edition, as amended.

Development review means the process of reviewing applications for development to ascertain compliance with all land use controls, to ensure a high-quality site design, and to evaluate potential project impact.

Diameter at breast height (DBH) means the diameter of the trunk of a tree measured at breast height. The DBH of trees with multiple trunks shall be the sum of the individual trunk diameters at breast height. Trees with less than 4½ feet

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of clear trunk shall be measured as the diameter of the largest vertical branch or leader at breast height.

Director means the city manager or those to whom he has charged the interpretation, administration or enforcement of this chapter or selected portions of this chapter.

Dripline means an imaginary perpendicular line that extends downward from the outermost tips of the tree branches to the ground; however, the line shall not be less than a circle with a five-foot radius measured from the center of the tree.

Driveway means a private roadway which provides a primary means of access to off-street parking and loading stalls.

Dwelling means a single unit providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

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

(2) *Dwelling, two-family (duplex),* means a building containing two residential dwelling units.

(3) *Dwelling, multi-family,* means a building containing three or more residential dwelling units.

(4) *Dwelling, townhouse,* means the same as "*Townhouse.*"

Easement means a grant by a property owner of the use of all or part of his land to another party for a specific purpose.

Effectively destroy means to cause, suffer, allow or permit any act which causes a tree to die or go into a period of unnatural decline within a period of one year from the date of the act. Acts which may effectively destroy a tree include but are not limited to damage inflicted upon the root system by heavy machinery, excessive trimming, changing the natural grade above the root system or around the trunk, damage intentionally inflicted on the tree permitting infection or pest infestation, application of herbicides or other chemical agents or intentional fire damage to the tree, the infliction of a trunk wound that is 50 percent or greater of the circumference of the trunk, or the removal of sufficient canopy to cause the unnatural decline of the tree.

Effluent means pollutants emitted from any source.

Establishment means a place of commercial or industrial enterprise with its furnishings and staff.

Facade means the entire building front, including the parapet.

Family means one or more persons occupying a dwelling, not more than three of whom are unrelated to each other by birth, adoption, or marriage.

Fence (wall) means any construction of wood, metal, wire mesh, masonry or other material, erected for privacy, protection, ornamentation, enclosure or screening.

Floor area, gross, means the total horizontal area of all floors, including but not limited to fully enclosed porches, hallways, storage rooms, stairwells, breezeways, elevator shafts and utility rooms, measured from the exterior faces or columns of the exterior walls of a building.

Foodstore means a business establishment which sells meats, beverages, produce and other food products at retail to the general public.

Foodstore, convenience, means a foodstore which contains 3,000 square feet of gross floor area or less and usually maintains extended operating hours for the convenience of the public.

Frontage means the boundary line of a lot bordering on a public road right-of-way, exclusive of alleys. It is also the front property line.

Garage, private parking, means an accessory building for the storage of vehicles owned and used by the occupants of the principal building to which it is accessory.

Garage, public parking, means a building or structure for the temporary storage of vehicles, available to the public and operated for remuneration.

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Garage, repair, means a building or establishment wherein the major repair of vehicles and vehicle-related accessories is conducted. The sale of fuels and motor oils and the rental of trailers may be permitted.

Garden shop means a place for the outside storage, display and retail sale of plants, horticultural materials and garden supplies to the general public, generally for improving dwellings and yards, but not including building construction material and supplies, such as raw lumber and cement.

Grade, finished, means the finished elevation of a site after all fill, land balancing or site preparations have been completed.

Gross floor area means the same as "*Floor area, gross.*"

Ground covers includes plant materials which reach a maximum height of not more than 12 inches and may be used in lieu of grass. Ground covers must present a finished appearance and reasonably complete coverage at time of planting.

Guyed tower means a communication tower that is supported, in whole or in part, by guy wires fastened to supports.

Hardware store means a business establishment which sells at retail to the general public goods and supplies which are generally employed in maintaining or improving dwellings and yards, but not including heavy construction supplies, such as raw lumber and cement materials.

Hatrack means to flat cut the top or sides of a tree, to sever the leader or leaders, or to prune a tree by stubbing of mature wood, except where removal of branches is necessary to protect property and public safety.

Hedges means the same as "*Shrubs.*"

Height (building) means, in special flood hazard zones or coastal high-hazard zones, a measurement from the minimum established 100-year flood elevation and in other zones from 18 inches above the highest point of the crown of all adjacent streets, to the highest point of the roof.

Height (fence, wall or hedge) means the vertical distance determined by measuring from the finished grade on either side of a wall, fence or hedge, at any point to the highest point of the wall, fence or hedge, including attached ornamentation or fixtures, whichever measure is greater, provided that decorative berms on the exterior or interior face of a fence, wall or hedge shall not be used as a device to artificially reduce the calculated height of a fence, wall or hedge.

Historical tree means a particular tree or group of trees which has historical value because of its unique relationship to the history of the community.

Home improvement center means a business establishment which sells at retail to the general public goods and supplies which are generally employed in maintaining or improving dwellings and yards, including heavy construction materials such as raw lumber and cement materials, within a totally enclosed structure only.

Home occupation means any activity carried out for gain within a dwelling, by persons residing in the dwelling unit, which use is accessory and incidental to the use of the dwelling for residential purposes, and is in accordance with the provisions of article III, section 32-191.

Hotel means a building or buildings under single management, licensed by the state, containing ten or more sleeping rooms or suites of sleeping rooms, offered to the general public for transient lodging accommodations. Cooking facilities may only be offered in hotels that provide a minimum of 50 sleeping rooms. Cooking facilities in units of less than 500 square feet shall be limited to one microwave oven, one coffee maker, and one miniature refrigerator. Utility meters of any type for individual units are prohibited. Hotels may include but are not required to include amenities such as restaurants, coffee shops, bars, exercise rooms, spas, meeting rooms and limited shopping areas. Hotels must offer maid service and linen service and be served by a central switchboard telephone system. No more than five percent of the hotel rooms shall be occupied for more than 90 continuous days by the same occupant. The word "hotel" shall include hotels, motels, condominium hotels, suite hotels, extended stay hotels, and time shares. The determination that a building is a hotel shall be made without

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regard to the form of ownership of the property or of units therein, and it shall be immaterial whether the right of use of occupancy is derived from a leasehold or fee interest. Should a facility convert from a hotel to multi-family residential building, the minimum and average unit size, parking, density, and all other zoning requirements for the underlying residential district shall be met. Compliance with restrictions, conditions and limitations set forth in this definition shall be certified by the licensee at the time of issuance and renewal of the city occupational license.

Hotline facility means a facility providing telephone communication to substance abuse victims and the public in the form of information about drugs, treatment facilities, emergency needs and personal problems.

Impact area means the public facility or service or portion of a public facility or service receiving a substantial impact from a proposed development. The scope of the impact area may range from a citywide facility or service to a facility affecting only the subject property, dependent upon the specific facts and circumstances of each individual application.

Impervious area means a surface area that does not allow, or allows only with great difficulty, the penetration of water under normal surface pressure, causing runoff.

Junk means inoperative, dilapidated, abandoned or wrecked materials, including but not limited to automobiles, trucks, tractors, wagons, boats and other kinds of vehicles and parts of vehicles, scrap materials, scrap building materials, scrap contractors' bottles, glass, old iron, machinery and the like.

Kennel means a structure or parcel of land where five or more domestic animals, at least two months of age, are bred, boarded, trained or sold.

Land means the earth, water and air above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

Land clearing means the clearing of vegetation and soils for the purpose of land development activities.

Land use means the development that has occurred on the land, the development that may be proposed on the land, or the use that is permitted or permissible on the land under the county land use plan, the city's certified land use plan, land development regulations or a land development code, as the context may indicate.

Landscape area means the horizontal area measured in square feet, which is established, improved and maintained with lawful landscaping materials.

Landscaping means any of the following: materials such as but not limited to grass, ground covers, shrubs, vines, hedges, trees or palms; other ancillary material, such as rocks, pebbles, sand, and similar decorative or supportive materials which contribute to the health and biological productivity of such landscaping features, but not including artificial materials such as plastic or silk flowers and similar lifeless products intended as substitutions for living plants.

Lawn grass means all species normally grown as permanent lawns in the county. Grass may be sodded, plugged, sprigged or seeded except that solid sod shall be used in areas subject to erosion. Grass sod shall be clean and reasonably free of weeds and noxious pests or diseases.

Loading space means a space which provides for the loading or unloading of service vehicles.

Lot means a parcel of land intended for use under the terms of this chapter. For the purposes of this chapter, a lot shall have frontage on an improved public street or an officially approved private street. For zoning purposes, a lot may consist of:

(1) A combination of complete lots of record.

(2) A combination of complete lots of record and portions of lots of record.

(3) Portions of lots of record, provided that such lots or combinations of lots are sufficient size to meet the requirements of the zoning use district in which located.

(4) Single lots of record.

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(5) Parcels of land defined by metes and bounds description where such parcels are in conformity with this chapter and other laws of the city.

Lot area means the horizontal plane area within the lot lines expressed in this chapter in square feet or acres, exclusive of public dedications.

Lot, corner, means a lot located at the intersection of two or more intersecting streets. For the purpose of this chapter, a lot abutting upon a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot coverage means the area of the lot 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 buildings or as a combination of the foregoing whichever produces the greatest total ground coverage for such uses and structures. Lot coverage shall also include all impervious surfaces such as driveways, parking areas, walkways, swimming pools, patios, terraces, and the like.

Lot depth means the average horizontal distance between the front and rear lot lines; the horizontal length of a straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line of the lot.

Lot, frontage, means the same as "*Frontage.*"

Lot, interior, means a lot other than a corner lot, with only one frontage on a street other than an alley.

Lot line means the legal boundary line of a lot.

Lot of record means a platted lot which is part of a subdivision recorded in the official plat and records book of the county.

Lot, through, means a lot other than a corner lot, with frontage on more than one street other than an alley. Through lots may also be referred to as double-frontage lots. For the purposes of this chapter, front and rear yards for through lots shall be as determined by the director based on the established character of the neighborhood.

Lot width means 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 use district.

Lounge means the same as "*Alcoholic beverage establishment.*"

Mansard means a sloped roof or rooflike facade treatment architecturally capable of being treated as a building wall or facade.

Marina means a facility for storing and securing pleasure boats but which does not include provision for fueling, sleeping, or commercial fishing boats.

Marquee means any hood, awning or canopy of permanent construction projecting from the wall of a building.

Maximum or *minimum* means the greatest degree of compliance with the regulation or requirement that is physically and economically feasible and consistent with current professional standards and practices, and the reasonable necessity of the developer in carrying out the permissible use of the land. Mere use of these terms, without more, shall not always mean that something is either required or permitted unless that conclusion is reached by applying these terms as defined and qualified.

Mean high water line means the intersection of the tidal plane of mean high water with the shore as defined in the current Florida Statutes.

Methadone maintenance facility means a facility which dispenses methadone as part of the rehabilitation process. In addition, it may provide ancillary rehabilitation services, including counseling to groups and individuals, vocational training and placement, and other appropriate approaches aimed at affecting positive lifestyles to the opiate addict.

Microwave dish antenna means a dishlike antenna used to link communication sites together by wireless transmission of voice or data.

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Minor arterial means all arterials other than principal arterials.

Mobile home means a manufactured detached, transportable, single-family dwelling unit designed for longterm occupancy and arriving at the site where it is to be occupied as a complete dwelling unit, containing all conveniences and facilities, with plumbing and electrical connection provided for attachment to approved utility systems. To retain mobility, undercarriage and axles must remain attached to the unit.

Mobile home site means any space, lot or plot of ground within a mobile home park designated for the accommodation of one mobile home.

Monopole tower means a communication tower consisting of a single pole or spire self-supported on a permanent foundation, constructed without guy wires or additional supports.

Nonconforming building or *structure* means a structure or building lawfully existing at the time of the passage of this chapter or amendment to this chapter, which does not conform to the site development standards of area, height, lot coverage, yard setbacks, lot location, or other like requirements of this chapter.

Nonconforming lot means a single lot which was in existence at the time of the adoption of this chapter, even though such lot fails to meet the requirements for area, width or depth; but minimum yard dimensions and setbacks of the lot shall conform to the property regulations for nonconforming lots.

Nonconforming use means a land use lawfully existing at the time of the passage of this chapter, or amendment to this chapter, which does not conform to the provisions, requirements and regulations of this chapter.

Nursery means the same as "*Day care center.*"

Nursing home means a home for the aged or infirm in which three or more persons not of the immediate family are received, reside or are provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar establishments devoted primarily to the diagnosis and treatment of the sick or injured as licensed by the state.

Occupied includes arranged, designed, built, altered, converted to, rented, leased or intended to be occupied.

Office means a building, room, or space where clerical or administrative activities are performed or wherein specialized services such as the offices of a doctor, dentist, lawyer, engineer, architect, chiropractor, osteopath, and real estate are provided.

Official zoning map means the official zoning map of the city which depicts the territorial application of zoning use district classifications as established within this chapter.

Off-site, for tree relocation and tree replacement, means any location in excess of one mile from the tree's original location.

On-site, for tree relocation and tree replacement, means any location one mile or less from the tree's original location.

Open space means any portion of a lot or parcel unencumbered by either principal or accessory uses, buildings, structures and all other impervious surfaces. This definition shall not be construed to relate to the recreation and open space district.

Overlift means the removal of the majority of the inner lateral branches and foliage thereby displacing weight and mass to the ends of the branches. The alteration of the tree's live crown ratio may be considered as evidence of overlifting.

Panel antenna means a flat, rectangular antenna or array of antennas designed to concentrate a radio signal in a particular area.

Parapet means a false front or wall extension above the roofline.

Parcel of land means any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designed by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

Parking lot means an open area used exclusively for the temporary transient storage of licensed private passenger vehicles for personal transportation, which their operators are en-

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gaged in other activities, whether or not a fee is charged. It shall not include storage of new or used cars for sale, service, rental or any purpose other than specified in this definition. "Parking" shall apply only to open-air storage of automobiles.

Parking space means an area, enclosed or unenclosed, measuring ten feet by 20 feet sufficient in size to store one vehicle. Handicapped spaces shall be 12 feet by 20 feet.

Permitted use means the specific purpose for which land or a building is maintained in accordance with the zoning use district regulations.

Pervious area means a surface area that allows, without great difficulty, penetration by water.

Pet shop means a retail or wholesale establishment dealing in dogs, cats, hamsters, birds, tropical fish and other small animal life which are commonly owned as household pets. Animals which have a generally accepted group reputation of hostile or dangerous inclinations towards humans, such as snakes and lions, shall not be maintained or sold on the premises.

Place of worship means a building, including a church, synagogue or other house of religious worship, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by an organized religious organization. Permitted accessory uses shall be offices, day care, pastor's residence, school, hall, thrift shops and related facilities. Rescue missions, tent revivals and other temporary assemblies are not included in this definition.

Plan means the comprehensive plan of the city as it meets the criteria of the Local Government Comprehensive Planning and Land Development Regulation Act and this chapter.

Planning and zoning board means the advisory body to the city commission with only those powers established in this chapter and as may be granted to it by the city commission.

Plant material means plant material in conformance with the standards for Florida No. 1 or better as given in the current "Grade and Standards for Nursery Plants," State of Florida, Department of Agriculture, Tallahassee, or its equal.

Plat of record means a plat which conforms to all the requirements of the applicable laws of the state and this chapter and has been filed and recorded in the applicable office of the clerk of the circuit court.

Plat of survey means a recent document prepared, signed, sealed and dated by a registered land surveyor setting forth a scale drawing of the subject property, including all bodies of water, fences, and any other physical obstructions or structures, a metes and bounds description of the property, and a statement of the acreage.

Potable water means water satisfactory for drinking, culinary and domestic purposes, meeting the quality standards of all applicable federal, state and local regulatory authorities.

Principal arterial means a route which generally serves the major centers of activity of an urban area, the highest traffic volume corridors, the longest trip purpose and carry a high proportion of the total urban area travel on a minimum of mileage. U.S. Highway 1, Pembroke Road, A1A, and Hallandale Beach Boulevard shall be principal arterials.

Principal use means the primary or predominant use of any lot, building or structure.

Property line means the same as "*Lot line.*"

Property line, front, means the same as "*Frontage.*"

Property line, rear, means a property line opposite and most distant from the front property line. For a triangular lot, the rear property line shall mean a line ten feet in length within the lot parallel to the front property line and at the maximum distance from it.

Property owners' association means a nonprofit organization recognized as such under the laws of the state operated under recorded land agreements through which each owner of 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

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indirect for maintaining common properties within the subdivision, such as roads, parks, recreational areas, common areas or other similar properties. Within the text of this chapter, a property owners' association is considered a single entity for property ownership.

Protective barrier means a physical structure at least four feet in height limiting access to a protected area, composed of wood or other suitable materials which assures compliance with the intent of this chapter.

Prune means to cut away, remove, cut off or cut back parts of a tree.

Public notice means the legal advertisement given of an action or proposed action of a governing body or designee as set forth in these regulations or applicable statute of the state.

Rap house means a youth-oriented facility acting as a reception center for drug-involved young people. It relies on the supportive service of peer involvement through rap sessions. It provides referral to other social services and medical agencies. The facility may be a storefront, house or building located within the social setting of the population served.

Rated capacity means the maximum capacity of the water treatment plant to produce potable water as evidenced by the permit of the state department of health and rehabilitative services.

Recreation vehicle means the following types of vehicles:

(1) *Travel trailer* means a vehicular, portable structure built on a chassis and towed, designed to be used as a temporary dwelling for travel, recreation and vacation uses; permanently identified as a travel trailer by the manufacturer of the trailer; and, when factory equipped for the road, having a body width not exceeding eight feet and a body length not exceeding 32 feet.

(2) *Pickup coach* means a structure designed to be mounted on a truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation and vacation use.

(3) *Camping trailer* means a collapsible temporary dwelling structure covered with a water-repellent fabric, mounted on wheels, and designed for travel, recreation and vacation uses.

(4) *Auto camper* means a lightweight, collapsible unit that fits on top of an automobile and into the trunk with the cover removed, and designed for travel, recreation and vacation uses.

(5) *All-terrain vehicles* means dune buggies, swamp buggies and the like, whether or not licensed as recreation vehicles by the state.

(6) *Motor home* means a fully self-propelled vehicle designed for use as both a temporary dwelling and transportation for travel, recreation and vacation uses.

Redevelopment area means a slum area or a blighted area or a combination of areas which the governing body designates as appropriate.

Removal means the cutting down, digging up, destroying, effectively destroying, or the unlicensed relocation of any tree.

Residential use means the same as "*Dwelling.*"

Rest home means the same as "*Nursing home.*"

Restaurant means an establishment where food and beverages are ordered from a menu, prepared, and served for pay, for consumption on the premises in a completely enclosed room, under the roof of the main structure, or in an interior or exterior court, including a cafeteria.

Restaurant, fast-food, means an eating establishment whose principal business is the sale of food and beverages in a ready-to-consume state for consumption on or off the premises, and whose operation includes food which is served or packaged in disposable containers through a drive-through window or for consumption by customers in parked motor vehicles as in drive-in restaurants.

Retail food establishment means an establishment in which the primary use is the sale of food

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for consumption off the premises and which may include tables and chairs as an accessory use as may be permitted by this chapter.

Right-of-way means the area of a highway, road, street or alley, or other such strip of land, reserved for public use, whether established by prescription, easement, dedication, gift, purchase, eminent domain or any other legal means.

Roominghouse means a building other than a hotel or motel where lodging, but not meals, is provided for compensation for not more than ten or less than three persons not of the immediate family.

Satellite antenna means an antenna, usually a dish antenna, whose purpose is to receive communication or other signals primarily from orbiting satellites.

Satellite dish antenna height means the height of the antenna or dish, measured vertically from the highest point of the antenna or dish, when positioned for operation, to the bottom of the base which supports the antenna or dish.

Self-support / lattice tower means a communication tower that is constructed to be structurally self-supported by lattice-type construction without the use of guy wires or other supports.

Service station means any building, structure or land used primarily for the retail sale of any automobile fuels, oils or accessories, but not including major repair work such as motor overhaul, body and fender repair or spray painting. A service station may provide for the replacement of minor vehicle parts, such as spark plugs, batteries, mufflers, water hoses, fan belts, windshield wipers, brake fluid, lightbulbs, wheel bearings and fuel pumps and the conduct of minor servicing activities, such as washing, polishing, lubricating and minor engine tune-ups.

Setback means the same as "*Yard setback.*"

Sexual activities, specified, means:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy;

(3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.

Shape means the regular and frequent shearing of outer tree branches, making pruning cuts of one inch in diameter or less, for the purpose of controlling the size and shape of the tree canopy.

Shopping center means a parcel of land more than three acres in area containing common off-street parking and landscaping areas, and having two or more business establishments built on a site which is planned or developed as a unit. A shopping center shall have a primary use which is retail or is retail in combination with office and/or personal service establishments.

Shrubs and *hedges* mean self-supporting, woody, evergreen species. Hedges, where required, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen.

Sidewalk or sandwich sign means a movable sign not secured or permanently attached to the ground.

Sign means any structure or any device attached to a structure or applied to any surface or object, for visual communication, embodying letters, numerals, symbols, figures or designs in the nature of an announcement, direction or advertisement, directing attention to an object, product, place, activity, service, person, institution, organization or business, and which is visible from any public street, alley, waterway or public place.

Sign face means the part of the sign that is or may be used for advertising purposes.

Site improvements means those physical alterations to a lot or parcel intended to render it suitable for construction purposes. For the purpose of this definition, the term means actual construction authorized by a building permit site plan approval.

Site plan review means that portion of the development review process which deals primarily with a qualitative and quantitative review and evaluation of the internal physical arrangement of and relationships between uses, structures, vehicular use areas and landscape element.

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Slum area means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and is detrimental to the public health, safety, morals or welfare.

Specimen tree means any tree which has a DBH of 18 inches or greater for conifers and 24 inches or greater for hardwoods or palms and is well shaped and in good health. The following trees are not specimen trees:

(1) Nonnative fruit trees that are cultivated or grown for the specific purpose of producing edible fruit, including but not limited to mangos, avocados, or species of citrus.

(2) Species of the genus Ficus except F. aurea (strangler fig), F. laevigata (short leaf fig), F. rubiginosa (rusty fig or rusty leaf fig), and F. jacquinifolia.

(3) Paurotis palm (Acoelorraphe wrightii) and the Phoenix palm (Phoenix reclinata) which are less than 15 feet in height, and all other multitrunk palms.

Stacking space means a space enclosed by imaginary lines utilized as a waiting space by driver-occupied vehicles relating to drive-in or drive-through business operations. Stacking space does not include the space or spaces utilized for rendering service to the vehicle's occupants or for required off-street parking.

Stealth facility means any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and communication towers designed to look like light poles or trees.

Store, personal service, means an establishment which provides personal services directly to the consumer, such as a barbershop, beauty shop or dry cleaners, but which does not have as its primary function the sale of retail goods.

Store, retail, means an establishment which sells goods or products directly to the general public for compensation.

Store, wholesale, means an establishment which, usually as an intermediate distributor, sells goods or products in bulk quantity to retail and personal service stores and other business establishments but does not deal directly with the ultimate consumer.

Street means any public thoroughfare, street, avenue, boulevard, parkway or space which may or may not be dedicated or deeded to the public for public use and which affords the principal means of access to abutting property.

Street, arterial, means streets and highways serving major activity centers, the highest traffic volume corridors, the longest trip desires, and a high proportion of total urban area travel on a minimum of mileage, including portions of the federal aid urban system, the state primary and secondary systems and those county-maintained facilities providing service to trips to moderate lengths.

Street, collector, means streets penetrating neighborhoods, collecting traffic from local streets in the neighborhood, and channeling it into the arterial systems.

Street, local, means a street system not on one of the higher systems and serving primarily to provide direct access to abutting land and access to the higher order systems.

Street, private, means any street existing prior to or at the time of adoption of this chapter which has not been dedicated for public use and not accepted for ownership or maintenance by the city commission. After adoption of this chapter, no new private streets may be created or approved, and thereafter maintained, unless they are on property under single ownership or are controlled

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by a property owners' association that has the obligation for complete control and maintenance of those private streets.

Street, public, means any street designed to serve more than one property owner which is dedicated to the public use and accepted for ownership and maintenance by the city commission.

Structure means anything constructed, installed or portable, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on a parcel of land, or which is attached to something having a permanent location on a parcel of land. It includes a movable structure, while it is located on land, which can be used for residential, business, office, or industrial purposes, either temporarily or permanently. The term also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, and advertising signs, unless specifically excluded elsewhere within this chapter.

Subdivision means the division of real property into two or more lots, parcels, tracts, tiers, blocks, sites, units or any other division of land, or if the establishment of new streets and alleys is involved, any division of such parcel. The term includes resubdivisions and, when appropriate to the text, relates to the process of subdividing or to the lands or area subdivided.

Substance abuse facility, nonresidential, means a facility established to aid persons involved with excessive or illegal use of drugs, narcotics or other hallucinatory substances (not including alcohol) which have created dependency on such substances. This term includes but is not limited to methadone maintenance facilities, outpatient facilities, day care centers, hotline facilities, educational facilities, and rap houses.

Tent means any structure or enclosure, the roof or half or more of the sides, or both, of which are of silk, cotton, canvas, or a like material.

Topiary means the practice of pruning a tree into an ornamental shape by the removal of branches no larger than one inch in diameter and in accordance with an approved landscape plan.

Towing service storage facility means a facility used only for the temporary indoor or outdoor storage of vehicles towed by a towing or wrecker service and accessory administrative and support services. It does not include the storage or processing of junk vehicles, equipment or machinery. Abandoned vehicles, equipment or machinery may be stored in a towing facility provided they are promptly removed within the time limits required for legal processing.

Townhouse means three or more attached single-family dwelling units, each of which is designed for or occupied by no more than one family or household with no other dwelling unit located above or below another. Townhouses shall be attached to one another by at least one party wall extending from the foundation to the roof, and they shall provide two direct means of access from the outside. The length of the shortest attachment along any unit's party wall shall be no less than 50 percent of the length of the building's maximum overall length, measured front to rear.

Trailer, house, means the same as "*Mobile home.*"

Trailer, travel, means the same as "*Recreation vehicle.*"

Tree abuse means the hatracking of a tree; pruning that reduces the height or spread of a tree that has not attained a height or spread of 30 feet; cutting upon a tree which destroys its natural habit of growth; pruning that leaves stubs or results in a flush cut or splitting of limb ends; peeling or stripping of bark to the extent that if a line is drawn at any height around the circumference of the tree, over one-third of the length of the line falls on portions of the tree where bark no longer remains; the use of climbing spikes, nails or hooks; or pruning that does not conform to Natural Arborist Association Standards.

Tree canopy means the upper portion of the tree consisting of limbs, branches and leaves.

Tree survey means a minimum one inch equals 200 feet scale aerial or drawing to scale which provides the following information: location of all trees protected under the provisions of this chapter, plotted by accurate techniques, common name,

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and caliper of all trees. Such survey shall be conducted and certified to by a qualified landscape architect or urban forester.

Trees means self-supporting, woody plants which have a trunk diameter of at least three inches measured 4½ feet above grade (at the base of the tree) and normally grow to a minimum height of 15 feet or greater in the county and having trunks which can be maintained with over five feet of clear wood.

Use, principal, means the same as "*Permitted use.*"

Variance means a relaxation of the area or dimensional requirements of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, literal enforcement of this chapter would result in unnecessary and undue hardship.

Vehicle means a conveyance for persons or materials, as may be licensed by the state.

Vehicular use area means all areas for the circulation, parking or display of any and all types of vehicles, boats or heavy construction equipment, whether self-propelled or not, and all land upon which vehicles traverse as a function of the primary use, including those of a drive-in and drive-through nature.

Veterinary clinic means the same as "*Animal hospital.*"

Violator means a person who abuses a tree or otherwise violates this section. The owner of property upon which the abused tree is located shall also be deemed a violator if the tree abuse is undertaken by the owner's employee, agent or person under the owner's control.

Warehouse means a structure which is designed and used for the containment of bulk products or materials of either a dry or cold storage nature, and has no on-premises business activities of a retail, wholesale, personal service or repair nature.

Whip antenna means a cylindrical antenna that transmits signals in 360 degrees.

Yard means an open area between a building, structure or use and an adjoining lot line which shall be unoccupied and unobstructed by any building, structure or use from the ground up except as may be otherwise provided for in this chapter.

Yard, required front, means a yard extending across the full width of the lot or parcel and measured from the front line of the lot or parcel.

Yard, required rear, means a yard extending across the full width of the lot or parcel and measured from the rear line of the lot or parcel.

Yard, required side (corner), means a required side yard which abuts a street.

Yard, required side (interior), means a yard extending across the full depth of the lot or parcel from a side line which abuts an adjacent lot or parcel.

Yard setback means the minimum horizontal distance between the front, rear or side lines of the lot and the front, rear or side lines of the building. When two or more lots under one ownership are used, the exterior property lines so grouped shall be used in determining building setback when the interior common lot line is straddled by the principal structure.

Zoning use district means an area within the city designated by a single zoning classification with uniform development regulations throughout.

(Code 1980, app. A, art. II, § 2; Ord. No. 1998-19, § 1, 10-6-1998; Ord. No. 1998-24, § 1, 12-1-1998; Ord. No. 1999-1, § 1, 1-19-1999; Ord. No. 2000-9, § 1, 4-4-2000; Ord. No. 2000-26, § 1, 11-8-2000; Ord. No. 2003-02, § 2, 1-2-2003; Ord. No. 2003-14, § 1, 8-5-2003; Ord. No. 2004-2, § 1, 2-17-2004; Ord. No. 2004-30, § 1, 12-7-2004)

Cross reference—Definitions generally, § 1-2.

Sec. 32-9. Cost recovery.

(a) *Cost recovery.* To the extent that any application under chapter 32 ("Zoning and Land Development Code") requires additional review, the actual costs for such additional review shall be passed on to the applicant. The term "additional review" includes all reviews of an application on

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behalf of the city where the city utilizes the services of an outside contractor, agent, or consultant, including attorneys retained by the city.

(b) *Applicability of provisions.* The cost recovery required above shall not apply to applications that are originally initiated by or on behalf of the city.

(c) *Preservation of administrative fee schedule.* The schedule of building permit and related land development fees established by the city in this Code shall not be affected by this section.

(d) *Cost recovery deposit.* Any person or entity filing an application for land development with the city under chapter 32 (the "applicant") shall pay a deposit to the city (the "cost recovery deposit") in an amount specified by the city manager, approximating the estimated costs for administration. The deposit amount may be subsequently modified by the city manager based upon a revised analysis and evaluation of the city's estimated actual costs to review and process the particular application.

(e) *Cost recovery account.*

(1) Upon receipt of the cost recovery deposit, the city shall open a cost recovery account identifying the application, which shall be maintained until the applicant receives a certificate of occupancy or other applicable final approval from the city, and the city determines that no further action is necessary for the review and processing of the application or the applicant voluntarily withdraws the application (the "final approval").

(2) A debit based upon the costs in reviewing the applicant's application(s) shall be charged against the cost recovery account.

(f) *Supplemental deposits.*

(1) The city shall monitor the cost recovery account on a periodic basis.

(2) Whenever the account balance is zero or negative, a supplemental deposit (the "supplemental deposit") will be required before any further review or processing continues.

(3) The city shall notify the applicant when a supplemental deposit is required. The amount of the supplemental deposit shall be determined by the city manager and shall be equal to the estimated costs to complete review of the application.

(4) Any notification for a supplemental deposit provided by the city to an applicant shall be deemed sufficient if made by a telephone call to the applicant or the applicant's agent with a confirming letter to follow.

(g) *Return of cost recovery deposit.* After the final approval, the city shall close the cost recovery account and shall refund any remaining funds to the applicant within 60 days.
(Ord. No. 2004-08, § 1, 4-20-2004)

Secs. 32-10—32-40. Reserved.

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ARTICLE II. PLANNING

DIVISION 1. COMPREHENSIVE PLANNING*

Sec. 32-41. Declaration of intent.

In accordance with the terms of the Act, the city commission declares its intention to exercise its authority under the Act for the total area under its jurisdiction. The commission finds that the establishment of a comprehensive planning process, the preparation of a comprehensive plan, and the adoption of a comprehensive plan for the city is in the public interest. A comprehensive plan shall be prepared by the city in conformity with the provisions of the Act and this article and shall be adopted by the commission on or before July 1, 1979.
(Code 1980, § 22-21)

Sec. 32-42. Legal status of the plan.

In accordance with section 12 of the Act (F.S. § 163.3194), after the adoption of the plan or element or portion of the plan, no development, either public or private, shall be permitted within the city except in conformity with the comprehensive plan or element or portion of the plan.
(Code 1980, § 22-22)

Sec. 32-43. Designation of the local planning agency.

The city commission designates the planning and zoning board as the local planning agency of the city, pursuant to section 6 of the Act (F.S. § 163.3174). The planning department, as determined by the city manager, shall provide the necessary staff assistance for this function.
(Code 1980, § 22-23)

Sec. 32-44. Funding the local planning agency.

The local planning agency shall be funded by the commission from the general fund at a level adequate for the agency to perform its duties as required by the Act and this article. It may also be partially funded by public or private grants, donations and other sources approved by the commission; by charging fees for all copies of minutes, maps, reviews, regulations, rules, criteria, plans, evaluations and other data compiled by the agency; and by charging fees for services provided to outside persons, organizations or agencies, such fees to be equal to the actual cost of furnishing such services, including all materials and labor (both direct and indirect, including fringe benefits) plus administrative overhead.
(Code 1980, § 22-24)

Sec. 32-45. Duties of the local planning agency generally.

(a) The local planning agency shall manage the comprehensive planning program and prepare the comprehensive plan as required by the Act and this article.

(b) The agency shall conduct public hearings of the plan, or element or portion of the plan, after due public notice, and shall make final recommendations to the commission regarding the adoption of such plan or element or portion of the plan.

(c) The agency shall monitor and oversee the effectiveness, status and implementation of the plan and shall recommend to the commission such changes as may be required.

(d) The agency shall submit an annual report on the plan to the commission. This report shall include but is not limited to the criteria outlined in section 11(2) of the Act (F.S. § 163.3191(2)); shall be delivered to the commission no later than 30 days prior to the beginning of a fiscal year; and the first report shall not be required until after the plan or its first element has been adopted by the commission.

(e) The agency shall review and make recommendations to the commission on all proposed land development regulations and land development codes, and proposed amendments to such codes, prior to their adoption by the commission.

(f) The agency shall adopt rules of procedures necessary to perform its duties as required by the Act and this article.

***State law reference—**Local Government Comprehensive Planning and Land Development Regulation Act, F.S. §§ 163.3161—163.3217.

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(g) The agency shall have prepared a public participation and information program, meeting the requirements of section 8 of the Act (F.S. § 163.3181), for submission to the commission within 90 days from the effective date of Ordinance No. 1073, and shall be responsible for the management of the program upon its approval by the commission; the planning and zoning board being designated as the key body for public participation.

(h) The agency shall assist the commission in adopting and making amendments to the plan, or elements or portions of the plan, as required by the provisions of sections 9 and 10 of the Act (F.S. §§ 163.3184 and 163.3187).

(i) The agency shall perform all other functions and duties and have all other powers and responsibilities as set forth and established in the Act and this article or as specified by the city commission.
(Code 1980, § 22-25)

Sec. 32-46. Dissemination of information.

(a) The local planning agency shall have the responsibility to disseminate information to the general public regarding:

(1) Meetings planned by the planning and zoning board and ad hoc citizen advisory committees formed for the purpose of advising the agency.

(2) Meetings called by the agency to solicit advice and comment on the comprehensive plan or any element or portion of the plan.

(b) The agency shall notify all newspapers of general circulation in the city of the date, time, place and purpose of each meeting.

(c) The agency shall notify by mail all members of the board and ad hoc committees as to the date, time, place and purpose of each meeting.

(d) The agency shall make available to the general public all information planned for discussion at each meeting.
(Code 1980, § 22-26)

Sec. 32-47. Required comprehensive plan elements.

The comprehensive plan shall be developed pursuant to the requirements of section 7 of the Act (F.S. § 163.3177) and applicable provisions of the county charter,* and shall include the following elements:

(1) *Land use plan.* A land use element designating the spatial location, use intensity, and distribution of land within the city.

(2) *Traffic circulation plan.* An element consisting of existing and proposed thoroughfares and transportation routes.

(3) *Utilities plan.* A general sanitary sewer, solid waste, drainage, and potable water supply element correlated to the land use plan.

(4) *Recreation plan.* An element indicating a system of public and private sites utilized for recreation and open space.

(5) *Housing plan.* An element consisting of standards, plans and principles to be followed in the provision of housing for the existing and proposed population.

(6) *Coastal zone protection plan.* An element designed to maximize the conservation and recreational utilization of coastal resources.

(7) *Conservation plan.* An element for the conservation, development, utilization and protection of natural resources within the city.

(8) *Intergovernmental coordination plan.* An element showing relationships and stating principles and guidelines to be used in accomplishment of coordination of the plan with the plans of the school board and other units of local government providing services but not having regulatory authority over the use of land, with plans of Hollywood, Pembroke Park, Broward County and Dade County; and with the plans of the region, state and federal government.

*__Note—__See county charter, art. VI.

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(9) *Power plant siting plan.* If applicable, a utility element in conformance with F.S. ch. 403, pt. II (F.S. § 403.501 et seq.).

(10) *Economic plan.* An economic element encompassing those elements of the plan requiring the expenditure of public funds. This element shall show that the plan is economically feasible and shall include but is not limited to a five-year capital improvements program and a one-year capital budget as a means of indicating feasibility.

(Code 1980, § 22-27)

Sec. 32-48. Optional comprehensive plan elements.

The local planning agency may, subject to the approval of the commission, include any one or more of the following elements in the plan, pursuant to section 7 of the Act (F.S. § 163.3177):

(1) A mass transit element added to the traffic circulation plan.

(2) An off-street parking element added to the traffic circulation plan.

(3) A port and aviation element added to the traffic circulation plan.

(4) A nonautomotive vehicular or pedestrian circulation element added to the traffic circulation plan and covering such possible areas as bikeways, exercise trails, riding facilities, pedestrian walkways, and other similar types of facilities required to meet the social, recreational or economic needs of city residents.

(5) A public services and facilities element extending the scope of utility items required in the utilities plan.

(6) A public buildings and related facilities element showing the location, type, design and need, and showing how the facility will be coordinated with other governmental facilities and services.

(7) A community design element consisting of standards and principles to be followed in the implementation of the plan or element or portion of the plan.

(8) An area redevelopment element consisting of plans and programs for the redevelopment of particular sections of the community, including but not limited to public building sites, recreational facilities, slums and blighted areas, housing sites, and business and industrial areas.

(9) A safety element for the protection of residents and property in the city from fire, hurricane, or other manmade and natural catastrophe.

(10) A historic and scenic preservation element setting out plans for those structures or lands having historical, archaeological, architectural, scenic or similar significance.

(11) An economic element setting forth principles and guidelines for commercial and industrial development, and employment and manpower utilization within the city.

(12) Such other elements as may be peculiar to and necessary for the area concerned and as are added to the plan by the commission upon recommendation of the agency.

(Code 1980, § 22-28)

Sec. 32-49. Public meetings and records.

All meetings of the local planning agency shall be open to the public, and all records of the agency are public records.

(Code 1980, § 22-29)

Sec. 32-50. Conducting public hearings; purposes; formation of ad hoc committees encouraged.

(a) The local planning agency shall conduct public hearings on the comprehensive plan or any portion or element of the plan. The purpose of such hearings will be to provide the general public with an opportunity to comment and be heard on the proposed plan, or element or portion of the plan under consideration.

(b) In an effort to provide all citizens with the opportunity to become involved in the planning process, the local planning agency will encourage

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the formation of ad hoc citizens committees at the neighborhood level if and when appropriate to the matter under consideration.
(Code 1980, § 22-30)

Sec. 32-51. Elements of comprehensive plan adopted.

(a) The comprehensive plan for the city, consisting of the future land use plan element; the housing element; the coastal zone management element; the private utility element; the intergovernmental coordination element; the traffic circulation element; the general sanitary sewer, solid waste, drainage and potable water element; and the recreation and open space element, consisting of three volumes of a document entitled "Hallandale Beach Comprehensive Plan," a copy of which is attached to the ordinance or ordinances from which this section is derived, and made a part of this Code, is adopted.

(b) Pursuant to the county charter, and F.S. ch. 163, the comprehensive plan adopted by this section, as amended from time to time, will fully control and regulate all land development in the city; and all development undertaken by and all actions taken in regard to development orders by the city, in regard to land within the city, shall be consistent with this comprehensive plan, or element or portion of the plan, as amended from time to time.
(Code 1980, § 22-31)

Sec. 32-52. Land assembly program; purpose.

This section is adopted to establish a process governing the use of the power of eminent domain to assist in the assembly of land, improvements, and properties necessary to carry out redevelopment in the city.
(Ord. No. 2003-13, § 1, 6-17-2003)

Sec. 32-53. Definitions.

The following terms mean:

Acquisition parcel(s) means an individual parcel or parcels of land within a candidate redevelopment area, which is not controlled by the developer who proposes to undertake redevelopment of the candidate redevelopment area.

Bona fide offer means an offer in the amount of the fair market value of the property as appraised by the current property owner, by an MAI appraiser, or an offer in the amount of 120 percent of the current assessed value of the property according to the Tax Assessor of Broward County, whichever is greater.

Candidate redevelopment area means an area of land located in a city redevelopment area which is a logical and appropriate unit of land for redevelopment.

Control means an owner of an interest in the real property or the holder of a contract to purchase an interest in real property which provides for specific performance in favor of the contract purchaser or other enforceable agreement within a candidate redevelopment area.

City redevelopment area means an area within the city, which is designated by resolution as deteriorated, under utilized, obsolete or otherwise in need of revitalization or redevelopment. A city redevelopment area must be located in a community redevelopment area as defined in Chapter 163, Florida Statutes.

Developer means a person who is the owner of interest in real property, and who shall continue in ownership through the development of the real property and development project, which interest can be sold by legal process for the improvement of any building, structure, construction, demolition, excavation, solid-waste removal, landscaping, or any part thereof existing, built, erected, placed, made or done on land or other real property to prepare a structure for occupancy for its permanent benefit.
(Ord. No. 2003-13, § 1, 6-17-2003)

Sec. 32-54. Designation of a redevelopment area.

The city commission may designate by resolution certain areas located within the city as a redevelopment area. The commission shall determine that such areas are deteriorated, underutilized, obsolete or otherwise in need of

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revitalization or redevelopment, and that it is appropriate that those individual parcels of land be assembled into logical and appropriate units of land which will allow for desired redevelopment. (Ord. No. 2003-13, § 1, 6-17-2003)

Sec. 32-55. Eligibility for land assembly.

Any developer who controls at least 70 percent of the privately owned property within a candidate redevelopment area or 60 percent within a city redevelopment area of one acre or less, and who has made a bona fide offer to purchase the balance of the property within the designated candidate redevelopment area is eligible to request an exercise of the city's power of eminent domain to assist in the assembly of an acquisition parcel in accordance with the provisions of this section.

Sec. 32-56. Petition for land assembly assistance.

A developer eligible to qualify for "petition" of the exercise of the city's power of eminent domain to assist in the assembly of land within a candidate redevelopment area may initiate the "land assembly assistance" process for the purpose of acquiring one or more acquisitions parcels by filing a petition for land assembly assistance with the city clerk along with:

(1) A description of the boundaries of the candidate redevelopment area where the acquisition parcel(s) to be acquired is/are located along with a survey and graphic depiction of the redevelopment area;

(2) A sworn statement that the petitioner controls at least 70 percent of the candidate redevelopment area in which the acquisition parcel(s) proposed to be acquired is/are located;

(3) A description of the developer's proposed redevelopment program together with a sworn estimate of the fair market value of the proposed redevelopment when completed;

(4) A sworn statement that the petitioner has made a bona fide offer to purchase the acquisition parcel(s) from the owner(s) of record, which offer was open for a period of at least 30 days, and that the offer was not accepted; and

(5) A proposed land assembly agreement setting out terms and conditions including the maximum amount of money the developer would be willing to pay to acquire property for which land assembly assistance is sought.

(Ord. No. 2003-13, § 1, 6-17-2003)

Sec. 32-57. Land assembly assistance criteria.

The following criteria shall be considered in determining whether a petition for land assembly assistance should be granted:

(1) The proposed redevelopment program is unlikely to occur without land assembly assistance;

(2) The proposed redevelopment program will further the city's redevelopment goals and objectives in the city's comprehensive plan;

(3) The petitioner demonstrates the qualifications, experience and financial capacity to carry out the proposed program of redevelopment;

(4) The proposed redevelopment program will be economically successful;

(5) The proposed redevelopment program will have a positive fiscal impact on the city taking into consideration any costs to be assumed by the city in carrying out the proposed land assembly assistance.

(Ord. No. 2003-13, § 1, 6-17-2003)

Sec. 32-58. Recommendation.

Within 30 days after receipt of a completed petition for land assembly assistance, the city manager shall prepare a recommendation concerning the petition unless the city manager determines that the proposed redevelopment program is inconsistent with the city's comprehensive plan or is likely to have a negative fiscal impact on the city. If the petition includes a proposal to reimburse the city for all expenses incurred by the city in providing land assembly assistance and the

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city manager finds that the petition satisfies each of the criteria in section 32-57, the city manager may recommend that the city commission authorize the execution of the proposed land assembly agreement and initiate eminent domain proceedings. If the petition does not propose to reimburse the city for all expenses incurred by the city in providing land assembly assistance, the city manager may base his recommendation on the extent to which the request for land assembly assistance satisfies the criteria of section 32-57.
(Ord. No. 2003-13, § 1, 6-17-2003)

Sec. 32-59. Authorization to acquire parcels.

The city commission at a public meeting shall consider the city manager's recommendation. If the petition includes a proposal to reimburse the city for all expenses incurred by the city in providing land assembly assistance, the city commission may authorize the execution of the proposed land assembly agreement and initiate eminent domain proceedings if the commission determines that the proposed land assembly satisfies the land assembly assistance criteria contained in section 32-57. If the petition does not include a proposal to reimburse the city for all expenses incurred by the city in providing land assembly assistance, the city commission shall also base its decision on the extent to which the proposed land assembly assistance will have a positive or negative fiscal impact on the city.
(Ord. No. 2003-13, § 1, 6-17-2003)

Sec. 32-60. Disposition of redevelopment parcels.

After the city has acquired the parcel(s), the city shall convey the property to the developer subject only to the requirements of the City Charter and reimbursement pursuant to the terms and conditions of the land assembly agreement.
(Ord. No. 2003-13, § 1, 6-17-2003)

Secs. 32-61—32-70. Reserved.

DIVISION 2. PLATTING AND SUBDIVISIONS

Sec. 32-71. Purpose, authority and legal provisions.

(a) *Purpose and intent.* The city commission finds that standards and procedures for the orderly development, subdivision and plat recordation of lands within the incorporated area of the city are necessary and proper to provide for:

(1) Accurate legal description, identification and monumentation of land;

(2) Rational and orderly arrangement of and relationship between land uses;

(3) Safe, convenient and efficient circulation of vehicular and pedestrian traffic;

(4) Adequate facilities for the use and benefit of the residents of the city, including but not limited to open space, police and fire protection, school sites, wastewater treatment, potable water supply and solid waste disposal;

(5) Suitably drained and readily accessible building sites;

(6) Timely and economic installation of necessary public improvements; and

(7) Conservation, protection and enhancement of the physical natural and economic resources of the city;

therefore, the city declares these purposeful and intentional regulations to accomplish the purpose and intent.

(b) *Authority.* Pursuant to F.S. chs. 163 and 177, county Ordinance No. 77-43, and other applicable laws, the city commission, a political subdivision of the state, enacts the requirements for the division, subdivision, platting and design and installation of required improvements for all lands now or hereafter within the incorporated boundaries of the city.

(c) *Short title.* This division shall be known and may be cited as the "Platting and Subdivision Ordinance of the City of Hallandale Beach, Florida."

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(d) *Interpretation and conflict.* This division and its application shall be deemed to be the minimum acceptable requirements. This division and its application is not intended to interfere with, abrogate or annul any other valid rule, regulation or ordinance. Where the provisions of this division impose or require different restrictions, requirements or design standards, those regulations or ordinances having the higher or more restrictive requirements shall govern and control.

(e) *Enforcement.* It shall be the duty of the director to ensure full compliance with all the provisions of this division and to bring to the attention of the city attorney any violation or lack of compliance with this division for such legal recourse as the city attorney shall deem appropriate.
(Code 1980, app. A, art. X, § 1)

Sec. 32-72. Platting procedures and requirements.

(a) No person shall create or cause to be created the division, subdivision, resubdivision or platting of land or lands within the city except as provided in this division. No division, subdivision, resubdivision nor plat recordation shall be approved by the city commission unless it complies with the requirements and procedures of this chapter. No building permit for the construction of a principal building on a parcel of land shall be permitted unless a plat has been recorded in the official records of the county subsequent to June 4, 1953. This requirement shall not apply to applications for a building permit for the construction of a building or structure on any single-family lot or parcel less than five acres in size. In addition, this requirement shall not apply to any platted multi-family or nonresidential lot or parcel less than five acres in size provided all other applicable requirements of this chapter have been met. Subsequent building permits for accessory uses on the same land shall not require replatting provided all applicable requirements of this chapter have been met. Applicants may not divide or phase building permit requests to avoid being subject to this platting requirement. Any building permit requests within a two-year period for property that, on January 2, 1979, was contiguous and under common ownership, shall be cumulated for the purpose of the five-acre maximum parcel size.

(b) The platting requirements may be waived by the director, with the advice of the city attorney, when either of the following conditions is found to exist:

(1) The subdivision involved consists solely of the conveyance of land to, or granting or easements or rights-of-way to, a governmental or a public agency.

(2) Combination or recombination of existing platted land which is to be subdivided into not more than two contiguous lots each of which conform to all the zoning regulations of the city as applicable. No nonconforming lots shall result from this action.

(c) Pursuant to this section, if the requirements of platting are waived, the owner shall furnish the following items:

(1) Certified boundary survey by a registered land surveyor licensed to practice in the state.

(2) Fully executed instruments pertaining to required deeds, rights-of-way, easements or reservations as determined by the director.

(3) Bond or other acceptable surety in the manner prescribed by section 32-73 for all construction and maintenance of improvements required by the city.

(4) Current opinion of title from an attorney licensed to practice law in the state, or an opinion from a title insurance company licensed in the state and having offices in the county showing proof of ownership of the property.

(d) The developer or his engineer, surveyor or representative may seek the advice of the director to familiarize himself with the procedures and requirements of this chapter. Neither the developer nor his engineer, surveyor or representative shall in any way interpret the remarks or statements, expressed or implied, of the director as

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being binding upon the city, its boards, city commission or agents. The preliminary conference may be for the following purposes:

(1) Acquaint the developer with subdivision and platting regulations, applicable sections of the zoning ordinance and the adopted comprehensive plan.

(2) Indicate which sections, paragraphs or standards shall be likely to apply to the proposed development.

(3) Advise the developer of the procedural steps to be followed prior to filing a final plat.

(4) Examine unique problems affecting the proposed development.

(e) All proposed plats of subdivisions or resubdivisions of land and plans for the design and installation of improvements necessary to the platted land shall be reviewed as provided in this subsection.

(1) *Submission requirements.* All plats of proposed subdivisions and plans for required improvements shall be submitted to the director. Once applications for plat review are filed, the director shall, within 60 calendar days from the date of application, submit a report and recommendations to the development review board.

(2) *Staff review and recommendation.* The director shall cause all proposed plats of subdivision or plans as required under the provisions of this chapter to be reviewed for compliance with this chapter. The director shall further ensure that all applicable fees and agency notifications have been complied with by the developer. All material submitted to the director except required improvement plans and final plats shall be forwarded to the planning and zoning board together with the director's written recommendation to approve, approve with modifications or deny the proposed plat of subdivision or plans. The director may, for informational purposes, present a conceptual plan. To fulfill the requirements of this subsection, the director may consult with those federal, state, county and local agencies as necessary, including but not limited to U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, Division of State Planning, Broward County Planning Council, Broward County School Board, South Florida Regional Planning Council, city police and fire departments, and like agencies.

(3) *Board review and recommendations.* All applications for subdivision shall be considered by the planning and zoning board at a hearing. The board shall form a recommendation, transmitted in writing, to the city commission based upon the standards contained in section 32-74 and the director's written recommendation that the preliminary plat, or final plat if so designated by the applicant, be approved, approved with modifications or denied.

(4) *City commission review and action.* Upon receipt of a written recommendation from the planning and zoning board together with the director's written recommendation, the city commission shall approve, approve with modifications, or deny the proposed preliminary or final plat of subdivision.

(5) *Coordination with county.* Plats and required improvements plans shall be filed by the developer or subdividers with the county upon complete review and approval of the city in accordance with County Ordinance No. 77-42, as amended from time to time. Approval by the city shall not negate, nullify nor abridge any reviews or approvals by the county.

(6) *Fee.* Fees to be charged for plat review are on file in the city clerk's office.

An additional fee, on file in the city clerk's office, shall be charged for inspection of any required public improvements.

(Code 1980, app. A, art. X, § 2)

Sec. 32-73. Review of required public improvements plans.

(a) *Submittal to director.* Required public improvements plans as provided for under this chapter shall be submitted to the director for review

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and approval. Plans shall be approved and required improvements installed prior to recording a final plat except as may be provided in this chapter.

(b) *Plat recordation prior to completion of improvements.*

(1) When a developer wishes to record a final plat prior to the construction of required improvements, the developer shall post with the city guarantees or sureties providing for completion of the required improvements within one year after recording the final plat. All guarantees or sureties shall be of sufficient legal form and approved by the city attorney.

(2) The developer shall deposit with or place in an account subject to the control of the city cash in the amount of 110 percent of the estimate of engineering and construction costs for the installation and completion of the required improvements. The developer shall be entitled to secure draws from such deposits or accounts as installations progress at stages of construction established by the director, on a monthly basis. A draw from such cash deposit or account shall be made only when the costs of required improvements installed equal or exceed the amount of the draw requested plus any previous draws made if the director has reviewed the required improvements and authorized the draw. The director shall have the right to reduce the amount of any requested draw to an amount justified based on his review of the required improvements. The director shall further have the right to refuse to approve any requested draw if the developer fails to comply with any of the terms and conditions of the plat or plans and specifications for the required improvements. The developer shall be entitled to receive all interest earned on such deposit or account. The city after 60 calendar days' written notice to the developer shall have the right to use such cash deposit or account to secure satisfactory completion of the required improvements in the event of default by the developer or failure of the developer to complete such improvements within the time allotted in this article.

(3) The developer may furnish to the director his personal bond secured by an unconditional and irrevocable clean letter of credit for a period not to exceed one year, in an amount equal to 110 percent of the total estimated engineering and construction costs for the installation and completion of the required improvements. The letter of credit shall be issued by a State of Florida or United States banking institution to the city. Such letter of credit shall be in a form acceptable to the city attorney. During the process of construction, the director shall reduce semiannually the dollar amount of the bond on the basis of work completed; but sufficient funds shall remain to complete the balance of required improvements. The city after 60 calendar days' written notice to the developer shall have the right to use any funds resulting from drafts on the letter of credit to secure satisfactory completion of the required improvements in order to complete such improvements within the time allotted in this article.

(4) The developer may furnish to the city upon approval by the city attorney as to legal form and sufficiency a surety bond obtained from a company having a Best's rating of AAA guaranteeing that within the time allotted in this article all work required will be completed in full accordance with the plat and all conditions attached to the plat. Copies of the plat and conditions shall be attached to and made a part of the bonded agreement. The bond shall be the amount equal to 110 percent of the sum of the estimated engineering and construction cost. During the process of construction, the director shall reduce semiannually the dollar amount of the bond on the basis of work completed. The city after 60 calendar days' written notice to the developer shall call on the bond to ensure satisfactory completion of the required improvements in the event of

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default by the developer or failure of the developer to complete such improvements within the time allotted in this article.

(c) *Plat recordation after completion of improvements.* If the developer is permitted by the city to construct and complete required improvements prior to recording the final plat, the city shall have the right of entry upon the property to be platted for the purpose of reviewing the construction of the required improvements during the progress of such construction. The developer shall coordinate the construction with the director. When the required improvements are complete, the final plat, along with the records and data as required, shall be submitted by the developer to the director. When all requirements of this chapter have been complied with, the plat and a report shall be presented to the city for its review and approval by the director, no later than 30 calendar days after receipt of the completion certificate. Upon such approval, the plat shall be filed and recorded in the official records of the county, after approval by the county commission and all other applicable regulatory agencies.
(Code 1980, app. A, art. X, § 3)

Sec. 32-74. Review standards.

When consideration is given to any conceptual plan, preliminary plat or final plat, the planning and zoning board and the city commission shall be guided by and utilize the following standards:

(1) The plan shall afford adequate protection to adjacent and surrounding properties, provide harmonious internal development, provide adequate parking and adequate and safe circulation and ingress and egress, and shall be so designed that development in accordance with the plan will not adversely affect the health, safety or general welfare of persons residing or working in the neighborhood of the proposed development.

(2) The maximum residential density allowed and the maximum square footage of nonresidentially designated floor space shall be determined in context of the conceptual plan as a whole and shall not adversely affect adjacent development and shall be consistent with existing and proposed public facilities and the adopted comprehensive plan.

(3) Fences, walls or landscaping elements shall be provided at the perimeter of the development where necessary to screen improvements, glare, uses or other influences having an adverse impact either on the development or on adjacent property.

(4) Principal vehicular access to the development shall be from streets and roads capable of supporting the traffic that will be generated by the development. Access points shall be designed to prevent hazard to vehicular or pedestrian traffic. Merging and turnout lanes and traffic dividers shall be provided where existing or anticipated heavy flows of traffic indicate the need. Street circulation patterns shall comply with the county trafficways plan, as adopted by the county planning council.

(5) Pedestrian access shall be arranged to provide safe and convenient routes to and from the development. Pedestrian access routes within the development need not be adjacent to or in the vicinity of vehicular access routes.

(6) Within the development, streets, driveways, and parking, loading and service areas shall be designed so as to provide safe and convenient vehicular access to all uses and facilities. Pedestrian ways shall be located and controlled to minimize contact with vehicular traffic. Pedestrian passages over or under vehicular routes may be required. Developed recreation space and other open space intended for pedestrian use and pedestrian-oriented structures such as schools and churches shall be accessible from related structures such as dwellings and office buildings with a minimum of street crossings. Where possible, such uses shall be interconnected by a common pedestrian system.

(7) The development shall be located in an area for which public facilities are available and adequate for the uses proposed.

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The applicant may provide such facilities which are not presently available by written assurance that such facilities shall be included as a part of the preliminary or final plat.

(8) Within the development there shall be adequate space to permit accessibility to all structures by emergency vehicles and solid waste collection services.

(9) When a development is proposed to be staged or programmed in phases, each phase shall have open space in substantially no less than the same ratio as the entire open space bears to the entire development.

(Code 1980, app. A, art. X, § 4)

Sec. 32-75. Plat and plan requirement.

(a) *Purposes.* For the purposes of compliance with the legislative intent of this chapter, affording the developer a fair, impartial and expeditious review of his proposed plat of subdivision or plans of required improvements and further to afford all concerned and interested parties to the proposed plat of subdivision or plans of required improvements the opportunity for comments, three cumulative levels of planning, design, surveying and engineering are established. Conceptual plans are less detailed than are preliminary plats, which are less detailed than are final plats.

(b) *Conceptual plans.*

(1) A conceptual plan is a graphic representation of a concept of development and shall be submitted for all subdivisions or resubdivisions of land containing more than ten acres in gross site area. Conceptual plans shall be at a scale not smaller than one inch equals 200 feet.

(2) Conceptual plans shall be prepared by a registered engineer, registered surveyor, registered landscape architect, registered architect or professional urban planner. The information required to be shown on conceptual plans shall be the basis for preparing the preliminary and final plats. When conceptual plans are submitted they shall contain but are not limited to the following information:

a. Proposed subdivision name and any previous or former subdivision names, north arrow, scale and date.

b. Name and address of the owner; where a corporation or company is the owner of the subject subdivision, the name and address of the president and secretary of the corporation shall be shown.

c. A general vicinity map.

d. Boundaries and dimensions of the tract.

e. Existing zoning of the tract and all adjacent property.

f. Existing and proposed major drainage patterns and drainage courses.

g. Existing and proposed rights-of-way.

h. Adjacent rights-of-way and how they connect to the tract and how any proposed rights-of-way will connect to any adjacent unsubdivided or unplatted land. All proposed rights-of-way shall conform to the county trafficways plan as adopted by the county planning council.

i. Development specifications of the tract, including but not limited to:

1. Area of the tract in square feet and acres to the nearest tenth.

2. Proposed number of lots.

3. Amount and location of all land to be dedicated or reserved for all public and private uses, including rights-of-way, easements and the like.

4. Amount of area devoted to all existing and proposed land uses, including schools, open space, churches, residential and commercial, as well as their location.

5. All existing and proposed property lines.

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j. Name, business address and telephone number of those individuals responsible for the preparation of the drawing.

k. Such additional information as may be required by the director.

(c) *Preliminary plat.* A preliminary plat is an initial design solution to a concept of development. Preliminary plats shall be at a scale not smaller than one inch equals 100 feet and may be submitted for all subdivisions or resubdivisions of land. Preliminary plats shall be prepared by a registered surveyor. A registered engineer, registered architect, registered landscape architect or professional urban planner may provide assistance in the preparation of preliminary plats. When preliminary plats are submitted and no conceptual plan has been previously submitted, the requirements of subsection (b) of this section shall be complied with on additional drawings as necessary. The preliminary plat shall contain the following information:

(1) The location of any underground or overhead utilities, culverts, and drains on the property to be subdivided.

(2) Location, names and widths of existing and proposed streets, easements, building lines, alleys, parks and other open public spaces and similar facts regarding adjacent property.

(3) A recent topographic survey of existing conditions based on United States Coast (USC) and Geodetic Survey (GS), mean sea level (MSL) data, National Oceanographic Survey (NOS), contoured to an interval of one foot.

(4) The width and location of any streets, easements or other public ways or places shown upon the county trafficways plan within the area to be subdivided and any proposed vacations of such streets, easements, public ways or places.

(5) Legal description and boundary survey of the tract.

(6) Location of the nearest available public water supply and wastewater disposal system.

(7) The proposed lot lines with approximate dimensions and areas. In the case of odd or irregularly shaped lots, the setback lines as required in the applicable zoning district shall be shown.

(8) Building locations clearly illustrating the first floor finished elevation of each proposed building.

(9) The boundaries of proposed utility easements over or under private property, which shall not be less than ten feet in width, except as indicated in this article. Such easements shall provide satisfactory access to an existing public right-of-way. Drainage easements shall also be shown.

(10) Where the preliminary plat submitted covers only a part of the total property under the subdivider's ownership, a sketch of the prospective future street system of the unsubdivided part shall be required if not shown on a previously submitted conceptual plan for the entire property. The street system of the unplatted portion will be considered in the light of adjustments and connections with the street system of the platted portion.

(11) A master drainage plan at a scale not smaller than one inch equals 200 feet shall be prepared using the criteria in this article. Where the preliminary plat submitted covers only a part of the total property under the subdivider's ownership, the master drainage plan shall be for the entire property. It is the specific intent of this requirement that rights-of-way and easements for all drainage improvements, including but not limited to retention ponds, ditches, culverts, channels and the like required for the drainage of the site for both on-site and off-site improvements shall be provided for in the master drainage plan. Instruments shall be submitted fully executed in sufficient form for recording for all off-site drainage rights-of-way and easements not included on the final plat. These instruments shall be submitted with the final plat for recordation, along with any required federal, state or county permits.

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(12) Lot and block designation.

(13) All property lines either existing or proposed clearly shown and labeled as to distance.

(14) All proposed contours clearly illustrated and drawn at contour interval of one foot based upon USC and GS data (mean sea level).

(15) Location and description of all existing and proposed permanent reference monuments.

(16) All drainage structures and systems, existing and proposed. Calculations supporting the sizing of the structures shall be provided upon the request of the director.

(17) Preliminary drafts of any covenants necessary to the development of the site, including but not limited to:

a. Articles of incorporation of any homeowners' association.

b. Maintenance contracts for the upkeep of any common or open space areas.

(d) *Final plat.* A final plat is the final design solution to a concept of development. A final plat shall be at a scale not smaller than one inch equals 100 feet and shall be submitted for all subdivisions or resubdivisions of land. Final plats shall be prepared by a registered surveyor in accordance with F.S. ch. 177. A registered engineer, registered architect, registered landscape architect or professional urban planner may provide assistance in the preparation of final plats. When final plats are submitted and no conceptual plan or preliminary plat has been previously submitted, the requirements of subsections (b) and (c) of this section shall be complied with on additional drawings as necessary. The final plat shall contain the following information:

(1) Sufficient data to determine readily and to reproduce on the ground location, bearing and length of every street line, lot line, boundary line and block line either curved or straight, and true north point. This shall include radii, arc distances and the central angle or radii, chord and chord bearing or both. Radial lines shall be designated, and the direction of nonradial lines shall be indicated.

(2) All dimensions shall be accurate to the nearest hundredth of a foot and angles and bearings to the nearest second.

(3) The final plat shall be drawn on linen, mylar, chronoflex or other dimensionally stable material in accordance with state law.

(4) The final plat shall contain on the face or first page provision for the following certifications and approvals, acknowledged as required by law:

a. *Dedications.* The purpose of all reserved areas shown on the plat shall be defined in the dedication on the plat. All areas reserved for use by the residents of the subdivision shall be so dedicated; and all areas reserved for public use, such as school sites, parks, rights-of-way for roads, streets or alleys, easements for utilities, rights-of-way and easements for drainage purposes and any other public area, shall be dedicated by the owner of the land at the time the final plat is recorded.

b. *Mortgagee's consent and approval.* The mortgagee's consent and approval of the dedication shall be required on all plats where mortgages encumber the land to be platted. The signature of the mortgagee must be witnessed and acknowledged. If the mortgagee is a corporation, the consent and approval shall be signed by any two officers of the corporation authorized to do so.

c. *Certification of surveyor.* The final plat shall be prepared under the responsible direction and supervision of a professional land surveyor, who shall certify on the plat that the plat is a true and correct representation of the lands surveyed and that the survey data comply with all of the requirements of this article. The

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certification shall bear the signature, registration number and the official seal of the land surveyor. The certification shall also state that permanent reference monuments (PRMs) have been set in compliance with F.S. ch. 177 and this article, and that permanent control points (PCPs) will be set under the direction and supervision of the surveyor within one year from the date the plat is recorded. When required improvements have been completed prior to the recording of a plat, the certification shall state that PCPs have been set in compliance with the laws of the state and ordinances of the city.

d. *Signature blocks for officials.* Signature blocks with name and title of the appropriate official shall be provided. The signatures of two city officials shall be affixed to all approved final plats. The mayor and the city clerk shall sign the final plat.

e. *Certification of title.* A title certification shall be contained on the face or first page on the final plat. The title certification shall state:

1. That the lands as described and shown on the plat are in the name of and apparent record title is held by the person executing the dedication.
2. That all taxes have been paid on the lands as required by F.S. § 197.046.
3. All mortgages on the land and their official record book and page number.

The title certification must be an opinion of an attorney-at-law licensed in Florida or a title insurance company licensed in Florida and having offices in Broward County.

(e) *Submittal of final plat.* A final plat shall be submitted to the director within one year from approval of a preliminary plat by the city commission. The director shall cause a review to be performed of a proposed final plat, which shall include but is not limited to:

(1) *Plat preparation.* The final plat shall be drawn or printed on 24-inch by 36-inch linen, chronoflex, mylar or other dimensionally stable materials. The final plat shall be prepared by a land surveyor currently registered in the state and shall be clearly and legibly drawn with black permanent ink or veritype process to a scale not smaller than one inch equals 100 feet or as otherwise determined by the director.

(2) *Name of subdivision.* Every subdivision shall be given a name by which it shall be legally known. This name shall not be the same or in any way similar to any other name appearing on any recorded plat except when the proposed subdivision is subdivided as an additional unit or section by the same developer or his successors in title. Every subdivision's name shall have legible lettering of the same size and including the words "section," "unit," "replat," "amended" and the like. The name of the subdivision and all dedications within the subdivision shall be the same and shall be shown on the final plat. The name of the subdivision shall be shown on every page.

(3) *Description.* Each final plat shall show a description of the land subdivided. The description must be so complete that from it, without reference to the plat, the starting point and boundary can be determined.

(4) *Index.* When more than one sheet must be used to accurately portray the lands subdivided, the plat shall contain an index sheet showing the entire subdivision as well as the sheet layout. In addition, each sheet must show the particular number of that sheet and the total number of sheets including clearly labeled match lines to show where other sheets match or adjoin.

(5) *Lot and block identification.* All lots shall be numbered either by progressive num-

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bers or, if in blocks, progressively numbered in each block. The blocks shall be progressively numbered or lettered, except that blocks in numbered additions bearing the same name may be numbered consecutively throughout the several additions.

(6) *Excepted parcels.* All interior excepted parcels shall be clearly indicated and labeled "Not a part of this plat."

(7) *Contiguous properties.* All contiguous properties shall be identified by subdivision title, plat book, and page; or if the land is unplatted, it shall be so designated. If the subdivision to be platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. In the event of a resubdivision, the word "resubdivision" shall be a subtitle following the name of the subdivision wherever it appears on the plat.

(8) *Restrictive covenants.* Restrictions pertaining to the type and use of existing or proposed improvements, waterways, open spaces, odd-shaped and substandard parcels, building lines, buffer strips and walls, and other restrictions of similar nature shall require the establishment of restrictive covenants; and such covenants shall be noted on the plat. Documents pertaining to restrictive covenants shall be submitted with the final plat for recordation.

(9) *Private streets and related facilities.* All streets and their related facilities designed to serve more than one property owner shall be dedicated to the public use. Private streets may be permitted within property under single ownership, a property owners' association, or a condominium or cooperative association as defined by state law. Where private streets are approved, ownership and maintenance association documents shall be submitted with the final plat; and dedication contained on the plat shall clearly indicate the roads and maintenance responsibility to the association without recourse to the city or any other public agency. The rights-of-way and related facilities shall be identified as tracts for road purposes under specific ownership.

(10) All manmade lakes, ponds, retention basins and other manmade bodies of water shown on the final plat shall be made a part of adjacent private lots as shown on the final plat. The ownership of these bodies of water shall not be dedicated to the public unless approved by the city. Easements for drainage facilities into, through, around or out of bodies of water shall be reserved as required by the director.

A property owners' association, a condominium or cooperative association, or other legal entity approved by the city attorney shall be created and maintained with the legal and enforceable responsibility for maintenance of all bodies of water not accepted for public dedication by the city commission.

(Code 1980, app. A, art. X, § 5)

Sec. 32-76. Required improvements plans.

Public improvements plans are required to be submitted to and approved by the county and the city so that a thorough and detailed review may be performed prior to construction for all proposed on-site and off-site improvements which are necessary to and a part of the subdivision. Required improvements plans shall clearly show but not be limited to the following information:

(1) A cover sheet, including a vicinity sketch and benchmark based on mean sea level (MSL) datum.

(2) A drainage map showing the complete drainage system, including but not limited to closed drainage areas, design high water, acreage, the effect on and compatibility of drainage or surface waters and, upon request, the complete calculations used to design the system.

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(3) Soils map or soil test location and results of test borings of the subsurface condition of the tract to be developed.

(4) Paving and drainage plans showing existing and proposed elevations and grades of all public and private paved and open areas, including size, location and type of drainage facilities and proposed first floor finished elevations of all structures.

(5) Water distribution and wastewater collection plans and profiles.

(6) Typical and special roadway and drainage sections and summary of quantities.

(7) Construction details showing compliance with the standards contained in this article.

(8) Special profile sheets, if necessary, showing special or unique situations such as intersections, waterways and the like.

(9) Plans showing existing and proposed improvements to waterways, lakes, canals or ditches, bridges, culverts, seawalls, bulkheads, docks, retaining walls, and any other proposed structure as may be deemed applicable by the director.

(10) Street lighting, landscaping within public rights-of-way, parks, recreational areas and parking areas. In addition, plans for streetlights shall bear the approval of the requisite utility authorities involved.

(11) Written specifications meeting or exceeding all applicable design minimum standards.

(12) If construction improvements are not completed prior to recording of a final plat, construction improvement estimate by the developer's engineer or bids by two licensed contractors for completion of all required improvements, both on-site and off-site, shall be required and shall be the basis upon which any guarantees or sureties shall be executed.

(13) If applicable, a letter of consent from any appropriate governing body exercising jurisdiction over proposed drainage improvements.

(14) Name and seal of the registered engineer licensed to practice in the state who was responsible for the preparation of the required improvements plans.

(Code 1980, app. A, art. X, § 6)

Sec. 32-77. Special dedications and reservations.

The city commission recognizes the unique burdens which residential subdivisions may place upon certain public facilities such as schools and recreation areas. To alleviate those additional burdens which subdivisions that are approved subsequent to enactment of this chapter into law may affect, the city commission provides the means to accomplish such alleviation in this article.

(Code 1980, app. A, art. X, § 7)

Sec. 32-78. Reservation and dedication of school sites.

With respect to any proposed dedication, reservation or conveyance of a school site, approval of the school board of the county pursuant to Laws of Fla. ch. 28946(1955), § 12 (section 5-165 of the county code) shall be obtained. The developer shall place the county school board on notice of all proposed residential developments and shall notify the school board by registered mail, return receipt requested, of his proposed plat or subdivision and its intended residential use prior to the filing of his application for preliminary plat approval. The evidence of such notification in the form of a copy of the return receipt of the letter of notification shall be submitted to the city at least 45 calendar days prior to the review of the proposed plat by the city commission. The county school board may request the city commission to require the dedication or reservation of land prior to final plat approval. The school board may propose to the city commission for its consideration standards, procedures and minimum requirements based upon a rational relationship between the impact which will be created by the development when occupied and the school board's demonstrated need for additional school sites.

(Code 1980, app. A, art. X, § 8)

Sec. 32-79. Reservation and dedication of recreational facilities sites.

(a) *Plat required.* A plat suitable for residential development pursuant to the applicable land development regulations shall be designed to pro-

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vide for the park, open space and recreational needs of the future residents of the area to be platted; and the developer shall be required to comply with the provisions of this section prior to the recordation of the final plat.

(b) *Land dedication or fee in lieu thereof.* In order to provide lands or funds or both to be used by the city commission as may be appropriate in order to provide additional community and neighborhood parks necessary to meet the need for such local-level parks created by additional residential development, the developer shall either:

(1) Dedicate land of suitable size, dimension, topography and general character to serve as neighborhood or community parks or a substantial portion, which will meet the local park needs created by the development; and the total amount of land to be dedicated either on or off the development site shall equal a ratio of at least three acres of land for every projected 1,000 residents of the development; or

(2) Agree to deposit in a nonlapsing trust fund, established and maintained by the city, an amount of money equal to or exceeding the value of such amount of land as would have been required under subsection (b)(1) of this section, to be determined by the county property appraiser's appraised value of the land or by the most recent purchase price paid for the land, whichever is greater; and such amounts of money shall be deposited in the trust fund prior to the recordation of the final plat and shall be expended within a reasonable period of time for the sole purpose of acquiring and developing land necessary to meet the need for local parks created by the development, which will be available to and substantially benefit the residents of the platted area.

(c) *Nonexemption from county requirements.* Compliance with the provisions of this article shall not exempt the developer from further requirements of regional park dedications as required in county Ordinance No. 77-43, as amended from time to time. All other provisions and formulas employed for the purpose of open space, park and recreational facilities impacts calculations pursuant to county Ordinance No. 77-43, as amended from time to time, shall be the same and are declared minimum with respect to the city.
(Code 1980, app. A, art. X, § 9)

Sec. 32-80. Minimum design standards of required improvements established.

All proposed subdivisions shall meet or exceed the design standards of the city as provided for in this article or county Ordinance No. 74-21 as amended from time to time, whichever is the higher or more restrictive, after the effective date of this chapter.
(Code 1980, app. A, art. X, § 10)

Sec. 32-81. Lot and block requirements.

(a) *Lots.* All lots within any subdivision shall be designed in strict accordance with applicable zoning regulations of the city pertaining to area and width. All lots shall have access to a dedicated public street right-of-way. Residential and nonresidential lots abutting an arterial street should be provided access from a local or collector street. Direct access from residential and nonresidential lots to arterial streets as identified on the county trafficways plan may not be permitted unless, in the opinion of the director, use of local or collector streets or frontage roads is feasible. Double-frontage lots shall be buffered by a planting or landscape easement not less than ten feet in depth, which shall be provided across the full rear width of the lot. No access to, through or over this easement shall be permitted. At corner lots, intersecting right-of-way lines shall be provided with either the arc or long chord of a 25-foot or greater radius. All side lot lines shall be substantially at right angles or radial to street lines.

(b) *Blocks.* The length, width and shape of blocks shall be determined by zoning requirements, suitability of building sites, topography, and safety of vehicular and pedestrian traffic. Block lengths shall not exceed 1,200 feet between intersecting streets measured along the centerline of the right-of-way from intersection to intersection. Blocks in excess of 800 feet may be required to have paved interior pedestrian walkways not

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less than eight feet wide between intersections. Where pedestrian walkways are required, the developer shall furnish a permanent easement not less than ten feet in width on the final plat with proper reference in restrictive covenants as to purpose, use, maintenance, repair and reversions of the pedestrian walkways.
(Code 1980, app. A, art. X, § 11)

Sec. 32-82. Landscape screening.

Subdivisions shall be screened to separate residential areas from nonresidential areas. Screening shall be provided in a ten-foot strip shown and designated as a landscape easement on the plat.
(Code 1980, app. A, art. X, § 12)

Sec. 32-83. Rights-of-way and street requirements.

(a) *Access.* Points of access to lots within a subdivision shall not be located closer than 40 feet from the nearest intersecting right-of-way lines as extended for local streets and not closer than 180 feet for all other streets of higher classification.

(b) *Culs-de-sac or dead-end streets.* Permanent dead-end streets and culs-de-sac shall have a maximum length not in excess of 600 feet as measured from the centerline of the intersecting street to the center of the cul-de-sac. A cul-de-sac shall be provided at the closed end with a turnaround having a right-of-way diameter of not less than 100 feet.
(Code 1980, app. A, art. X, § 13)

Sec. 32-84. Drainage.

Storm drainage facilities shall be provided for all streets in accordance with the minimum standards set forth in this chapter.
(Code 1980, app. A, art. X, § 14)

Sec. 32-85. Permanent control points (PCPs).

Permanent control points (PCPs) shall be provided in accordance with F.S. ch. 177. Where required improvements are constructed prior to recording of the plat, the PCPs shall be installed prior to submission of the final plat and their location certified by the surveyor on the final plat. Where required improvements are constructed after recording, the guarantee or surety for such improvements shall incorporate placement of PCPs; and the surveyor's certificate shall indicate that permanent control points shall be set within one year from the date of recording of the final plat in accordance with the surety posted with the city for such required improvements.
(Code 1980, app. A, art. X, § 15)

Sec. 32-86. Permanent reference monuments (PRMs).

Permanent reference monuments (PRMs) shall be provided in accordance with F.S. ch. 177. Where such monuments occur within street pavement areas, they shall be installed in a typical water value box with cover.
(Code 1980, app. A, art. X, § 16)

Sec. 32-87. Sidewalks.

(a) *Required.* Sidewalks shall be required on all streets and in all subdivisions in accordance with the provisions of this section.

(b) *Placement of sidewalks.* Sidewalks shall be provided within the right-of-way on both sides of all streets, in accordance with city ordinances.

(c) *Specifications of sidewalks.* Sidewalks shall be installed in accordance with the following specifications:

(1) Sidewalks shall be at least five feet wide and four inches thick. When a sidewalk traverses a driveway, the minimum thickness shall be increased to six inches.

(2) Sidewalk subgrades shall be compacted to 95 percent (T-180) as per the American Association of State Highway and Transportation Officials (AASHTO).

(3) Sidewalks shall be constructed of concrete rated at 2,500 pounds per square inch (psi).

(Code 1980, app. A, art. X, § 17)

Cross reference—Streets, sidewalks and other public ways, ch. 25.

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Sec. 32-88. Streets.

(a) *Coordination with surrounding system.* The proposed subdivision street layout shall be coordinated with the street system of the surrounding area; and consideration shall be given to existing and planned streets, relation to topographical conditions, to public convenience and safety, and the appropriate relationship of the proposed use of the land to be served by such streets. The arrangement of streets in new subdivisions shall provide for the continuation of existing streets to adjoining areas not yet subdivided. The proposed street layout shall provide for the incorporation and compatibility of present and future streets as shown on the county trafficways plan map. All streets in detached single-family residential subdivisions shall be dedicated to the public.

(b) *Street right-of-way widths.* Minimum street right-of-way widths shall be as provided in this subsection, except as may be greater on the county trafficways plan map as follows:

Street Type	*Minimum Right-of-Way Width (Feet)*
Arterial (county)	120
Arterial (city)	100
Collector	80
Residential or local	50

(Code 1980, app. A, art. X, § 18)

Cross reference—Streets, sidewalks and other public ways, ch. 25.

Sec. 32-89. Swales.

Roadside swales may be provided upon prior approval from the director based upon existing surface and subsurface soil and groundwater conditions.
(Code 1980, app. A, art. X, § 19)

Sec. 32-90. Street construction.

(a) *Construction in muck areas.* When streets or alleys are to be constructed in muck areas, the muck or peat shall be completely removed from the centerline to a distance of five feet beyond the edge of pavement on each side. The depth of removal required shall be determined from a soils boring report prepared by a registered engineer and approved by the director.

(b) *Pavement.* All public streets shall be paved with type S-1 asphaltic concrete or equivalent material as approved by the director. Pavement thickness of streets shall be as determined by the director, but in no instances shall they exceed the requirements of the county traffic engineering department.

(c) *Base.* All public and private streets shall be provided with an acceptable compacted and fully primed limerock base. Soil cement or other equivalent base course material may be approved by the director. In all cases, the base shall extend to a minimum of one foot beyond all pavement edges where curbs or curbs and gutters are not provided. Where curb or curb and gutter is provided, the base shall extend six inches beyond the back of curb.

(d) *Stabilized subgrade.* All public streets shall be provided with a compacted stabilized subgrade with a minimum 75 pounds per square inch Florida bearing value. All stabilization shall extend to a minimum of one foot beyond the base course where curb or curb and gutter is not provided. Where curb or curb and gutter is provided, the stabilization shall extend six inches beyond the back of curb.

(e) *Slopes.* Pavement cross slopes shall be a minimum of one-fourth inch per foot for two-lane streets; slopes for streets providing for more than two lanes of traffic shall be approved by the director. No inverted crowns shall be permitted. Longitudinal slopes shall be a minimum of 0.30 percent.

(f) *Horizontal and vertical alignment.*

(1) Residential streets shall be designed to discourage through traffic.

(2) Streets shall be laid out to intersect as nearly at right angles as possible. Multiple intersections involving the junction of more than two streets shall be prohibited. All intersections shall be designed to provide adequate stopping and sight distance in accordance with current editions of AASHTO and DOT standards.

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(3) Residential or local street jogs with centerline offsets of less than 125 feet shall be prohibited. Street offsets on streets of higher classification are prohibited. Streets intersecting with collector streets or streets of higher functional classification shall not be closer than 800 feet, centerline to centerline.

(4) Intersecting right-of-way lines shall be provided with the arc or long chord of a 25-foot radius. Minimum pavement radii returns for intersecting local streets shall be 25 feet. All other streets of higher classification shall be provided with a minimum 40-foot pavement radii return.

(5) The maximum degree of curve for horizontal curvature without superelevation on collectors and arterials shall comply with current state department of transportation standards. Where curvature without superelevation is provided, pavement cross slope from crown grade shall be uniform at one-fourth inch per foot. Residential streets shall be provided with a minimum 200-foot radius for all streets where centerline deflects ten degrees or more.

(6) Superelevation rates of transitions and pavement cross slopes for curvature exceeding the maximums stated in this section shall be in accordance with current DOT standards.

(Code 1980, app. A, art. X, § 20)

Sec. 32-91. Railroad on or abutting subdivision.

When a subdivision borders on or contains a railroad right-of-way, a street approximately parallel to and on each side of such right-of-way may be required at a suitable distance for appropriate use of the intervening land as determined by the director.

(Code 1980, app. A, art. X, § 21)

Sec. 32-92. Half streets.

Half or partial street construction shall not be permitted except where essential to the reasonable subdivision of a tract in conformance with official plans or this chapter and where, in addition, satisfactory assurance for dedication of or granting of an easement for the remaining part of the street is provided. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street may be required to be dedicated or granted by easement and constructed within such tract. A proposed subdivision that adjoins or includes an existing street which does not conform to the minimum right-of-way requirements of this chapter shall provide for the granting of an easement or dedication of additional rights-of-way along either one or both sides of the street so that the minimum right-of-way requirements of this chapter can be established.

(Code 1980, app. A, art. X, § 22)

Sec. 32-93. Limited-access strips.

Limited-access strips controlling access to public streets shall be prohibited except where their control is placed with the city.

(Code 1980, app. A, art. X, § 23)

Sec. 32-94. Street signs.

All streets shall be provided with street signs at each intersection. Of the initial installation cost, 100 percent shall be paid by the developer. Acceptable abbreviations for the words that will appear on signs shall be as follows:

(1) Drive—Dr.

(2) Avenue—Ave.

(3) Court—Ct.

(4) Place—Pl.

(5) Street—St.

(6) Boulevard—Blvd.

(7) Parkway—Pkwy.

(8) Circle—Cir.

(9) Lane—Ln.

(10) Road—Rd.

(11) Terrace—Terr.

(12) Way—Way.

(Code 1980, app. A, art. X, § 24)

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Sec. 32-95. Channelization of traffic flow.

All collector and arterial streets shall be provided with pavement marking, medians and islands to channelize and restrict traffic flow patterns. Pavement marking shall comply with current DOT pavement marking standards. Traffic lights shall be installed by the developer as required for the sole movement of vehicles.
(Code 1980, app. A, art. X, § 25)

Sec. 32-96. Subdivision entranceways.

Subdivision entranceways consisting of walls, fences, gates, rock piles or the like are not permitted within the median strip or other areas within a dedicated or deeded right-of-way. Decorative entranceways shall be constructed upon plots of land adjacent to a right-of-way so as not to constitute a traffic hazard.
(Code 1980, app. A, art. X, § 26)

Sec. 32-97. Potable water requirements.

(a) *Potable water supply.* All development projects shall be connected to the city's potable water distribution system. Irrigation systems may be connected either to the city's potable water distribution system only or to an alternate water supply source if not feasible.

(b) *Fire hydrants.* Fire hydrants shall be required on all water distribution systems and their extensions as follows:

(1) For single-family and two-family residential areas, fire hydrants shall be spaced such that the radius of protection will not be more than 500 feet. Each hydrant shall be required to deliver the volume of water per minute and duration of flow in accordance with standards outlined in the most recent edition of the National Fire Protection Handbook.

(2) For business and multi-family residential areas, fire hydrants shall be placed every 400 feet along the right-of-way with a minimum of 200 feet to the last unit. Each hydrant shall be required to deliver the volume of water per minute and duration of flow in accordance with standards outlined in the Fire Protection Handbook, 14th edition (National Fire Protection Association).

(3) For industrial areas, fire hydrants shall be placed every 300 feet along the right-of-way with a minimum of 150 feet to the last lot. Each hydrant shall be required to deliver the volume of water per minute and duration of flow in accordance with standards outlined in the Fire Protection Handbook, 14th edition (National Fire Protection Association).

(4) For industrial areas, fire hydrants shall be placed every 300 feet along the right-of-way with a minimum of 150 feet to the last lot. A minimum total flow of 1,000 gallons per minute from two fire hydrants at the same time shall be required.

(Code 1980, app. A, art. X, § 27)

Sec. 32-98. Wastewater collection, treatment and disposal.

(a) *Connection required.* All developments shall be connected to the public wastewater collection, treatment and disposal system and shall substantially conform to the county "201" wastewater facilities plan. Individual wastewater facilities may be allowed by the director subject to compliance with all requisite federal, state and county regulations.

(b) *Design criteria.* Connections to the public wastewater system shall conform to acceptable standards and sound practices and to the requirements of all federal, state and local authorities. Appurtenances to the system shall be equal to or shall exceed the minimum requirements of current city standards. Upon submittal of construction plans to connect to the public wastewater system, the applicant shall supply data, calculations and analyses, prepared by a registered engineer, showing important features affecting design, including but not limited to:

(1) Number of residential units and nonresidential square footage to be built.

(2) The character of usage and expected population or estimated flow of wastewater designed for use other than domestic.

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(3) A flow chart indicating the number of proposed connections to the system and the anticipated flow of wastewater to the treatment plant.

(4) Any other meaningful information necessary to arrive at estimates of amounts, type, physical and chemical composition of wastewater.

(c) *Individual wastewater system.* Individual septic tank systems consisting of pipes, tanks, treatment devices and subsurface absorption fields or other devices shall meet the requirements of all requisite federal, state, county and city authorities and all other applicable laws of the state, the county, and ordinances of the city. Individuals must obtain applicable permits where required. Where individual septic tanks are permitted, the lot shall be designed, sized and developed to facilitate:

(1) A convenient and economical future connection to the public wastewater system.

(2) The installation of the tank and absorption area to meet the requirements of all requisite federal, state, county and city authorities.

(3) The location of the system not less than five feet from any building or property line.

(4) The location of the system not less than 50 feet from the recurring high water line of wells, lakes, canals or other waters.

(5) The installation of the system shall be in areas having acceptable soil classifications and percolation tests meeting the requirements of the Florida Administrative Code and state health department.

(Code 1980, app. A, art. X, § 28)

Cross reference—Utilities, ch. 30.

Sec. 32-99. Utilities and easements.

(a) *Utilities.* Wherever and whenever possible and unless found not to be feasible, all utilities, including but not limited to those required for electrical distribution, telephone and telegraph systems, water, wastewater, cable television and gas distribution facilities, shall be installed underground. Regulated utilities will operate in compliance with the state Public Service Commission tariff rules and regulations in effect both presently and at any time in the future regarding installation of underground facilities. This section shall not apply to any electric transmission facilities or associated apparatus and supporting structures the exclusive function of which are in transmission of electrical energy between generating stations, substations and transmission lines of other utility systems.

(b) *Easements.*

(1) Utility easements shall be a minimum of 12 feet wide and shall be provided where necessary to accommodate all required utilities across lots and where possible shall be centered on lot lines with access to a public right-of-way for maintenance. Additional easement width may be required by the director for multipurpose easements or where deep trenches for utilities are necessary. Additional utility easements may be required when, in the opinion of the director, such easements are necessary for continuity of utility service between developments and where necessary for maintenance and service.

(2) Drainage easements shall be provided where necessary at width adequate to accommodate the drainage facilities.

(3) Ingress/egress easements not less than 20 feet in width shall be provided as required to provide pedestrian or vehicular traffic access to all public and private utility or drainage facilities not fronting on public rights-of-way. The instrument shall state the purpose, use restrictions and reversions and be fully executed and recorded with the final plat.

(Code 1980, app. A, art. X, § 29)

Cross reference—Utilities, ch. 30.

Sec. 32-100. Construction of required improvements.

Methods of construction shall be those prescribed by the current "Department of Transpor-

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tation Standard Specifications for Road and Bridge Construction" and the county engineering department when applicable.

(1) *Construction in floodprone areas.* Property with a history of inundation or known poor foundation conditions or any other natural conditions which prevent or limit the use of standard construction methods on building sites shall not be accepted for platting or subdivision purposes until a complete development plan is approved by the director, board and city commission. This development plan shall provide for all necessary filling and demucking of the land, complete drainage and type of foundations to be used on all proposed construction. Elevations and grades of all lots, streets and alleys shall be approved by the director, board and city commission based on past records of flood levels and high tides in the area of proposed development.

(2) *Administration of construction.* After approval of the final plat, construction plans and supplementary material, a developer may construct the required improvements subject to obtaining all required permits. The director shall be notified at least 72 hours in advance of the date of commencement of such construction. Construction shall be performed under the surveillance of, and shall at all times be subject to review by, the director. This shall in no way relieve the developer and his engineer of the responsibility for close field coordination and final compliance with the approved plans, specifications necessary to construct the required improvements and the requirements of this chapter. The developer shall employ a registered engineer for complete administration of the construction of all approved required improvements. The developer shall require that progress reports and final certification of the construction of the required improvements from such engineer be filed with the director. The director shall have the right to enter the property for the purpose of reviewing the construction of the required improvements during the progress of such construction. The developer's engineer shall coordinate joint reviews of the construction with the director. The director shall have the authority to stop the work upon failure of the developer or his engineer to coordinate the construction of the required improvements as prescribed by this chapter.

(3) *Measurements and tests.* Current state DOT procedures for testing shall be used as specified in the "Department of Transportation Standard Specifications for Road and Bridge Construction" (1973 edition). During construction, the developer's engineer shall make such measurements, field tests and laboratory tests or cause them to be made to certify that the work and materials conform with the approved development plans and the provisions of this chapter. The director may require tests and measurements which he deems necessary.

(4) *Completion certificate.* The required improvements shall not be considered complete until a completion certificate along with the final project records have been furnished to and reviewed and approved by the director. The certificate shall be by the developer's engineer stating that the required improvements were installed under his responsible direction and that the improvements conform with the approved construction plans and specifications. The developer's engineer shall also furnish a copy of each of the construction plans showing the original design in comparison to the actual finished work and a copy of the measurements, tests and reports made on the work and material during the progress of the construction.

(5) *Time extensions.* All required improvements shall be completed within 12 months from the date of recording of the final plat; or if construction of improvements is undertaken prior to recording to final plat, improvements shall be completed prior to the approval of the final plat. Time extensions may be granted by the

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director at the request of the developer when, in the opinion of the director, undue hardship or conditions exist beyond the control of the developer. No extension of time shall exceed 12 months. If improvements are not completed within the prescribed time period, the director shall recommend to the city commission that any bond or surety be forfeited for the purpose of completing the required improvements.

(6) *Sidewalk guarantee.* The city commission may waive, on an interim basis, the required sidewalk construction, during the active construction phase of the required improvements. Any such waiver shall be conditioned upon the developer's posting of a separate sidewalk improvement guarantee bond or surety for a period not to exceed two years. The legal form and sufficiency of the bond shall be approved by the city attorney.

(Code 1980, app. A, art. X, § 30)

Sec. 32-101. Dedication, acceptance and maintenance of required improvements.

(a) *Acceptance of dedications and maintenance of improvements.*

(1) The dedication or granting of public open space, parks, rights-of-way, easements and like public areas on the plat shall not be effective until the plat is approved and executed by the appropriate city officials. Approval and execution of the plat by such officials shall, unless otherwise stated, constitute an acceptance of the offer to dedicate or grant.

(2) If any improvements are required or proposed to be constructed by the developer in such public right-of-way or areas, the city will not be responsible for maintenance of those improvements until the director has certified that they have been completed in accordance with all legal requirements and they have been specifically accepted by a separate resolution of the city and the bonds guaranteeing such construction have been released by the city.

(b) *Completion of required improvements.* When a plat has been recorded and the developer fails to complete the required improvements as required by this chapter, the city may complete the required improvements under the guarantees or sureties provided by the developer. In such case, the city commission may direct the director to call upon the guarantees to secure satisfactory completion of the required improvements. The director shall report to the city commission, and the city commission may accept by resolution the dedications and maintenance responsibility as indicated on the plat. In such cases, the remaining guarantees posted by the developer shall be retained for a period of one year after completion in lieu of the maintenance bond or surety. Any defects occurring during this period shall be repaired using the funds remaining from the guarantee.

(c) *Failure to complete unrecorded subdivisions.* Where a developer has elected to install the required improvements prior to recordation of the plat and fails to initiate or make substantial progress on such improvements within 12 months from the date of approval of required improvements plans, all approvals of the subdivision shall be null and void; and the land shall revert to its original status. The sale of lots or issuance of building permits shall be permanently suspended unless the plat has been resubmitted with all of the supplementary material and approvals as prescribed in this section have been granted.

(d) *Maintenance bond after project completion.* The developer shall provide a maintenance bond or surety in the amount of ten percent of the estimated construction and engineering costs guaranteeing the required improvements against defect in workmanship and material for one year upon acceptance of such improvements by both the county and the city. This maintenance bond or surety shall be submitted to the director, along with the completion certificate and project records.

(Code 1980, app. A, art. X, § 31)

Secs. 32-102—32-130. Reserved.

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ARTICLE III. ZONING

DIVISION 1. DISTRICT RULES

Sec. 32-131. Establishment of districts.

In order to classify, regulate, and restrict the use of land, water, buildings and structures; to regulate and restrict the height and bulk of buildings; to regulate the areas of yards and other open spaces around and about buildings; to regulate the intensity of land use and to promote the orderly urban growth of the city, the city is divided into 18 districts as follows:

(1) RS-5 residential single-family district.

(2) RS-6 residential single-family district.

(3) RS-7 residential single-family district.

(4) RD-12 residential two-family (duplex) district.

(5) RM-18 residential multi-family (medium-density) district.

(6) RM-25 residential multi-family (high-density) district.

(7) RM-HD-2 residential multi-family (high-density-2) district.

(8) Reserved.

(9) B-L business limited district.

(10) B-G business general district.

(11) B-I business industrial district.

(12) I-L industrial light district.

(13) CR-P commercial recreational (passive) district.

(14) CR-A commercial recreational (active) district.

(15) CF community facility district.

(16) OS recreation and open space district.

(17) ED educational facility district.

(18) EC employment center district.

(Code 1980, app. A, art. III, § 1; Ord. No. 2003-24, § 1, 10-21-2003)

Sec. 32-132. Official zoning map.

(a) The boundaries of each district are designated and established as shown on the official zoning map of the city, as that map may be adopted and amended from time to time.

(b) Where lots or parcels of land have been excluded from the official zoning map or otherwise unzoned, or annexed into the city, such lots or parcels shall be classified RS-5 residential single-family district until changed, if at all, pursuant to the appropriate zoning district boundary change procedures.

(c) The official zoning map of the city shall consist of a map or series of zoning district maps individually numbered as Sheet No. 1, 2, etc., which may be prepared and adopted separately or cumulatively by the commission.

(d) The official zoning map shall be retained in the administrative offices of the city clerk; and the official zoning map, as amended from time to time, shall be a part of land incorporated in this chapter.

(e) The original official zoning map, which may be a composite of all official zoning maps or map amendments adopted by the commission, shall be kept on public display in the city's clerk office located in a locked glass bulletin board with keys allowed only in the custody of the city clerk.

(f) No changes or amendments to the official zoning map shall be made except in compliance and conformity with this chapter, and any such changes shall be made promptly after official adoption of the amendment.

(Code 1980, app. A, art. III, § 2)

Sec. 32-133. Rules for interpretation of district boundaries and regulations.

(a) When uncertainty exists as to boundaries of the districts on the official zoning map, the following rules shall apply:

(1) *Centerlines.* Boundaries indicated as approximately following the centerlines of streets, highways and alleys shall be construed to follow such lines.

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

(3) *Political boundaries.* Boundaries indicated as approximately following political boundaries shall be construed as following such political boundaries.

(4) *Railroad lines.* Boundaries indicated as following railroad lines shall be construed to be the centerline of the railroad right-of-way.

(5) *Shoreline.* Boundaries indicated as following shorelines shall be constructed to follow 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 centerlines of canals or other bodies of water shall be construed to follow such centerlines.

(6) *Parallel lines.* Boundaries that are approximately parallel to the centerlines or street lines of streets, the centerlines or alley lines of alleys, or the centerline or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning maps. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning maps.

(7) *Bisecting lines.* Boundaries that approximately bisect a block, lot or tract shall be construed to follow the median lines of such blocks, as indicated by rear property lines or as measured between the centerlines of boundary streets in the absence of rear property lines or in the absence of both of the above, by use of the scale appearing on the zoning maps.

(8) *Uncertainties.* Where 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 commission shall interpret the intent of the official zoning map as to the location of district boundaries.

(9) *Street abandonments.* Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned road, street or alley.

(10) *Excluded areas.* Where parcels of land have been inadvertently excluded from a zoning district classification in any manner, such parcels shall be classified as RS-5 until rezoned.

(b) When use district regulations specifically incorporate the permitted uses of another use district, those permitted uses shall be subject to the requirements of the incorporating district, unless otherwise specified.

(c) Where a permitted use is first specified in a use district, that use may only be permitted in that district and any district incorporating its permitted uses.

(d) Unless otherwise specified, all height regulations shall be measured from the finished grade, as that term is defined in the South Florida Building code.
(Code 1980, app. A, art. III, § 3)

Secs. 32-134—32-150. Reserved.

DIVISION 2. ZONING DISTRICTS

Subdivision I. Establishment of Districts

Sec. 32-151. RS-5 residential single-family district.

(a) *Purpose and intent.* The purpose and intent of the RS-5 residential single-family district is to provide suitable sites for the development of detached single-family dwellings on relatively large lots in areas consistent with the city's comprehensive land use plan.

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(b) *Uses permitted.* Uses permitted are as follows:

(1) Single-family residential dwellings.

(2) Residential accessory uses.

(3) Public parks and playgrounds.

(4) Public utility substations, transformers and transmission facilities.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Churches, synagogues and similar houses of worship; provided that there is a site of not less than two acres and that no structure is located less than 75 feet from any adjacent residential property line. A 20-foot-wide landscaped buffer abutting residential property shall be provided to minimize the visual and noise impacts associated with the church, synagogue or house of worship. Accessory uses shall not exceed more than 50 percent of the total gross floor area of the facility.

(2) Public and private schools, provided that no structure or play equipment is located less than 50 feet from any adjacent residential use and that educational activities are of secondary level or below with a curriculum substantially similar to that of a general public school curriculum.

(3) Public facilities, provided that no structure is located less than 50 feet from any adjacent residential use.

(d) *Site development standards.*

(1) Minimum lot area shall be 7,500 square feet. Smaller lots platted prior to November 21, 1978, shall be permitted.

(2) Minimum lot width shall be 75 feet. Smaller lots platted prior to November 21, 1978, shall be permitted.

(3) Maximum height shall be two stories or 30 feet.

(4) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front:	
1. Generally	30
2. Golden Isles	25
b. Rear:	
1. Generally	30
2. Golden Isles	40
c. Side:	
1. Interior	10
2. Corner	10

(5) Minimum floor area shall be 1,800 square feet per unit.

(6) Special regulations for the Golden Isles Subdivision only are as follows: Accessory structures, excepting swimming pools, shall not be located in required yard setbacks.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 1; Ord. No. 1998-24, § 2, 12-1-1998)

Sec. 32-152. RS-6 residential single-family district.

(a) *Purpose and intent.* The purpose and intent of the RS-6 residential single-family district is to provide suitable sites for the development of detached single-family dwellings on moderate-size lots in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Single-family residential dwellings.

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(2) Residential accessory uses.

(3) Public parks and playgrounds.

(4) Public utility substations, transformers and transmission facilities.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Churches, synagogues and similar houses of worship, provided that there is a site of not less than two acres and that no structure is located less than 50 feet from any adjacent residential use. A 20-foot-wide landscaped buffer abutting residential property shall be provided to minimize the visual and noise impacts associated with the church, synagogue or house of worship. Accessory uses shall not exceed more than 50 percent of the total gross floor area of the facility.

(2) Public and private schools, provided that no structure or play equipment is located less than 50 feet from any adjacent residential use and that educational activities are of a secondary level or below with a curriculum substantially similar to that of a general public school curriculum.

(3) Public facilities, provided that no structure is located less than 50 feet from any adjacent residential use.

(d) *Site development standards.*

(1) Minimum lot area shall be 6,000 square feet. Smaller lots platted prior to November 21, 1978, shall be permitted.

(2) Minimum lot width shall be 60 feet. Smaller lots platted prior to November 21, 1978, shall be permitted.

(3) Maximum height shall be two stories or 30 feet.

(4) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	25
b. Rear	30
c. Side:	
1. Interior	7½
2. Corner	10
d. Accessory structures	7½

(5) Minimum floor area shall be 1,400 square feet per unit.

(6) Special regulations are as follows: Accessory structures, excepting swimming pools, shall cover not more than 30 percent of the total rear yard area.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 2; Ord. No. 1998-24, § 2, 12-1-1998)

Sec. 32-153. RS-7 residential single-family district.

(a) *Purpose and intent.* The purpose and intent of the RS-7 residential single-family district is to provide suitable sites for the development of detached single-family residential dwellings on relatively small lots in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Single-family residential dwellings.

(2) Residential accessory uses.

(3) Public parks and playgrounds.

(4) Public utility substances, transformers and transmissions facilities.

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(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Churches, synagogues and similar houses of worship, provided that there is a site of no less than one acre and that no structure is located less than 50 feet from any adjacent residential use. A 20-foot-wide landscaped buffer abutting residential property shall be provided to minimize the visual and noise impacts associated with the house of worship. Accessory uses shall not exceed more than 50 percent of the total gross floor area of the facility.

(2) Public and private schools, provided that no structure is located less than 50 feet from any adjacent residential use and that educational activities are of a secondary level or below with a curriculum substantially similar to that of a general public school curriculum.

(3) Day care centers and nurseries, provided that areas designated for outdoor play activities are effectively screened from adjacent residential uses.

(4) Public facilities, provided that no structure is located less than 50 feet from any adjacent residential use.

(d) *Site development standards.*

(1) Minimum lot area shall be 5,000 square feet. Smaller lots platted prior to November 21, 1978, shall be permitted.

(2) Minimum lot width shall be 50 feet. Smaller lots platted prior to November 21, 1978, shall be permitted.

(3) Maximum height shall be two stories or 30 feet.

(4) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	20
b. Rear	20
c. Side:	
1. Interior	5
2. Corner	10
d. Accessory structures	5

(5) Minimum floor area shall be 1,000 square feet per unit.

(6) Special regulations are as follows: Accessory structures shall cover not more than 30 percent of the total rear yard area.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 3; Ord. No. 1998-24, § 2, 12-1-1998)

Sec. 32-154. RD-12 residential two-family (duplex) district.

(a) *Purpose and intent.* The purpose and intent of the RD-12 residential two-family (duplex) district is to provide suitable sizes for the development of two-family (duplex) residential dwellings in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Two-family (duplex) residential dwellings.

(2) Single-family residential dwellings, subject to RS-7 regulations; however, lots platted prior to November 21, 1978, may be developed in conformity with section 32-921.

(3) Residential accessory uses.

(4) Public parks and playgrounds.

(5) Public utility substations, transformers and transmission facilities.

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(6) Reserved.

(7) Townhouse residential dwellings, provided that any such use shall comply with the regulations and site development standards set forth in section 32-731.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Public and private schools, provided that no structure is located less than 50 feet from any adjacent residential use and that educational activities are of a secondary level or below with a curriculum substantially similar to that of a general public school curriculum.

(2) Day care centers and nurseries, provided that areas designated for outdoor play activities are effectively screened from any adjacent residential use.

(3) Public facilities, provided that no structure is located less than 50 feet from any adjacent residential use.

(4) Reserved.

(5) Mobile home residential dwellings that any such use shall comply with the regulations and site development standards as set forth in section 32-411.

(6) Parking lots.

(7) Houses of worship, provided that there is a site of not less than one acre and that no structure is located less than 50 feet from any adjacent residential use. A 20-foot-wide landscaped buffer abutting residential property shall be provided to minimize the visual and noise impacts associated with the church, synagogue or house of worship. Accessory uses shall not exceed more than 50 percent of the total gross floor area of the facility.

(d) *Site development standards.*

(1) Minimum lot area shall be 7,500 square feet. Smaller lots platted prior to November 21, 1978, shall be permitted.

(2) Minimum lot width shall be 75 feet. Smaller lots platted prior to November 21, 1978, shall be permitted.

(3) Maximum height shall be two stories or 30 feet.

(4) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	25
b. Rear	30
c. Side:	
1. Interior	7½
2. Corner	15
d. Accessory structures	7½

(5) Minimum floor area is as follows:

a. For a two-family dwelling:

1. One bedroom, 850 square feet per unit.

2. Two bedrooms, 1,000 square feet per unit.

3. Three or more bedrooms, 1,150 square feet per unit.

b. For a single-family dwelling, 1,000 square feet per unit.

(6) Special regulations are as follows: Accessory structures shall cover not more than 30 percent of the total rear yard areas.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 4; Ord. No. 1998-9, § 1(4), 4-21-1998; Ord. No. 1998-24, § 2, 12-1-1998; Ord. No. 1999-1, § 2, 1-19-1999; Ord. No. 2000-9, § 2, 4-4-2000)

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Sec. 32-155. RM-18 residential multi-family (medium-density) district.

(a) *Purpose and intent.* The purpose and intent of the RM-18 residential multi-family (medium-density) district is to provide suitable sites for the development of medium-density multi-family residential uses in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Residential uses, limited to:

a. Multi-family residential dwellings.

b. Single-family residential dwellings, subject to RS-6 regulations; however, lots platted prior to November 21, 1978, may be developed in conformity with section 32-921.

c. Two-family (duplex) residential dwelling, subject to RD-12 regulations; however, in the case of single lots platted prior to November 21, 1978, and which do to adjoin other lots under the same ownership may be developed subject to the density set forth below, provided they shall otherwise comply with RD-12 regulations.

d. Residential accessory uses.

e. Townhouse residential dwellings, provided that any such use shall comply with the regulations and site development standards set forth in section 32-731.

(2) Nonresidential uses, limited to:

a. Public parks and playgrounds.

b. Churches, synagogues and other houses of worship, provided that:

1. The site has a minimum of 15,000 square feet in lot area and 100 linear feet of lot frontage.

2. On lots with 100 linear feet of lot frontage, the building shall be set back no less than 30 feet from the front or rear property lines and 20 feet from the side property lines. On lots with more than 100 linear feet of lot frontage, the building shall be set back no less than 30 feet from any property line.

3. The building has a minimum of 2,000 square feet in gross floor area.

c. Public and private schools.

d. Day care centers and nurseries.

e. Public facilities and utilities.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows: parking lots.

(d) *Site development standards.*

(1) Maximum density shall be 18 dwelling units per net acre.

(2) Minimum lot area shall be 7,500 square feet.

(3) Minimum lot width shall be 75 feet.

(4) Maximum height shall be four stories or 45 feet.

(5) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	30
b. Rear	25
c. Side:	
1. Corner or between structures	30
2. Interior	20

(6) Minimum landscape area shall be 30 percent.

(7) Minimum floor are is as follows:

a. Efficiencies, 500 square feet per unit.

b. One bedroom, 700 square feet per unit.

c. Two bedrooms, 850 square feet per unit.

d. Three or more bedrooms, 1,050 square feet per unit.

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(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 5; Ord. No. 1998-9, § 1(5), 4-21-1998; Ord. No. 1998-24, § 2, 12-1-1998; Ord. No. 1999-1, § 2, 1-19-1999)

Sec. 32-156. RM-25 residential multi-family (high-density) district.

(a) *Purpose and intent.* The purpose and intent of the RM-25 residential multi-family (high-density) district is to provide suitable sites for the development of high-density multi-family residential uses in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Residential uses, limited to:

a. Multi-family residential dwellings.

b. Hotels and motels.

c. Single-family residential dwellings, subject to RS-6 regulations.

d. Two-family (duplex) residential dwellings, subject to RD-12 regulations.

e. Residential accessory uses.

(2) Nonresidential uses, limited to:

a. Public parks and playgrounds.

b. Churches, synagogues and other houses of worship, provided that:

1. The site has a minimum of 15,000 square feet in lot area and 100 linear feet of lot frontage.

2. On lots with 100 linear feet of lot frontage, the building shall be set back no less than 30 feet from the front or rear property lines and 20 feet from the side property lines. On lots with more than 100 linear feet of lot frontage, the building shall be set back no less than 30 feet from any property line.

3. The building has a minimum of 2,000 square feet in gross floor area.

c. Public and private schools.

d. Day care centers and nurseries.

e. Public facilities and utilities.

f. Parking lots.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Accessory commercial uses of a convenience nature, such as barbershops and beauty shops, foodstores, newsstands, druggists, florists, restaurants, lounges, and medical and professional offices shall be permitted within multi-family, hotel or motel structures of 50 or more dwelling units provided that:

a. There is no outside commercial identification or advertising for such uses, except as provided in section 32-605(c)(8);

b. All customer access to such uses is from within the structure;

c. All such uses are located on the ground floor; and

d. The total amount of commercial floor area shall not exceed ten percent of the total floor area of the structure.

(2) Nursing and convalescent homes.

(d) *Site development standards.*

(1) Maximum density shall be 25 dwelling units per net acre.

(2) Minimum lot area shall be 10,000 square feet.

(3) Minimum lot width shall be 100 feet.

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(4) Maximum height shall be eight stories or 85 feet.

(5) The following minimum yard setbacks shall apply to all three-story structures or less and shall be increased by five feet each for every story thereafter:

Yard		*Setback (Feet)*
a.	Front	30
b.	Rear	25
c.	Side:	
	1. Corner or between structures	30
	2. Interior	20

(6) Minimum landscape area shall be 35 percent.

(7) Minimum floor area is as follows:

a. Efficiencies, 500 square feet per unit.

b. One bedroom, 700 square feet per unit.

c. Two bedrooms, 850 square feet per unit.

d. Three or more bedrooms, 1,050 square feet per unit.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 6; Ord. No. 1998-9, § 1(6), 4-21-1998; Ord. No. 1998-24, § 2, 12-1-1998)

Sec. 32-157. RM-HD-2 residential multi-family (high-density-2) district.

(a) *Purpose and intent.* The purpose and intent of the RM-HD-2 residential multi-family (high-density) district is to provide suitable sites for the development of high-density multi-family residential uses, up to 50 dwelling units per acre and mixed commercial and residential uses in areas consistent with the city's comprehensive land use plan. Rezoning to high-density district shall be subject to assignment of flexibility units in accordance with the flexibility rules of the administrative rules document of the county land use plan. The rezoning of land to this district is limited to properties west of the Intracoastal Waterway.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Residential uses, limited to:

a. Multi-family residential dwellings.

b. Hotels and motels.

(2) Mixed uses, excluding Golden Isles Drive, limited to:

a. Office, commercial service and retail uses, permitted in the B-L or B-O districts within multi-family, hotel or motel structures provided that at least 50 percent of the building floor area is used for residences.

b. Principal commercial permitted in the B-L category, subject to the allocation of commercial flexibility according to the five percent commercial flexibility rule of the county administrative rules document.

(3) Nonresidential uses, limited to:

a. Public parks and playgrounds.

b. Day care centers and nurseries.

c. Public facilities and utilities.

d. Parking lots.

(4) Uses permitted conditionally:

a. Nightclubs, dancehalls and discotheques, provided that they are located 25 vertical feet and 100 horizontal feet from any residential district or adjoining residential use.

b. Alcoholic beverage establishments.

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(c) *Site development standards.*

(1) Maximum density shall be 50 dwelling units per net acre; 35 dwelling units per net acre on Golden Isles Drive.

(2) Minimum lot area shall be one acre.

(3) Minimum lot width shall be 100 feet.

(4) Maximum height shall be as follows:

a. Mixed or commercial use, 200 feet. Uses may exceed the prescribed maximum height by up to 50 percent above the average intensity for property within a quarter-mile radius of the site in question.

b. Residential, 200 feet. However, buildings and structures which comply with all other provisions of this section can exceed the maximum if approved for additional height as a result of public hearing advertised, posted and noticed in accordance with section 32-967 or if approved for additional height in conjunction with a planned development district (PDD). Shadow studies, when required to evaluate conformance with section 32-787(1), (3) shall be supplied by the applicant.

c. Maximum height, Golden Isles Drive, eight stories or 85 feet on Golden Isles Drive.

(5) The following setbacks shall apply to the first five stories of all structures. For buildings exceeding five stories, the side setbacks shall be increased by one foot for every story thereafter. The commission can, during the PDD process, at their discretion, modify all required setbacks.

Yard	*Setback (Feet)*
a. Front	30
b. Rear	25
c. Side:	
1. Corner or between structures	30
2. Interior	20

(6) Minimum landscape area, 35 percent.

(7) Minimum floor area shall be as follows:

a. One bedroom, 1,000 square feet.

b. Two bedrooms, 1,100 square feet.

c. Three or more bedrooms, 1,200 square feet.

(d) *General regulations.*

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 7; Ord. No. 1998-22, § 1, 11-3-1998)

Sec. 32-158. Reserved.

Editor's note—Ord. No. 2003-24, § 1, adopted October 21, 2003, repealed § 32-158 in its entirety. Former § 32-158 pertained to B-O business office district. See also the Code Comparative Table.

Sec. 32-159. B-L business limited district.

(a) *Purpose and intent.* The purpose and intent of the B-L business limited district is to provide suitable sites for the development of limited business activities of an office, retail and service nature in centralized locations consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Nonresidential uses permitted in the RM-25 residential multi-family district, limited to:

a. Public parks and playgrounds.

b. Public and private schools.

c. Day care centers and nurseries.

d. Public facilities and utilities.

e. Parking lots.

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f. Churches, synagogues and other houses of worship, provided that they are not located in the South Federal Highway Corridor and, that they are in a freestanding building located on a separate parcel of land that is not connected to or has no access to adjacent commercial uses and further provided that:

1. The site shall have a minimum of 15,000 square feet in lot area and 100 linear feet of lot frontage.
2. The building shall be set back no less than 30 feet from any residential district or use; however, that on lots with 100 feet of lot frontage, the minimum side yard setback shall be 20 feet from any residential district or use.
3. The building shall have a minimum of 2,000 square feet in gross floor area.

(2) Office uses, limited to:

a. Banking companies.
b. Brokerage offices: stocks, commodities, real estate, yachts and like services.
c. Employment services.
d. Banks and financial institutions.
e. Insurance agencies.
f. Investment counselors.
g. Doctors, dentists, optometrists, and other similar licensed medical practitioners.
h. Professional services: accountant, architect, engineer, lawyer and other similar professions.
i. Secretarial and stenographic services.
j. Studio schools: art, sculpture, dance, drama and like instruction.

(3) Retail and service establishments, limited to:

a. Antique shops.
b. Appliance stores.
c. Art galleries.
d. Art and graphic supplies.
e. Auction galleries.
f. Bakeries.
g. Barber, beauty and skin care services.
h. Bath shops.
i. Bicycle shops.
j. Book and stationery stores.
k. Camera shops.
l. Candy and ice cream stores.
m. Catalog sales.
n. China and flatware stores.
o. Copying services.
p. Delicatessens.
q. Drapery stores.
r. Drug and sundry stores.
s. Dry goods stores.
t. Florists.
u. Foodstores.
v. Fruit stores.
w. Furniture stores.
x. Gift shops.
y. Hardware stores.
z. Health and exercise studios.
aa. Hobby and handicraft shops.
bb. Hotels and motels.
cc. Interior decorators.
dd. Jewelry stores.
ee. Laundry and dry cleaning pickup substations.
ff. Leather goods shops.
gg. Liquor package stores.
hh. Locksmith.

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ii. Luggage shops.

jj. Messenger and delivery services.

kk. Movie theaters (indoor).

ll. Music and record shops.

mm. Newsstands.

nn. Office supply stores.

oo. Optical stores.

pp. Paint stores.

qq. Pet shops.

rr. Photographic studios.

ss. Restaurants provided that:

1. Freestanding restaurants located east of U.S. 1 must have a minimum of 2,000 square feet of gross floor area.

2. Freestanding restaurants located on the same parcel as a shopping center shall be compatible with the architectural features of the shopping center.

tt. Shoe repair shops.

uu. Souvenir and novelty shops.

vv. Specialty shops: men's, women's, children's clothing, shoes and similar apparel shops.

ww. Tailors and seamstresses.

xx. Telegraph offices.

yy. Title and abstract services.

zz. Tobacco shops.

aaa. Travel agencies.

(4) Other uses which are similar in nature to the uses permitted in subsections (b)(1)—(3) of this section but not specifically permitted in the B-G business general or B-I business industrial districts.

(5) Parking lots.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Automobile parts and accessory sales, provided that all products are contained within a structure, that only new products are sold, and that there are no repair or installation services available on-site.

(2) Sporting goods store, provided that not more than 20 percent of the gross floor area of any such use may be devoted to the display, and sale of firearms.

(3) Laundromats, provided that they are connected to the city's wastewater treatment system.

(4) Nightclubs, dancehalls and discotheques, provided that they are located not less than 300 feet from any residential district or use.

(5) Alcoholic beverage establishments.

(6) Retail on-premises dry cleaning operations, provided that such operations do not exceed 2,000 square feet of gross floor area, that only self-contained dry cleaning units using nonflammable solvents are used and that such operations shall not service drops made outside the city limits or any commercial accounts. Such other conditions as may be necessary to ensure that the proposed use shall be operated in a manner not creating adverse effects on abutting and neighboring properties may also be imposed.

(7) Clubs organized for ethnic, religious, social, educational, charitable or cultural purposes other than nightclubs, dancehalls, discotheques, lodges or fraternal organizations.

(8) Multi-family residential uses on sites of not less than one acre including residential and commercial uses having a density not exceeding 50 dwelling units per net acre which is devoted to residential use and complying with the site development standards and general regulations set forth in subsection (e) of this section. Any residential development in the B-L zoning use district is subject to and conditioned upon availability and apportionment of reserve units under county flexibility rules contained in Article 2 of the Administrative Rules Document of the County Land

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Use Plan. It is further provided that density of any such development shall be subject to approval of the city commission and that the city shall not be required to allot flexibility units to permit the maximum density of 50 units per net acre.

(9) Garden shops, provided that:

a. Such use is ancillary to a principal retail use.

b. The gross use area of the garden shop does not exceed 20 percent of the gross floor area of the entire retail outlet.

c. The outside display area shall be screened from open view by a continuous fence of 1½ feet of aboveground masonry block and decorative material such as wrought iron, but not chainlink, at least 6½ feet high but not exceeding ten feet.

d. One parking space shall be provided for each 200 square feet of gross use area of the outside display area unless such required parking is waived by the city commission.

e. If the use is discontinued for a period of six months, a new conditional use application is required.

f. The city commission may add to or modify these or any other conditions, as provided in section 32-962.

(10) Restaurants (fast-food) with drive-through facilities but not drive-in restaurants, provided that:

a. The restaurant has a minimum of 2,000 square feet of gross floor area.

b. The restaurant is located on the same parcel as a shopping center.

c. The restaurant shall not be less than 300 feet from any residential district or use measured from the main entrance of the restaurant to the nearest property line of the residential district or use.

d. The restaurant shall not be closer than 1,500 linear feet measured from main entrance to main entrance of any other restaurant with a drive-through facility.

e. No more than one such restaurant shall be located within the same shopping center, irrespective of distance between such uses.

f. An external loudspeaker system shall not be audible at a distance beyond 50 feet from the restaurant or as otherwise prohibited by section 9-103(a)(3).

g. No pylon or pole sign shall be used to advertise the restaurant use. Monument signs as permitted by article IV of this chapter shall not exceed five feet in height and 25 feet in sign area. Menu boards shall not be visible to public view and shall be located at the rear of the building.

h. Each drive-through lane shall be screened from public view by a minimum of four feet in height opaque hedge or wall and dense landscaping of adequate height to effectively screen the lane.

i. The restaurant and signage shall be compatible with architectural features of the shopping center.

(d) *Site development standards.*

(1) Minimum lot area is as follows:

a. Interior lot, 5,000 square feet.

b. Corner, 7,500 square feet.

(2) Minimum lot width shall be as follows:

a. Interior lot, 50 feet.

b. Corner lot, 75 feet.

(3) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	50
b. Rear	10
c. Side:	
1. Interior	None

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Yard	*Setback (Feet)*
2. Corner	25
d. Adjacent residential	25

(Exceptions: Lots platted at a depth of 150 feet or less at the adoption of this chapter shall have a minimum front yard setback of 25 feet.)

(4) Maximum height is as follows:

a. Hallandale Beach Blvd. and U.S. 1 only, 100 feet.

b. Other areas, 25 feet.

(5) Minimum landscape area shall be 15 percent.

(e) *Site development standards, residential uses.* The following site development standards shall apply to projects including residential uses permitted under subsection (c)(8) of this section:

(1) Minimum project area shall be one acre.

(2) Minimum project site width shall be 75 feet.

(3) Maximum height:

a. Residential construction: 100 feet.

b. Mixed residential/commercial construction): 100 feet.

(4) Minimum yard setbacks (residential/mixed use) are as follows:

Yard	*Setback (Feet)*
a. Front	20
b. Rear	25
c. Side:	
1. Interior	20
2. Corner or between structures	20

(5) Minimum floor area (residential) is as follows:

a. Efficiency, 800 square feet.

b. One-bedroom, 850 square feet.

c. Two-bedroom, 1,000 square feet.

d. Three-bedroom, 1,200 square feet.

(6) Minimum landscape area (residential/mixed use) shall be 30 percent.

(7) Maximum permitted density (residential) shall be 18 dwelling units per net acre.

(8) The development standards set forth in subsection (e)(3)—(e)(7) of this section shall apply to the residential portions of projects which include residential and commercial uses. The site development standards set forth in subsection (d) of this section shall apply to the commercial portions of any such project.

(f) *Site development standards, mixed residential and commercial uses.* Applications allowing residential uses and commercial uses within the same development shall comply with the standards set forth in subsection (e) of this section and with the following:

(1) Where residential dwellings are designed within the same project as nonresidential uses, the developer shall be required to identify in a supplemental report, and, on the face of the plans, the special provisions made to ensure the compatibility of the uses. This shall include but shall not be limited to noise/sound attenuation measures taken to lessen the nuisance factor of nonresidential uses upon the residential use, reduction of excessive light and glare to the residential units from the nonresidential uses, site features such as security lighting, and measures taken to improve the orientation and location of the residential units to reduce incompatibility with adjacent nonresidential uses. Site plans and elevations shall show the typical architectural design of each side of all residential and commercial buildings, loading zone area treatment dumpster enclosure areas, and outside accessory activity areas; driveway entrance landscaping areas shall be submitted as part of the conditional use application material for city commission review and approval. Once approved, the development must be constructed in substantial compliance with approved site plans, elevations and other design plans.

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(2) Off-street parking shall be designated for the residential uses, which shall be separated from the parking for the nonresidential uses. Parking shall be calculated as required by article IV of this chapter for each of the uses. Residential parking shall be calculated as provided in section 32-455(b)(3). It shall be unlawful to park, store or keep any commercial vehicle between the hours of 9:00 p.m. and 6:00 a.m. the following morning or to park, store or keep any boats, trailers or recreation vehicles within the residential portion of any project, except within a completely enclosed building; however, boats may be kept properly moored at approved docking facilities. Parking spaces required for the commercial portion of any project shall not be employed for parking of boats, boat trailers, or overnight parking of commercial equipment as defined in section 28-6.

(3) Buffering solutions in residential property shall not consist solely of the provision of a solid wall or fence. Buffering shall be designed to minimize the visual and noise impacts associated with a mixed use project and shall be designed to be compatible and consistent with the surrounding neighborhood.

(4) a. In mixed use projects, all sides of nonresidential structures shall be finished with the same materials and design treatment. Building wall areas more than 25 feet in length shall be interrupted by substantial landscaped areas and stands of mature trees with at least six-inch diameters and a minimum height of 20 feet at the time of planting, to break up the monotony of the wall face. At least one tree conforming to these standards shall be planted for every 25 linear feet of building wall and shall be placed so as to most effectively break up the monotony of the wall and to screen loading and dumpster areas.

b. The buffer area between residential and nonresidential uses shall be at least 20 feet wide and contain dense landscaping capable of effectively screening the two uses upon planting. This shall be complemented by undulating berming and the use of landscaped masonry walls and solid fences that are incorporated into the design scheme for the project. Screening shall not be less than six feet high and not more than eight feet high and shall be subject to the vision clearance requirement provided for in section 32-332. All masonry walls shall be finished on both sides so that no CBS courses are visible. The wall shall also be painted to blend in with the overall architectural design scheme.

(5) a. Entrance landscape treatment is required for all projects permitted under this subsection. The landscaping materials used shall be of sufficient maturity at the time of planting to constitute being an established landscaped area with adequate density to effectively screen adjacent buildings and parking areas.

b. Trees shall be incorporated into the design scheme and shall have a minimum diameter of six inches and a minimum height of 20 feet at the time of planting. Undulating berming and contoured ground surfacing shall be used in conjunction with both entrance and perimeter landscaped areas, inclusive of landscaped masonry walls and solid fences. At least one tree shall be planted for every 25 linear feet of entrance area to be landscaped, or a group of trees shall be planted for every 50 linear feet of entrance areas to be landscaped.

(6) At least 30 percent of all plant materials used in landscaping a project to which these standards apply shall comply with the standards of the South Florida Water Management District Xeriscape Plant Guide II, as amended, or other guide

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approved by the city manager. Approved plant materials shall be of types rated very drought-tolerant and salt-tolerant if the project is within 500 feet of the Intracoastal Waterway or of a surface water body which is brackish or salt water. Additionally, plant material shall be appropriately oriented on the site with respect to its suitability for use in a selected environmental location according to accepted landscaping practices.

(7) All landscape areas in a project to which these standards apply shall provide an automatically operated irrigation system which provides 100 percent coverage of landscaped areas. The irrigation system shall be zoned and designed to provide water based on accepted xeriscaping practice.

(8) All loading areas shall be adequately screened by a wall at least six feet in height and supplemented by the use of landscaping, or designed to be within a full or partially enclosed area.

(9) All roof-mounted equipment on all nonresidential structures shall be screened by the use of a treatment which is architecturally compatible with the rest of the structure. The screening shall effectively block the view and noise of roof-mounted equipment from off-site locations, including residential uses on the development site.

(10) Outdoor tennis courts, racquetball courts and similar facilities shall not be lighted after 10:00 p.m. in the evening.

(11) Boat dockage shall be limited to noncommercial watercraft of residents/owners, their guests and tenants only. No rentals of dock space to nonresidents of the development will be permitted.

(12) All residential units which are to be rented shall have a minimum lease period of one year. No time share subleasing or transient lodging facilities shall be permitted.

(13) Dumpster enclosures shall be of masonry construction and shall be adequate in size to accommodate newspaper recycling containers and shall be landscaped, or shall be designed in such a manner as to screen the dumpster from any area accessible to the public or from adjacent properties.

(14) The residential portion of the project is subject to the sign regulations of section 32-605(c).

(15) If an area is subdivided or detached from the original project area, the subdivided areas so created must meet all applicable site development standards on their own. Severance shall not be permitted to cause any nonconformity. Mutual access, drainage and utility easements shall be provided as appropriate for each separate parcel.

(16) The city commission may require appropriate restrictive covenants to be recorded to ensure compliance with these standards and make any other requirements for the development's conditional use which are considered necessary to encourage imaginative, functional, high-quality development compatible with adjacent uses and activities.

(g) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 8; Ord. No. 1998-24, §§ 2, 6, 12-1-1998; Ord. No. 2001-16, § 2, 9-18-2001; Ord. No. 2003-12, § 1, 6-17-2003)

Cross reference—Businesses, ch. 7.

Sec. 32-160. B-G business general district.

(a) *Purpose and intent.* The purpose and intent of the B-G business general district is to provide for general retailing and a variety of special

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business uses and to encourage the provision of a wide range of goods and services in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) All uses permitted in the B-L business limited district.

(2) Retail and service establishments, limited to:

a. Alcoholic beverage establishments.

b. Automobile parts and accessory sales (outdoor display of tires, as provided by section 32-168, permitted).

c. Automobile sales and display (new only).

d. Automobile rental agencies.

e. Billiard and pool rooms.

f. Boat sales and display.

g. Reserved.

h. Bowling alleys.

i. Broadcasting studios.

j. Bus terminals.

k. Car washes.

l. Fortunetellers, provided such business is not located within 1,000 feet of an existing fortunetelling business, measured by the most direct route from main entrance to main entrance.

m. Funeral homes (including operator's residence).

n. Health and exercise studios.

o. Home improvement centers.

p. Hotel and motels.

q. Lodges and fraternal organizations.

r. Marine supply services.

s. Messenger and delivery services.

t. Miniature golf courses.

u. Restaurants (fast-food).

v. Skating rinks.

w. Taxi and limousine services.

(3) Other uses which are similar in nature to the uses permitted in subsections (b)(1) and (b)(2) of this section, but not specifically permitted in the B-I business industrial district.

(4) Parking lots.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Animal hospitals and veterinary clinics, provided that all facilities, including ancillary kennels, are located in an enclosed soundproof, air conditioned building.

(2) Automobile repair and service activities, including all uses accessory to sales, provided that all activities are conducted within an enclosed soundproof building and no painting or body repair services are performed on the premises.

(3) Automobile sales and display (used), provided that adequate screening shall be provided between all such uses and any adjacent residential use, and that all such uses shall be ancillary to a new automobile dealership.

(4) Nightclubs, dancehalls and discotheques, provided that they are located not less than 300 feet from any residential district or use.

(5) Hospitals, provided that there are no facilities for residential psychiatric care.

(6) Service stations, including towing services, provided that there is no outside display of merchandise except tires and other automotive accessories, as provided by section 32-168, and that there is no rental, sales or storage of trailers, trucks, motorcycles or automobiles, and no outside mechanical repairs.

(7) Secondhand merchandise stores, provided that they are operated by nonprofit charitable or civic organizations and that no automobile or mechanical equipment is offered for sale.

(8) Retail on-premises dry cleaning operations, provided that such operations do not exceed 2,000 square feet of gross floor

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area, that only self-contained dry cleaning units using nonflammable solvents are used, and that such operations shall not service drops made outside the city limits or any commercial accounts. Such other conditions as may be necessary to ensure that the proposed use shall be operated in a manner not creating adverse effects on abutting and neighborhood properties may also be imposed.

(9) Garden shops (as provided in section 32-159(c)(9).

(10) Wholesale distributor's showroom, provided that no more than 50 percent of the gross floor area of the structure is devoted to storage uses and any such storage shall be conducted indoors.

(11) Accessory uses to retail sales of a manufacturing nature, provided that no such accessory use shall occupy more than 50 percent of the gross floor area of a commercial retail use, and shall not generate noise, fumes, vibration, odor or other nuisances of a nature or intensity that would be incompatible with commercial retail and other uses permitted in the B-G district.

(d) *Site development standards.*

(1) Minimum lot area shall be 7,500 square feet.

(2) Minimum lot width shall be 75 feet.

(3) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	35
b. Rear	20
c. Side:	
1. Interior	15
2. Corner	20

Exceptions. Lots platted at a depth of 150 feet or less prior to November 21, 1978, shall have a minimum front yard setback of 25 feet.

(4) Maximum height shall be 100 feet.

(5) Minimum landscape area shall be 15 percent.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 9; Ord. No. 2000-17, § 2, 9-5-2000)

Cross reference—Businesses, ch. 7.

Sec. 32-161. B-I business industrial district.

(a) *Purpose and intent.* The B-I business industrial district is a utilitarian business and light industrial district that is intended to accommodate the building and service trades; small-scale light manufacturing and fabrication operations; plus a broad range of retail, office, wholesale, storage, and repair uses, in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) All uses permitted in the B-L business limited and B-G business general districts.

(2) Retail and service establishments, limited to:

a. Amusement enterprises.

b. Animal hospitals and veterinary clinics, provided that all facilities, including ancillary kennels, are located in an enclosed soundproof, air conditioned building.

c. Reserved.

d. Automobile sales and display (used).

e. Bakeries.

f. Bottled gas sales.

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g. Reserved.

h. Reserved.

i. Dry cleaners and laundries.

j. Express companies.

k. Exterminating companies.

l. Fence companies.

m. Fortunetellers.

n. Fruit packers.

o. Garden supplies and plant nurseries (outside storage and display permitted).

p. Indoor tennis, handball and racquetball courts.

q. Lawn maintenance services.

r. Machine shops.

s. Motorcycle sales and service.

t. Moving and transfer companies.

u. Nightclubs, dancehalls and discotheques.

v. Plumbing supply stores.

w. Printers and book binders.

x. Recording studios.

y. Recreational vehicle sales and service.

z. Restaurant equipment and supply service.

aa. Secondhand merchandise stores.

bb. Sign shops.

cc. Trade schools.

dd. Truck and trailer sales and service.

ee. Vending machine sales and service.

ff. Warehouse (dry and cold storage).

gg. Wholesale sales.

hh. Other uses which are similar in nature to, and no more intense than, the uses permitted in this subsection.

(3) Light industrial and manufacturing uses, limited to:

a. Apparel products.

b. Automotive parts products.

c. Boat and marine products.

d. Cigar and cigarette products.

e. Food processing plants.

f. Furniture and bedding products.

g. Jewelry and silverware products.

h. Leather goods products (tanning and curing of hides not permitted).

i. Medical and surgical equipment products.

j. Novelty products.

k. Precision instrument products.

l. Taxidermist.

m. Other light industrial and manufacturing uses which are similar in nature to, and no more intense than, the uses permitted in this subsection.

(4) Parking lots and parking garages (commercial or noncommercial).

(5) Adult entertainment businesses.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Automobile paint and body shops.

(2) Automobile repair shops.

(3) Equipment rental, limited to equipment for residential maintenance and garden usage (heavy equipment such as bulldozers, backhoe, and the like not permitted).

(4) Outside storage and display of merchandise, materials and supplies in conjunction with the uses specified in subsection (b) of this section unless specifically permitted.

(5) Towing service storage facility, provided that such use shall be located not less than 100 feet from any residentially zoned property, and provided that a wall or fence as may be required by the city commission shall be provided.

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(d) *Site development standards.*

(1) Minimum lot area shall be 7,500 square feet.

(2) Minimum lot width shall be 75 feet.

(3) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	25
b. Rear	20
c. Side:	
1. Interior	20
2. Corner	20
d. Adjacent residential	25

(4) Maximum height shall be 35 feet.

(5) Minimum landscape area shall be 15 percent.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 10; Ord. No. 2000-17, § 2, 9-5-2000; Ord. No. 2002-05, § 4, 4-2-2002)

Cross reference—Businesses, ch. 7.

Sec. 32-162. I-L industrial light district.

(a) *Purpose and intent.* The purpose and intent of the I-L industrial light district is to provide suitable sites for the development of certain light industrial and manufacturing uses which provide employment opportunities and contribute to the community's overall economic base in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Warehouses (dry and cold storage).

(2) Light industrial and manufacturing uses, limited to:

a. Apparel products.

b. Automotive parts products.

c. Boat and marine products.

d. Cigar and cigarette products.

e. Food processing plants.

f. Furniture and bedding products.

g. Jewelry and silverware products.

h. Leather goods products.

i. Medical and surgical equipment products.

j. Novelty products.

k. Precision instrument products.

l. Taxidermists.

(3) Auto repair and service activities, including major repair work, body work and painting, provided that all activities are conducted within an enclosed building and that vehicles to be repaired shall be stored only in designated storage areas meeting the requirements of this Code. Such storage area shall not include required parking or public rights-of-way. If this Code permits an outside storage area, such storage area shall be screened from view by a fence at least six feet in height and conforming to the minimum and maximum requirements of sections 32-331(b), 32-332, 32-334 and 32-335.

(4) Accessory retail sales up to a maximum of ten percent of the principal use floor area, not to exceed 2,000 square feet in floor area.

(5) Other light industrial and manufacturing uses which are similar in nature to the above permitted uses.

(6) Parking lots.

(7) Adult entertainment businesses.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Towing service storage facility, provided that such use shall be located not less

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than 100 feet from any residentially zoned property and provided that a wall or fence as may be required by the city commission shall be provided.

(2) Outdoor storage in connection with permitted principal use, provided storage is effectively screened from public view (heavy equipment, such as bulldozers, backhoes and the like, not permitted). Any item stored shall not exceed 20 feet in height.

(3) Accessory retail sales over ten percent of the principal use floor area up to a maximum of 25 percent, provided parking for the industrial and retail uses as referenced in section 32-455(c) is provided.

(d) *Site development standards.*

(1) Minimum lot area shall be 7,500 square feet.

(2) Minimum lot width shall be 75 feet.

(3) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	20
b. Rear	20
c. Side:	
1. Interior	10
2. Corner	20
d. Adjacent residential	100

(4) Maximum height shall be 45 feet.

(5) Minimum landscape area shall be 15 percent.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 11; Ord. No. 2000-18, § 1, 9-5-2000; Ord. No. 2000-26, § 2, 11-8-2000; Ord. No. 2002-05, § 4, 4-2-2002)

Cross reference—Businesses, ch. 7.

Sec. 32-163. CR-P commercial recreational (passive) district.

(a) *Purpose and intent.* The purpose and intent of the CR-P commercial recreational (passive) district is to provide suitable sites for commercial recreational attractions and facilities of a passive nature which require extensive land area and are recognized as being supportive of a tourist-oriented economy in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Commercial recreation uses, limited to golf courses.

(2) Accessory uses limited to the following, provided they occupy not more than a cumulative total of 15 percent of total site area:

a. Golf driving ranges.

b. Hotels, motels, restaurants, private clubs and cocktail lounges.

c. Parks, playgrounds and beaches.

d. Swimming pools.

e. Tennis, racquetball and handball courts.

For the purpose of this subsection, a hotel, motel, restaurant, private club, cocktail lounge, golf driving range, swimming pool, tennis, racquetball or handball court, park, playground and beach may be considered an accessory use to the main permitted golf course use, provided that those uses are incidental to and dependent upon the continued existence and operation of the main golf course use, even though uses may be more heavily utilized or realize substantially more income or profit than the main golf course use.

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(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Equestrian courses, provided that they are accessory in nature and all stable areas are located not less than 600 feet from any adjacent residential use.

(2) Petting zoos, provided that they are accessory in nature and all animals are properly sheltered and are located not less than 500 feet from any adjacent use.

(3) Marinas, provided that they are accessory to a main permitted golf course and dependent upon the continued existence and operation of a main golf course use on a noncontiguous site zoned CR-P.

(d) *Site development standards for golf course use.*

(1) Minimum golf course site area shall be 100 acres.

(2) Minimum golf course lot width shall be 200 feet.

(3) Minimum golf course landscape area shall be 75 percent.

(4) The 100-acre minimum site area may include contiguous site area outside the city limits that is an integral part of the golf course site area and may include accessory conditional uses on noncontiguous site zoned CR-P, provided that they occupy not more than a cumulative total of 15 percent of total site area.

(e) *Site development standards for accessory and accessory conditional uses.*

(1) Minimum yard setback from perimeter property line for all structures, accessory uses, and accessory conditional uses are as follows:

Yard	*Setback (Feet)*
a. Front	85
b. Rear	50
c. Side:	
1. Interior	50
2. Corner	75

(2) Maximum height shall be 100 feet.

(3) Minimum landscape area shall be 35 percent of the area devoted to each accessory and accessory conditional use.

(4) The setback requirements shall not be construed to require such separation of main or accessory uses from each other within the site.

(5) All accessory and accessory conditional uses together may not exceed a cumulative total of 15 percent of the total site area.

(f) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(g) *Site development standards, marinas.* The following site development standards shall apply to marinas as permitted by subsection (c)(3) of this section:

(1) a. Where accessory marinas are located within 300 feet of residential uses, a site plan shall be required and approved by the city commission to ensure compatibility of uses. This shall include but not be limited to noise/sound attenuations measures taken to reduce the nuisance factor of accessory marinas upon adjacent residential uses and reduce excess light and glare to the residential area from the marina.

b. Site plans and elevations showing the architectural design of any proposed structure, dimensions and location of docks, dolphin pilings, dumpster enclosure area, driveway entrances, parking, landscape and

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buffer areas shall be submitted as part of the conditional use application for city commission review and approval. Once approved, the development shall be constructed in accordance with approved site plans, elevations and other design plans; and no structure may be constructed on the property unless specifically included in the approved site plan.

(2) Boat slips and docks for accessory marinas shall not project more than 15 percent into the waterway or 30 feet into the waterway, whichever is less, nor extend closer than 15 feet to the lot line of any adjacent property.

(3) Dolphin pilings, being defined as those kinds or types which are self-supporting and unattached to the dock proper are permitted, provided they do not project more than 30 feet into the waterway nor extend closer than 15 feet to the lot line of any adjacent property.

(4) Landscape buffers abutting residential property shall be provided to minimize the visual and noise impacts associated with the marina and shall be designed to be compatible and consistent with the surrounding neighborhood. The buffer area abutting the residential uses shall be at least 20 feet wide and shall contain dense landscaping of alternate heights to effectively screen the two uses upon planting. At least one tree, with a minimum height of 20 feet at time of planting, shall be planted for every 25 linear feet of buffer area.

(5) Trash receptacles shall be provided and shall be of a quality design, material and workmanship to the satisfaction of the city manager. Dumpster enclosures for marinas shall be of masonry construction and shall be landscaped and designed in such a manner as to screen the dumpster from any area accessible to the public or from adjacent properties.

(6) Signage for accessory marinas on noncontiguous property shall be limited to one freestanding sign identifying the marina which shall not exceed ten square feet in sign area and shall not be placed higher than eight feet above the ground. One directional sign facing a vehicular use area is permitted per access drive, which shall not exceed three square feet in sign area. Such signs may be illuminated.

(7) The following marina-related uses and activities are prohibited:

a. Living or overnight sleeping aboard boats or houseboats.

b. Sale of fuel.

c. Commercial boats except boat taxis.

d. Boat sales.

e. Nonemergency boat repairs or service.

f. Boat launch.

g. Facilities for cleaning fish.

h. Dry storage of boats and equipment.

i. Boat rentals.

j. Restaurants.

k. Retail sales except as otherwise permitted in this subsection and the rental of boating, bathing, fishing supplies and equipment.

l. Sewage dump station.

(8) The following uses and activities may be permitted for accessory marinas subject to city commission approval as part of a conditional use permit or as an amendment to the permit and approved site plan:

a. One freestanding roofed structure open on all sides which may be used as a boat taxi terminal, provided no part of such structure extends further seaward than a permitted dock.

b. Marina accessory structures and uses such as offices, laundries, restrooms and vending machines placed out-

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doors, provided that they are not situated within 15 feet of the adjacent property line.

(9) The city commission may require the marina owner to execute restrictive covenants to be recorded to ensure compliance with the standards of subsections (1)—(8) of this section and may promulgate any other requirements to ensure high-quality development compatible with adjacent residential uses and activities.

(Code 1980, app. A, art. IV, § 12)

Sec. 32-164. CR-A commercial recreational (active) district.

(a) *Purpose and intent.* The purpose and intent of the CR-A commercial recreational (active) district is to provide suitable sites for commercial recreational attractions and facilities of an active outdoor or indoor nature which require extensive land area and are recognized as being supportive of a tourist-oriented economy.

(b) *Uses permitted.* Uses permitted are as follows:

(1) All uses permitted in the CR-P commercial recreational (passive) district.

(2) Commercial recreation uses, limited to:

a. Auditoriums.

b. Bowling alleys.

c. Cultural centers.

d. Dog racing tracks.

e. Exhibition halls.

f. Gymnasiums.

g. Horseracing tracks.

h. Jai-alai frontons.

i. Miniature golf courses.

j. Performing arts theaters.

k. Skating rinks (roller and ice).

l. Swimming pools (indoor).

m. Tennis, racquetball and handball courts (indoor).

(3) Other uses which are similar in nature to the uses permitted in subsections (b)(1) and (b)(2) of this section.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Hotels, motels, restaurants, private clubs and alcoholic beverage establishments, provided that they are accessory in nature, and that all structures and off-street parking areas are located not less than 100 feet from any perimeter lot line. Such uses should be primarily oriented to arterial or collector streets.

(2) Circuses, carnivals, fairs, festivals and flea markets, provided that they are accessory or subordinate to a permitted use; that they are adequately screened from adjacent properties and perimeter roadways; that they have adequate off-street parking; that they are properly insured; and that they have provided for adequate security and public safety protection.

(d) *Site development standards.*

(1) Minimum lot area shall be ten acres.

(2) Minimum lot width shall be 200 feet.

(3) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	75
b. Rear	50
c. Side:	
1. Interior	50
2. Corner	75

(4) Maximum height shall be 100 feet.

(5) Minimum landscape area shall be 75 percent.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

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(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(6) The hotel-motel use is subject to the density limitations of the RM-25 residential multi-family (high-density) district.

(Code 1980, app. A, art. IV, § 13)

Sec. 32-165. CF community facility district.

(a) *Purpose and intent.* The purpose and intent of the CF community facility district is to provide suitable sites for the development of community facilities of both a public and quasipublic nature to serve surrounding residential neighborhoods in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Cemeteries.

(2) Houses of worship provided that they are in a freestanding building located on a separate parcel of land that is not connected to or has no access to adjacent commercial uses, and further provided that new development shall meet the following criteria:

a. The site shall have a minimum of 15,000 square feet in lot area and 100 linear feet of lot frontage.

b. The building shall be set back no less than 30 feet from any residential district or use; however, on lots with 100 feet of lot frontage, the minimum side yard setback shall be 20 feet from any residential district or use.

c. The building shall have a minimum of 2,000 square feet of gross floor area.

(3) Day care centers and nurseries.

(4) Reserved.

(5) Governmental administration buildings.

(6) Hospitals.

(7) Initial care units.

(8) Libraries.

(9) Museums and art galleries.

(10) Nursing homes.

(11) Parks and playgrounds and other public recreation areas.

(12) Police and fire stations.

(13) Public works facilities.

(14) Utility substations, transformers and transmission lines.

(15) Transportation facilities.

(16) Other public facilities.

(17) Parking lots.

(18) Other uses which are similar in nature to the uses permitted in subsections (b)(1)—(b)(17) of this section.

(c) *Uses permitted conditionally.* There are no uses permitted conditionally in this district.

(d) *Site development standards.*

(1) Minimum lot area shall be 7,500 square feet.

(2) Minimum lot width shall be 75 feet.

(3) The following minimum setbacks shall apply to all one-story structures and shall be increased by five feet each for every story thereafter:

Yard	*Setback (Feet)*
a. Front	30
b. Rear	20
c. Side:	
1. Interior	15
2. Corner	25
d. Adjacent residential	25

(4) Maximum height shall be the same as the most restrictive abutting district.

(5) Minimum landscape and area shall be 25 percent.

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(6) These site development standards shall not apply to community facilities that are linear features such as roads, railroads, power transmission lines, etc. Such facilities must be reviewed and approved by the director prior to the issuance of any development permit.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 14; Ord. No. 1998-24, §§ 2, 6, 12-1-1998)

Sec. 32-166. OS recreation and open space district.

(a) *Purpose and intent.* The purpose and intent of the OS recreation and open space district is to provide for outdoor sports and recreational activities in which participants are actively engaged, but which may also provide entertainment to spectators. The activities for which the OS district is provided are normally and primarily conducted in the open air. Related or accessory uses may be in the open air or in a building or structure.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Parks and playgrounds.

(2) Beaches.

(3) Tennis courts.

(4) Lawn bowling.

(5) Swimming pools.

(6) Shuffleboard courts.

(7) Miniature golf courses.

(8) Public dedicated lakes.

(9) Other uses which are similar in nature to the uses permitted in this subsection.

(10) Accessory uses.

(c) *Uses permitted conditionally.* There are no uses permitted conditionally in this district.

(d) *Site development standards.* Because of the nature of uses involved and the variety of arrangements of uses and facilities on the site plan of development, broad general regulations for plot size, yards, setbacks and height cannot be satisfactorily satisfied. For these reasons, to ensure efficient functioning and effective public service, the use and site plans for development improvement and operation are made subject to review and approval in each case.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 15)

Sec. 32-167. ED educational facility district.

(a) *Purpose and intent.* The purpose and intent of the ED educational facility district is to provide suitable sites for the development of educational and vocational facilities in areas consistent with the city's comprehensive land use plan.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Educational institutions.

(2) Other uses which are similar in nature to the use permitted in this subsection.

(c) *Uses permitted conditionally.* There are no uses permitted conditionally in this district.

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(d) *Site development standards.*

(1) Minimum lot area shall be 43,560 square feet.

(2) Minimum lot width shall be 150 feet.

(3) The following minimum setbacks shall apply to all one-story structures and shall be increased by five feet each for every story thereafter:

Yard	*Setback (Feet)*
a. Front	30
b. Rear	20
c. Side:	
1. Interior	15
2. Corner	25
d. Adjacent residential	25

(4) Maximum height shall be the same as the most restrictive abutting district.

(5) Minimum landscape area shall be 25 percent.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. IV, § 16)

Sec. 32-168. Outdoor display.

(a) Except as specifically permitted, no property in the city shall be used for outdoor storage and/or display of goods, merchandise or other commodities in connection with their sale. Such uses shall be permitted in districts in which the sale of goods, merchandise or other commodities is permitted, with respect to the following:

(1) Sale of automobiles, trucks and other vehicles and mobile homes.

(2) Sale of tires and other automotive accessories in connection with the operation of service stations, and tires at tire stores or other businesses which may sell tires; provided that outdoor display shall be limited to not more than two display racks, each rack not larger than 72 inches length by 24 inches depth by 72 inches height, with a capacity of holding not more than 16 tires in each rack.

(3) Sale of fruit and garden produce, or statuary.

(4) Sale of plants, trees and similar nursery products, in containers.

(5) Sale of newspapers, magazines and books where such sale is primarily conducted within enclosed premises.

(6) Sale of swimming pools.

(7) Sale of boats.

(8) Sale of construction materials customarily stored or displayed for sale outdoors.

(9) Sale of such articles and kinds of goods, merchandise and other commodities as may be consistent with the purposes of this section and which shall be authorized as a conditional use or uses pursuant to section 32-964 upon application duly made pursuant to section 32-966(b).

(b) Where otherwise permitted by subsection (a)(1)—(9) of this section, every such display shall be maintained in an area adjacent to a permitted structure or on a pump island and shall not be located in any parking lot or setback area.

(c) This section shall not apply to the outdoor storage and/or display of any goods, merchandise or other commodity on or within the premises of any flea markets which may at any time lawfully exist and operate in the city.

(Code 1980, app. A, art. IV, § 17)

Sec. 32-169. Outdoor seating.

(a) *Permitted.* A restaurant or food establishment that wishes to provide an outdoor seating area for the use of its customers may locate tables and chairs outside the establishment. Such use shall be permitted in districts in which restau-

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rants and retail food establishments are permitted in accordance with the standards of this section.

(b) *Outdoor dining permit; fees.*

(1) An outdoor dining permit is required for operating restaurants wishing to provide tables and chairs outside the building in a courtyard or patio area.

(2) The application fee for an outdoor dining permit shall be set forth by resolution.

(3) Applications for outdoor dining permits are provided by the city clerk.

(c) *Standards and criteria.* Outdoor seating may be located adjacent to the licensed restaurant or food establishment in an exterior courtyard or patio of the property, subject to the following:

(1) The total number of seats provided indoor and outdoor is in compliance with the parking requirements of section 32-455(c).

(2) Outdoor seating shall be permitted only as an accessory use to a licensed restaurant or food establishment.

(3) Outdoor seating shall be maintained in a courtyard or patio area adjacent to the licensed restaurant or food establishment and shall not be located in the parking lot.

(4) Tables and chairs shall not be closer than ten feet to any bus stop, taxistand, fire hydrant, alley, street, pedestrian crosswalk or handicap ramp.

(5) Outdoor seating shall be located in such a manner that its use does not interfere with pedestrian path or limit unobstructed passage. A minimum width of five feet shall be maintained at all times as an unobstructed pedestrian path. The city manager may permit the outdoor seating area to occupy additional space, up to a minimum of three feet clear path, where established pedestrian path shall not be obstructed and where public safety shall not be adversely affected.

(6) Tables, chairs, umbrellas and any other objects provided in the outdoor seating area shall be of quality design, materials and workmanship both to ensure the safety and convenience of users, to be compatible with the uses in the immediate vicinity of the outdoor seating area and enhance the visual quality of the urban environment. Design, materials and colors shall be approved by the city manager prior to the issuance of the outdoor dining permit.

(7) Umbrellas and other decorative material shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. Signs are prohibited on any fixture other than umbrellas and menu boards. Signs on umbrellas are limited to a product name, logo or the establishment name. Lettering may not exceed six inches in height or three square feet in sign area.

(8) Only one menu board shall be permitted with a maximum size that does not exceed four square feet. The menu board shall be placed in a location adjacent to the establishment. The menu board shall not be a sandwich sign.

(9) Reserved.

(10) Tables, chairs, umbrellas, and any other objects of the outdoor seating area shall be maintained in a clean and attractive appearance and shall be in good repair at all times.

(11) The outdoor seating area shall be maintained in a neat and orderly appearance at all times, and the area shall be cleared of all debris as needed a minimum of once a day and again at the close of each business day.

(12) Reserved.

(13) No food preparation or storage shall be allowed in the outdoor area. Trash containers shall not be maintained outdoors.

(14) Upon the issuance of a hurricane watch by the National Hurricane Center for an area encompassing the city, all tables, chairs and other equipment located outdoors shall be removed and placed indoors.

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(d) *Appeals.*

(1) Upon denial or revocation of an outdoor dining permit, the city manager shall give notice of such action to the applicant or permittee in writing stating the action taken and reasons for such action. The notice shall inform the applicant or permittee of his right to appeal the city manager's decision to the city commission.

(2) An appeal of the city manager's action as provided for in this section shall be initiated within ten days of the effective dates of the denial of permit by filing a written notice of appeal with the city manager.

(3) The city manager shall place the appeal on the next available regular city commission agenda. At the hearing, the city commission shall hear and determine the appeal; and the decision of the city commission shall be final and effective immediately.

(Code 1980, app. A, art. IV, § 18; Ord. No. 1998-21, § 1, 1-3-1998)

Sec. 32-170. EC employment center district.

(a) *Purpose and intent.* The purpose and intent of the EC employment center district is to provide for a zoning category which will encourage nonresidential development compatible with residential and other less intensive land uses, which will support the tourist-oriented segment of the economy as well as high technology and service-based activities.

(b) *Uses permitted.* Uses permitted are as follows:

(1) Office.

(2) Research facilities.

(3) Community facilities.

(4) Communication facilities.

(5) Educational/vocational center (not including work release programs or halfway houses).

(6) Retail (limited to 20 percent of the land designated employment center on the future land use plan map within a flexibility zone).

(7) The following accessory uses, limited to less than 50 percent of the total floor area or total gross development complex site:

a. Retail within buildings devoted to principal uses.

b. Restaurants and personal services.

c. Storage, warehousing and distribution.

d. Assembly and light manufacturing uses, limited to:

1. Apparel products.

2. Cigar and cigarette products.

3. Furniture and bedding products.

4. Jewelry and silverware products.

5. Leather good products.

6. Medical and surgical equipment products.

7. Novelty products.

8. Precision instrument products.

9. Other light manufacturing uses which are similar in nature to the uses permitted.

e. Transportation and utilities.

f. Indoor and outdoor recreation.

(c) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Hotels, motels and similar lodging.

(2) Nonresidential agricultural research.

(3) Restaurants.

(d) *Site development standards.*

(1) Minimum lot area shall be one acre.

(2) Minimum lot width shall be 100 feet.

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(3) Minimum yard setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	25
b. Rear	20
c. Side:	
1. Interior	20
2. Corner	20
d. Adjacent residential	25

(4) Maximum height shall be 100 feet.

(5) Minimum landscape area shall be 15 percent.

(e) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review regulations, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.
(Code 1980, app. A, art. IV, § 19)

Sec. 32-171. Fashion Row overlay district.

(a) *Application.* All uses within the Fashion Row overlay district shall comply with otherwise applicable regulations, these supplemental regulations and the city's design guidelines. Where the regulations for this district conflict with otherwise applicable regulations, these provisions shall control.

(b) *District boundaries defined.* There is designated as the Fashion Row overlay district those lands generally and approximately bounded by the centerline of the Florida East Coast Railroad right-of-way, Hallandale Beach Boulevard, by the common rear property line of lots fronting on N.E. First and N.E. Second Avenues, N.E. Third Street, the east side of the alley east of N.E. Second Avenue and N.E. Fifth Street. The lands are specifically described as follows:

Beginning at a point where the north right-of-way line of N.E. Fifth Street extended due west intersects the centerline of the right-of-way of the Florida East Coast Railroad; thence proceed east along the north right-of-way line to a point where the right-of-way line intersects a line formed by extending southward the easternmost boundary of tract H of Ben-Mel by the Sea, a subdivision according to the plat as recorded at plat book 6, page 24, of the public records of the county; thence southerly along that line and eastern boundary to the south right-of-way line of N.E. Fifth Street; thence westerly along the south right-of-way line of N.E. Fifth Street to a point where it intersects the east right-of-way line of the alley between block E and block G of Ben-Mel by the Sea; thence south along the eastern edge of the alley and a line extended southerly to a point where it intersects the centerline of N.E. Third Street; thence west along the centerline of N.E. Third Street until it intersects a line determined by extending northward the westernmost boundary of lot 36 of Hallandale Center, a subdivision according to the plat as recorded at plat book 19, page 20, of the public records of the county; thence south along that line and along the westernmost boundaries of lots 19 through 36 of the Hallandale Center Subdivision and a line extended southerly to a point of intersection with the centerline of Hallandale Beach Boulevard; thence west along the centerline of Hallandale Beach Boulevard to a point of intersection with the centerline of the Florida East Coast Railroad right-of-way; thence north along the centerline of the Florida East Coast Railroad right-of-way to the point of beginning. The boundaries of this district are set forth in the map which is attached to and made a part of this section as exhibit A-1.

(c) *Permitted uses, generally.* The uses permitted throughout the Fashion Row overlay district vary according to the underlying zoning districts. Only those uses specifically permitted by this section shall be permitted within the Fashion Row overlay district.

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(d) *Nonconforming uses.*

(1) Any previously lawful use status made nonconforming by the provisions of this section shall be rendered null and void if the nonconforming use is abandoned or discontinued for a period of 30 consecutive days. In determining whether a nonconforming use has been abandoned or discontinued, the standards contained in section 32-925(7) shall be applied.

(2) Nonconforming lots, structures or uses located within this district, except as provided in this section, shall be subject to the provisions of section 32-921.

(e) *Permitted uses in the RM-18 residential multi-family (medium-density) district.* Uses permitted in the RM-18 district are as follows:

(1) All residential uses permitted in the RM-18 residential multi-family district.

(2) Nonresidential uses permitted in the RM-18 district, limited to:

a. Public parks and playgrounds.

b. Public and private schools.

c. Day care centers and nurseries.

d. Public facilities and utilities.

e. Parking lots.

(f) *Uses permitted conditionally in the RM-18 residential multi-family (medium-density) district.* The following uses may be permitted, and may occupy a structure with residential uses in the RM-18 district, where the city commission finds that adverse impacts to adjacent residential land uses would be minimal or nonexistent based upon consideration of the nature and size (intensity) of the proposed use, and proposed mitigation strategies. Further, commercial land use in the RM-18 district is subject to and conditioned upon availability and apportionment of commercial flexibility acreage under the county flexibility rules contained in the administrative rules document of the county land use plan.

(1) Service uses, limited to the following:

a. Hair, beauty and skin care.

b. Music and dance studios.

c. Photographic studios.

d. Tailors and seamstresses.

e. Shoe repair.

f. Other similar uses.

(2) Office and commercial retail uses permitted in the B-L business limited district.

(3) Art studios and galleries.

(4) Restaurants.

(5) Parking lots.

(6) Other uses similar in nature but not specifically permitted in the B-G business general or B-I business industrial district.

(g) *RM-18 district site development standards.* Section 32-155(d) contains additional development standards that are not incorporated into this subsection.

(1) *Minimum floor area.* All dwelling units shall meet the minimum floor area requirements for multiple-family dwellings in the RM-18 district.

(2) *Parking location and design.* Off-street parking facilities for new structures and for commercial and mixed commercial-residential uses of existing structures shall be provided in rear yards with no access to N.E. Second Avenue.

a. Parking facilities may be designed so that vehicles back into a public alley, provided that the rear of all parking spaces are set back at least ten feet from an alley.

b. When parking is provided in a rear yard, use of any front yard driveway is prohibited; and driveways shall be removed.

(3) *Pervious lot area.* The minimum landscaped pervious area for commercial and mixed commercial-residential uses is ten percent of the lot area. At least 30 percent of the required landscaped pervious area shall be maintained in the front yard.

(4) *Required front yard setback.* Where a building designed for commercial or mixed commercial-residential use is constructed, or

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expanded into a front yard, a minimum of 50 percent of the building frontage shall be set back exactly 15 feet from the front property line; except that porches shall be permitted to extend up to ten feet from the front property line.

(5) *Minimum required setbacks for commercial and mixed commercial-residential structures.* Minimum structures are as follows:

Yard	*Setback (Feet)*
a. Rear	35
b. Side:	
1. Interior	5
2. Corner	15

(6) *Screening.* The requirements of this subsection replace the provisions of section 32-331.

Where a commercial use or mixed commercial-residential use abuts an entirely residential use, a continuous hedge shall be planted along the common side property in accordance with the requirements and specifications of section 32-385(c)(7).

(7) *Perimeter landscaping.* A landscaped buffer strip at least three feet in width shall be required abutting alleys and rear or side property lines, exclusive of accessways.

(h) *Permitted uses in the B-L business limited district.* Uses permitted in the B-L district are as follows:

(1) Nonresidential uses permitted in the RM-25 residential multi-family district, limited to:

a. Public parks and playgrounds.

b. Public and private schools.

c. Day care centers and nurseries.

d. Public facilities and utilities.

e. Parking lots.

(2) All office, retail and service uses permitted in the B-L business limited district.

(3) Light industrial and manufacturing uses accessory to permitted commercial retail uses, limited to the assembly or other fabrication of apparel, apparel accessory products and products of a craft or artisan nature.

Such accessory permitted uses include, but are not limited to, the production of handbags, jewelry, costumes, garments, stained glass windows, glass collectibles, sculptures, pottery products and ceramic products. Light industrial accessory uses of an artisan or craft nature permitted by this provision are distinguished from building trade shops, which are not permitted.

Accessory uses permitted under this subsection must be conducted according to the following requirements:

a. Accessory uses shall occupy less than 50 percent of the gross floor area of the establishment it shares with a principal commercial retail use.

b. All activities shall be conducted within a completely enclosed building.

c. Accessory uses shall not generate noise, fumes, vibration, odor or other nuisances of a nature or intensity that would be incompatible with uses permitted in the B-L district.

d. Accessory manufacturing uses shall be physically separated from retail use areas by a partition wall.

e. Customer access to manufacturing areas shall be prohibited.

(4) Other uses that are similar in nature but not specifically permitted in the B-G business general or B-I business industrial district.

(i) *Uses permitted conditionally in the B-L business limited district.* Uses permitted conditionally in the B-L district are as follows:

(1) Sporting goods stores, provided that there is no sale of firearms.

(2) Nightclubs, dancehalls and discotheques, provided that they are located not less than 300 feet from any residential district or use.

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(3) Alcoholic beverage establishments.

(4) Retail on-premises dry cleaning operations, provided that such operations do not exceed 2,000 square feet of gross floor area, that only self-contained dry cleaning units using nonflammable solvents are used and that such operations shall not service drops made outside the city limits or any commercial accounts. Such other conditions as may be necessary to ensure that the proposed use shall be operated in a manner not creating adverse effects on abutting and neighboring properties may also be imposed.

(5) Clubs organized for ethnic, religious, social, educational, charitable or cultural purposes other than nightclubs, dancehalls, discotheques, lodges or fraternal organizations.

(6) Multiple-family residential uses in the same structure as commercial uses, having a density not exceeding 18 dwelling units per net acre which is devoted to residential use, and subject to and conditioned upon the availability and apportionment of residential reserve units under county flexibility rules contained in the administrative rules document of the county land use plan, and the standards governing residential and commercial shared usage of a structure set forth in the county land use plan. It is further provided that density of any such development shall be subject to approval by the city commission and that the city shall not be required to permit the maximum density.

(7) Consignment shops.

(j) *B-L district site development standards.* Section 32-159(d) contains additional development standards not incorporated into this subsection. In the B-L district:

(1) Setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	15
b. Rear	None
c. Adjacent residential	20
d. Side:	
1. Interior	None
2. Adjacent residential	25
3. Corner	15

(2) Maximum height shall be four stories or 45 feet.

(3) Multiple-family residential dwellings and commercial uses in the same structure are subject to the following development standards:

a. The first floor shall be totally confined to commercial uses.

b. All dwelling units shall meet the minimum floor area requirements for multiple-family dwellings in the RM-18 district.

(k) *Permitted uses in the B-I business industrial district.* Uses permitted in the B-I district are as follows:

(1) All uses permitted in the B-L business limited district.

(2) Light industrial and manufacturing uses permitted as accessory uses in the B-L business limited district shall be permitted as principal uses. All light industrial and manufacturing activities shall be conducted within an enclosed building.

(3) Billiard and pool rooms.

(4) Bowling alleys.

(5) Broadcast studios.

(6) Hotels and motels.

(7) Lodges and fraternal organizations.

(8) Miniature golf courses.

(9) Restaurants (fast-food) without drive-through windows.

(10) Skating rinks.

(11) Amusement enterprises.

(12) Indoor tennis and racquetball.

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(13) Recording studios.

(14) Wholesale/distribution/showrooms and related indoor storage.

(15) Other uses which are similar in nature to but no more intense than the uses permitted in this subsection.

(l) *B-I district site development standards.* Section 32-161(d) contains additional development standards not incorporated into this subsection. Setbacks are as follows:

Yard	*Setback (Feet)*
a. Front	15
b. Rear	0
c. Adjacent residential	20
d. Side:	
1. Interior	None
2. Adjacent residential	25
3. Corner	15

(m) *Supplemental regulations.*

(1) *Design.* All development, redevelopment and exterior improvements shall be designed and constructed consistent with the requirements and standards of the city's design guidelines manual, incorporated in this section by reference.

(2) *Landscaping.* Landscaping shall be provided as follows, to the extent possible, and shall count towards the landscaping requirements of article IV, division 8 of this chapter:

a. One royal palm tree shall be planted and maintained in the right-of-way for each 20 feet of linear street frontage of a property. In the absence of a pervious swale, and where installation of new sidewalk segments are required by this chapter, street trees shall be planted within the sidewalk utilizing a minimum of nine and a maximum of 16 square feet of unpaved planting area, provided that at least four feet of pedestrian clearance is maintained. All trees shall be planted and maintained in compliance with article IV, division 8 of this chapter.

b. The city manager may modify the minimum height and species requirements where installation of the required trees would interfere with overhead utilities, or where comparable and equally acceptable plant materials are proposed. The city may require that tree spacing intervals for alternate tree species be reduced to 15 feet if appropriate.

c. Planters shall be substituted for required street trees in instances where the street tree requirements cannot be met. Planters may be located in a required front yard if there is insufficient space in the right-of-way, provided that no planter shall be located within a parking lot or vehicle accessway, and that if placed on a pedestrian accessway, at least four feet of pedestrian clearance is maintained. The city manager may specifically authorize the placement of planters where the pedestrian clearance will be no less than three feet.

(3) *Fences.* Fences and walls are prohibited in required front yards.

(4) *Redevelopment modifications.* The city commission may modify specified yard setbacks, minimum floor area, landscaping, design standards, or off-street parking requirements relating to any proposed project if they are determined to significantly inhibit district or structural improvement efforts. All requests for redevelopment waivers shall be processed in accordance with section 32-175(b).

(n) *Permitted signs.* The following types of signs shall be permitted within the Fashion Row overlay district:

(1) One monument sign as provided in section 32-605(d)(2) except that such sign is exempt from the landscaping requirements of section 32-606(d).

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(2) Establishments within the Fashion Row overlay district may be identified on free-standing directory structures erected at predesignated right-of-way locations approved by the city as specified below. Applications for each such structure shall be made by the Chamber of Commerce or by groups of not less than five establishments on behalf of establishments which are adjoining, abutting or separated by no more than a reasonable distance specified by the city manager in accordance with the following standards:

a. Each establishment may have one sign message to be placed on the directory structure which identifies the establishment and bears its building address number and a directional arrow. Specifications for such signs and directory structures shall be promulgated by the city manager, approved by the city commission, and shall be met by all applications.

b. The applicant shall enter into an agreement with the city for the use of the right-of-way for each such directory structure which shall provide for the maintenance of the directory structure and its sign messages in clean and safe condition. Agreements for the use of the right-of-way may be terminated by the city upon due notice to the applicant and the structure must then be removed from the public right-of-way. If the applicant fails or refuses to remove the structure within the prescribed period of time, the city shall remove or cause the removal of the sign, and may dispose of the sign. The city shall assess the cost of the sign's removal as a charge and lien against the applicant.

c. Prior to construction, the city shall examine any application and approve it for the sign structure and compliance with specifications respecting the sign message, the total sign area allowed per establishment, and place of the structure. All sign messages shall be fabricated from uniform materials.

d. The applicant shall maintain and provide proof of insurance to the city, in an amount to be set by the city commission having due regard to potential liability on an annual basis, for the use of the right-of-way. The city shall be named as an additional insured party on the policy and be furnished a copy of the policy.

(3) Any establishment in the Fashion Row overlay district that is zoned B-L business limited district or B-I business industrial district which has direct customer access from outdoors shall be permitted two wall signs and one awning sign, the total area of which shall not exceed two square feet for each one linear foot of store frontage up to a maximum of 200 square feet; however, establishments with a store frontage of 15 feet or less shall be permitted a total sign area under this subsection of 30 square feet. Wall signs and awning signs in Fashion Row shall be subject to the provisions of sections 32-606(c) and 32-606(g), respectively. Painted window signs shall be allowed as provided by section 32-605(d)(1). Establishments in the RM-18 district are not permitted to have wall signs but may have one awning sign.

(4) In the B-L business limited district and B-I business industrial district, permitted wall signs up to 100 percent of permitted wall sign area may be located on any wall face of the establishment they identify. The city commission may approve murals of an aesthetically pleasing nature with artistic value, and which contain no copy advertising a specific business or product to exceed maximum allowable signage area by special waiver. Application for a special waiver under this subsection may be considered by the city commission according to the following procedure:

a. Applicants shall be required to submit an application containing the

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names and addresses of persons in control or possession of the real property upon which mural will be located, a drawing or rendering of the proposed design, location, dimensions, colors and materials. If the applicant is not the same person as the person in control or possession of the affected real property, the applicant shall provide appropriate proof of authority to proceed with the application. The application shall be accompanied by an application fee which is on file in the city clerk's office. The application shall be filed with the city and transmitted to the city commission accompanied by a staff recommendation for approval or denial. Requests for special waivers under this subsection shall be advertised, posted and noticed in conformity with the requirements of section 32-967.

The intent of this exception is to improve the appearance of buildings within the Fashion Row overlay district through the use of highly visible and tasteful art that is appropriate to and will improve the appearance of the Fashion Row area.

(5) One hanging sign per establishment as provided in section 32-605(d)(8); except that in the RM-18 district, the sign area shall not exceed three square feet.

(6) One single-faced informational sign per entrance per establishment denoting general information such as office hours, phone numbers or services rendered. Such sign shall not exceed two square feet in area, and shall be painted on or permanently affixed to the entrance door or, if there is more than one such door, one of such doors; however, credit card signs, decals or emblems, not exceeding 24 square inches each or an aggregate area of 96 square inches per establishment, shall be permitted.

(7) Temporary paper signs as provided in section 32-605(d)(6).

(8) One directional sign to a vehicular use area per access drive is allowed but shall not exceed three square feet in sign area.

(9) One temporary, nonilluminated real estate sign per establishment is allowed but shall not exceed three square feet in sign area.

(10) Special occasions signs, banners and decorations as provided by section 32-607(d).

(11) The city manager may allow the display of special events banners over a public right-of-way for temporary uses pursuant to article IV, division 20 of this chapter.

(12) One temporary, nonilluminated construction sign, which shall not exceed 16 square feet in sign area.

(o) *General sign provisions.*

(1) Reflective, luminescent, "day glo" or phosphorescent colors shall not be used for sign letters.

(2) Projecting signs are prohibited within this district.

(3) Wall signs whose copy is changed and whose background previously was of a different color than the rest of the wall shall have their background painted to match the rest of the wall at the time copy is changed.

(4) Buildings shall not display telephone numbers.

(5) Surface-mounted signs shall be mounted parallel to the building facade; however, signs permitted to be maintained on the mansard roof may be parallel to the building line.

(6) All permanent signs shall be made of durable materials.

(7) All hand-painted signs shall be executed in a workmanlike manner.

(8) Each establishment shall display in numerals six inches high (the numerals only of its building address), which shall be

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permitted to be displayed only on the facade, awning, window or door of the building so identified.

(p) *Sign maintenance.* All signs shall be maintained so as to be easily readable from a public right-of-way and so that no part of the sign is falling away or hanging or is of unsightly appearance.

(q) *Awnings.*

(1) Fabric awning structures in this district shall not project more than four feet over a public sidewalk and not be located less than 7½ feet above grade which it is over. All awnings encroaching into public rights-of-way are subject to the city manager's approval as to their location and structure.

(2) Awnings projecting over a public right-of-way are erected at the risk of the property owner. If the city or another governmental entity determines that the awning must be removed or modified, it shall be the duty of the property owner to remove or modify the awning and bear all associated costs.

(3) Awnings shall not be used where there is an existing projecting sunscreen, except that a vertical awning valance may be suspended below the sunscreen.

(4) Awning signage shall be maintained in good condition, free from fading, peeling or any other condition which renders the signage unreadable, either partially or totally. Additionally, all awnings installed in storefronts shall be maintained in good condition, free from tears, holes, fading or peeling, inclusive of all supporting structures. Repairs of awnings or awning signage shall be with the same or comparable materials.

(5) Any awning which will abut into the public right-of-way may be constructed only after a permit from the city has been obtained for such encroachment into the public right-of-way. A fee shall be charged for such application as specified in chapter 8 of this Code.

(r) *Outdoor display.* Outdoor display of merchandise in the Fashion Row Overlay District is permitted and exempt from the provisions of section 32-168, Code of Ordinances. However, only fashion retailers may display their items outdoors and the items may only be displayed in the area immediately fronting the individual store selling the item. Items may not be displayed in parking lots. Retailers displaying their merchandise on sidewalks or walkways must allow for three feet of pedestrian clearance in compliance with the Americans with Disabilities Act.

(s) *Appeals from staff decisions.*

(1) Any person aggrieved by any decision of the planning and zoning staff under this section in the enforcement of any terms or provisions of this section or the city's design guidelines manual, incorporated in this section by reference, may appeal to the city commission by filing within 15 days after the date of the decision complained of, a written notice of appeal with the city manager, which shall set forth concisely the decision appealed from and the reasons or grounds for the appeal. Each appeal shall be accompanied by a fee as set forth by the city to cover the cost of the appeal proceeding. The city commission shall hear and consider all facts relative to the appeal and render a decision promptly.

(2) The city commission may affirm, reverse or modify the staff decision appealed. The decision of the city commission shall be final, and no petition for rehearing or reconsideration shall be considered.

(Code 1980, app. A, art. IV, § 20; Ord. No. 97-14, § 1, 8-19-1997; Ord. No. 97-15, § 1, 9-2-1997; Ord. No. 1998-19, § 2, 10-6-1998; Ord. No. 1998-24, § 2A, 12-1-1998; Ord. No. 2001-20, § 1, 10-2-2001)

Sec. 32-172. North Dixie Corridor overlay district.

(a) *District boundaries.* There is designated as the North Dixie Corridor overlay district those lands generally and approximately bounded by Pembroke Road to the north, the F.E.C. Railroad tracks on the east, Northwest First Street on the

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south, and Northwest First Avenue on the west, all as more particularly described in exhibit "A" attached to this section.

(b) *Application.* Properties within this district which are rezoned from residential to less restrictive zoning shall be subject to the provisions of subsection (e) of this section. All uses shall comply with otherwise applicable regulations; and in the event of conflict, this section shall control within the district.

(c) *Uses.*

(1) *Permitted uses.* All uses specifically permitted by the underlying zoning district shall be permitted within the North Dixie Corridor overlay district.

(2) *Conditional uses.* Conditional uses include automotive paint and body shops, including all uses accessory to automotive sales, provided that all activities are conducted within an enclosed, soundproof building and that no outside storage of junk vehicles or vehicle parts shall be permitted. All activities shall be such that no service bay shall be oriented toward North Dixie Highway.

(3) *Prohibited uses.* Churches, synagogues and other houses of worship are prohibited.

(d) *Nonconforming uses.*

(1) Any previously lawful use status made nonconforming by the provisions of this district shall be rendered null and void if the nonconforming use is abandoned or discontinued for a period of 180 consecutive days. In determining whether a nonconforming use has been abandoned or discontinued, the standards contained in section 32-925(7) shall apply.

(2) Nonconforming lots, structures or uses located within this district, except as provided in this subsection, shall be subject to the provisions of section 32-921.

(e) *Supplemental standards.* Within the North Dixie Corridor overlay district, the site development standards, landscaping, off-street parking and signage requirements of this chapter shall apply to development within the overlay district, except as otherwise identified in this subsection.

(1) *Yard areas.* There shall be no minimum site development standards or setbacks for commercial uses within the North Dixie Corridor overlay district, except as follows:

a. *Front yard.* When parking is not provided within a front yard, the minimum setback shall be ten feet.

b. *Rear yard.* For a rear yard adjoining or separated by any public right-of-way from residentially or community facility zoned property or use, the setback shall be 20 feet, except when the rear wall of a building substitutes for a freestanding masonry wall as provided for under subsection (e)(2) of this section.

c. *Side yard.* Side yard setbacks are as follows:

1. Interior adjoining commercial, zero feet.

2. Corner adjoining commercial, 15 feet.

3. Adjoining or separated by a street from a residentially or community facility zoned property or use, 15 feet.

d. *Prohibited uses.* No paint and body repair activity or other like activity which generates noise, odor, fumes or dust shall be permitted within 50 feet of any residentially or community facility zoned property or use.

e. *Minimum pervious lot area.* Minimum pervious lot area shall be ten percent.

(2) *Sidewalks, landscape buffer strip and walls.* Within the overlay district, a buffer area shall be provided adjoining NW First Avenue when a residentially or community facility zoned property or use adjoins or is separated by a public right-of-way from a commercial use. The buffer area shall include a sidewalk, a densely land-

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scaped buffer strip and a masonry wall that is incorporated into the design scheme for the project. Minimum specifications for the buffer area shall be as set forth below. In addition, the design guidelines incorporated in the city design guidelines manual for sidewalks, masonry walls and landscaping shall apply to any commercial property adjoining or separated by a public right-of-way from residential or community facility zoned property or use.

a. *Sidewalk.* A five-foot sidewalk shall be provided along any street right-of-way or on private property by easement dedication if the right-of-way is of insufficient width.

b. *Landscape buffer strip.* An eight-foot landscaped buffer strip shall be provided along the exterior of the masonry wall. This buffer strip will be landscaped with dense hedges and trees, and landscaping shall complement required masonry walls. All screening and landscape plant materials shall be subject to the vision clearance requirement provided in section 32-332.

c. *Walls.*

1. A masonry wall shall be provided adjoining the required landscape buffer strip as set forth in article IV, division 6 of this chapter. No barbed wire extensions shall be permitted on any walls or fences within the overlay district.

2. The building line may coincide with the edge of the NW First Avenue landscaped buffer strip, in lieu of the required wall, subject to the following:

i. The building wall shall be finished in accordance with the standards set forth for masonry walls.

ii. No overwall or roof drainage shall be permitted.

iii. A pitched roof shall be provided above the finished wall face.

iv. Rooftop equipment shall be screened. +

(3) *Landscaped areas and improvements.* All landscaped areas shall include xeriscape plant materials. All off-site abutting swale areas and buffer areas shall be sodded. Hedges and street trees shall be provided in the required buffer strip in accordance with the following provisions:

a. *Xeriscape plant materials.* Plant materials classified as xeriscape or drought-tolerant shall be required. A minimum of 50 percent of the required landscape plant materials shall be classified as xeriscape. The plant materials shall be included in required landscape plans and selected in accordance with city-approved plant material lists, such as Xeriscape Plant Guide II, published by the South Florida Water Management District, and identified as:

1. Very-drought-tolerant;

2. Noninvasive;

3. Having a medium to fast growth rate; and

4. Having a subtropical to hardy climate designation.

b. *Provision of irrigation system.* The use of irrigation support systems for sodded areas shall be required. Automatically operating, underground or zoned, water-efficient irrigation systems shall be installed for all sodded areas and must provide 100 percent coverage.

c. *Hedges.* All buffer areas shall contain at a minimum a hedge of plants at least two feet in height immediately after planting and shall be maintained at a maximum height of 2.5 feet. Hedges shall be planted with branches touching, so as to cre-

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ate a solid screen with no visual spaces between plants at the time of installation.

d. *Street trees.* The planting of street trees shall be required within the North Dixie Corridor overlay district. The following criteria shall apply to the planting of street trees within the overlay district in the required buffer strips:

1. Street trees shall not be counted for credit towards the minimum number of trees required by section 32-381 et seq.
2. Street trees shall be a minimum of 15 feet in height with a minimum diameter of three inches at a point four feet above ground level at the time of planting, and shall have trunks which can be maintained in a clean condition for over six feet of clear wood measured from ground level.
3. Street trees shall be spaced, center to center, at a minimum of one tree per 15 linear feet of street frontage, exclusive of accessways.
4. Street trees shall be of noninvasive root species and shall be designated as street or shade trees in city-approved plant material lists.
5. The minimum height required in this subsection for street trees may be modified by the director of growth management, without penalty, in instances where the installation of the trees would interfere with overhead utilities, so long as the minimum number and spacing of the trees is maintained.

(4) *Access requirements.* All development proposals shall provide shared access easements to adjoining properties and projects whenever practical. Interconnection of developments shall be required as necessary to minimize the number of curb cuts and driveways onto local streets and particularly North Dixie Highway and NW First Avenue. New or reconstructed access to commercial projects within the overlay district shall be restricted to North Dixie Highway and/or shall not be located a distance greater than 130 feet west of North Dixie Highway along local streets. No new or reconstructed access shall be permitted to NW First Avenue except for emergency purposes.

(5) *Signage.* No signs shall be permitted along NW First Avenue within the overlay district except for traffic control and directional signs, address signs, and dedication plaques not exceeding six square feet in gross sign area.

Businesses with frontage along North Dixie Highway are permitted one wall sign per wall face and one awning sign per business establishment. Businesses with over 100 feet of frontage are permitted one freestanding sign. All signs must meet criteria set forth in section 32-605(d).

(f) *Redevelopment area modifications.* The provisions of section 32-175 shall apply within the North Dixie Corridor overlay district, except as may be modified by the following:

(1) The city commission may modify any zoning and land development code or North Dixie Corridor overlay district regulation or requirement through the redevelopment area modification process.

(2) The transmittal of a redevelopment area modification waiver request for properties within this district shall not be subject to the 30-day deadline provided in section 32-175(b) but shall be transmitted with the corresponding major development review application, if applicable.

(g) *Development review requirements.* All development proposals within the North Dixie Corridor overlay district shall be subject to the development review requirements of article V of this chapter, except that proposals classified as major

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developments shall not be subject to the requirement of article V of this chapter for planning and zoning board consideration of the proposal, but shall be transmitted directly to the city commission accompanied by a staff recommendation for approval or denial.
(Code 1980, app. A, art. IV, § 21; Ord. No. 1998-24, § 3, 12-1-1998)

Sec. 32-173. Pembroke Road Overlay District.

(a) *District boundaries:* For the purpose of defining the boundaries, the Pembroke Road Overlay District is divided into two sectors: east and west of Johnson Park. The west sector is bounded by I-95 to the west; Foster Road and NW 10 Street to the south; NW 8 Avenue to the east and Pembroke Road to the north. The east sector is bounded by NW 7 Avenue to the west; NW 10 Street to the south; NW 1 Avenue to the east; and Pembroke Road to the north. All more particularly described in Exhibit "A", attached hereto and on file in the office of the city clerk.

(b) *Permitted uses:* All uses within the Pembroke Road Overlay District must comply with the otherwise applicable regulations, these supplemental regulations and the City of Hallandale Beach Design Guidelines. Uses specifically permitted by this section and the underlying zoning district are permitted within the Pembroke Road Overlay District. Other uses, similar in nature to the uses permitted in the underlying zoning district but not specifically permitted therein, may be permitted within the Pembroke Road Overlay District if not prohibited by this section.

Retail and service establishments are limited to:

(1) Restaurants provided that freestanding restaurants must have a minimum of 2,000 square feet of gross floor area.

(2) Service stations, including convenience stores with accessory gas sales, provided that the business is not located within 1,500 feet of an existing service station or convenience store with accessory gasoline sales.

(c) *Prohibited uses:* The following uses are prohibited within the Pembroke Road Overlay District:

(1) Automobile sales and display (used).

(2) Automobile repair and service.

(3) Boat sales and displays.

(d) *Supplemental development standards:* Minimum development site standards:

(1) *Minimum lot width*—Interior lot: 75 feet

(2) *Yard areas*—There are no minimum site development standards or setbacks in the Pembroke Road Overlay District, except as follows:

a. Front yard: When parking is not provided within a front yard, minimum setback is 15 feet.

b. Rear yard: The minimum setback is ten feet. Abutting residential or separated by a right-of-way must have a minimum of 20 feet of setback.

c. Side corner yard: Provide visual clearance in accordance with section 32-332.

d. Interior adjoining commercial: Ten feet adjoining or separated by a street from a residentially zoned community.

e. Parking structures: When parking structures are provided, the setback requirements are the same as set forth above for front, side and rear yards.

f. Awnings: Projecting canvas, fabric or metal awnings may be placed over doors or windows, but may not project closer than two feet to any property line. All awnings and awning signage installed in storefronts, including supporting structures, must be maintained in good condition, free from tears, holes, fading or peeling. Repairs of awnings or awning signage must be with the same or comparable materials.

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(3) *Landscape buffer:* The owner of property utilized for a commercial use whose property is separated by the right-of-way from a residential use must install and maintain a buffer area between his property and the residential use. The buffer area must be at least ten feet wide and contain dense landscaping capable of effectively screening the two uses. Screening must be composed of landscaping and masonry walls that are incorporated into the design scheme for the project. Screened walls must be at least eight feet in height and are subject to the vision clearance requirement provided in section 32-332.

(4) *Walls and fences:*

a. An eight-foot high masonry wall must be provided with the required landscape buffer strip. Such walls must be painted to blend in with the overall architectural design scheme of the development proposal. All masonry walls must be finished on both sides so that no CBS courses are visible.

b. Barbed wire on fences and walls is prohibited.

c. Chain link fences facing Pembroke Road are prohibited. Existing chain link fences must be replaced by December 1, 2002.

(5) *Landscape/screening treatment:* Walls longer than 20 feet must be screened by landscaping and must have a minimum of one tree per every 20 feet of linear wall area.

(6) *Parking:* Minimum parking space requirements for new and existing development proposals within the overlay district are contained in section 32-455.

(7) *Access requirements:* All development proposals must provide shared access easements whenever feasible to adjoining properties and projects. Interconnection of developments is required to minimize the number of curb cuts and driveways onto local streets and particularly Pembroke Road and NW 10 Street. New or reconstructed access to commercial properties within the overlay district is restricted to Pembroke Road and no such access may be located a distance greater than 150 feet south of Pembroke Road along local streets. No new or reconstructed access is permitted to NW 10 Street, except for emergency vehicles.

(8) *Provisions for street trees:* The planting of street trees is required within the Pembroke Road Overlay District. Development proposals must provide for the installation of street trees in conformance with the following criteria:

a. Street trees are not counted for credit towards the minimum number of on-site trees required by section 32-384.

b. Street trees must be a minimum of 20 feet in height with a minimum diameter of three inches at a point four feet above ground level at the time of planting and have trunks which can be maintained in a clean condition for over six feet of clear wood measured from ground level.

c. Street trees must be spaced center to center and must be planted and maintained so that there is at least one tree per 30 linear feet of street frontage, exclusive of accessways.

d. The minimum height and specified street trees for major transportation corridor standards contained herein for street trees may be modified by the city manager, without penalty, where the installation of the trees would interfere with overhead utilities, so long as the minimum number and spacing of trees is maintained.

e. Street trees must be of noninvasive root species and must be designated as street or shade trees on the city's approved plant materials list. The designated street tree for Pembroke

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Road is the Royal Palm. The designation for all other local trees is Mahogany trees.

(9) *Signage:*

a. Signs are prohibited along NW 10 Street within the overlay district, except for traffic control, address signs and dedication plaques not exceeding three square feet in sign area.

b. Uniform signage. Signage on buildings with multiple storefronts must be of the same type (such as box sign channel lettering, molded lettering). Painted wood wall signs are prohibited within the overlay district.

(10) *Redevelopment area modifications:* The provisions of section 32-176 apply within the Pembroke Road Overlay District, except as modified by the following:

a. The city commission may modify any zoning and land development code or Pembroke Road Overlay District regulation or requirement through the redevelopment area modification process.

b. The transmittal of a redevelopment area modification waiver request for properties within the Pembroke Road Overlay District is not governed by the 30-day deadline contained is section 32-176. The modification request may be submitted with the major development review application, if applicable.

(Ord. No. 2001-24, § 1, 11-20-01)

Sec. 32-174. PDD planned development district.

(a) *Purpose and intent.* The purpose and intent of the PDD planned development district is to provide an optional zoning procedure to permit site design flexibility and greater land use intensity and density in order to encourage high-quality, innovative development that is consistent with comprehensive plan policies, applicable city development and redevelopment plans, and desired development patterns and land uses in an overlay zone that encourages flexibility in the design and negotiation of land development in order to promote its most appropriate use; to facilitate the adequate and economical provision of streets and utilities; and to ensure that development is planned, designed, and developed to function as integral units independently or in concert with the existing land use pattern and adjacent building sites. Regulations for planned development are intended to accomplish the purposes of zoning and other applicable city regulations to the same degree as in instances where such city regulations are intended to control development on a lot-by-lot basis rather than on a unified development approach.

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

City-initiated rezoning means the assignment of PDD by the city commission to areas of the city where the commission desires to direct development or redevelopment activity which satisfies the intent of this district.

Concept plan means a preliminary presentation and attendant documentation required for the assignment of PDD to land by an applicant other than the city commission in accordance with the requirements outlined in subsection (g) of this section; a plan of sufficient accuracy to be used for the purpose of discussion and consideration.

Major development plan means a detailed plan which represents a specific development plan including specifications required by subsection (h) of this section and the development review requirements of article V of this chapter, except as otherwise provided in this chapter.

Planned development district (PDD) means an overlay district assigned to land developed or proposed to be developed according to a plan; as a single entity under unified control; planned and developed as a whole in a single phase or an approved series of phases. It may contain one or more structures with appurtenant common areas.

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(c) *Unified control.* All land included for the purpose of development within a planned development district shall be either part of an adopted city-initiated rezoning, or under the control of the applicant (an individual, partnership or corporation, or group of individuals, partnerships or corporations). The applicant shall present satisfactory legal documents to constitute evidence of the unified control of the entire area within the proposed planned development which shall be certified by the city manager. The applicant shall agree in the application for rezoning to the following:

(1) To proceed with the proposed development according to the provisions of this chapter and the approved plan;

(2) To provide, subsequent to rezoning and prior to the issuance of a building permit, any agreements, contracts, covenants, deed restrictions or sureties as reasonably deemed necessary by the city, in a form acceptable to the city, to ensure that the development proceeds in accordance with prior approvals and to further provide for continuing operation and maintenance of such areas, functions and facilities which are not proposed to be provided, operated, or maintained at public expense;

(3) To bind their successors in title to any commitments made as set forth in this subsection; and

(4) If the developer elects to administer common open space through an association or nonprofit corporation, the organization shall conform to the applicable laws of the state.

(d) *Status.*

(1) *Overlay zone.* The planned development district shall be an overlay zone that can be applied in locations within the city.

(2) *Development agreement required.* Each planned development district development shall be governed by a development agreement whereby the city and other appropriate entities enter as parties to the agreement. The development agreement shall be utilized to further the purpose and intent of PDD set forth in subsections (a) and (i) of this section.

(3) *Guidelines.* Guidelines for the planned development district 3.1 administrative process and 3.2 dimension and design guidelines are set forth in the city design guidelines manual maintained in the growth management department and adopted by reference in this section.

(4) *Review; agreement required.* In cases whereby a property has no existing development agreement or major development plan of record but has been rezoned to the PDD overlay zoning designation, any further development or redevelopment shall require major development review and a development agreement with the city. This provision is mandatory in all cases, including the event where the proposed development does not meet the standards for submission of major development plan review.

(e) *Uses permitted.* The uses permitted in a planned development, as indicated below, must be consistent with the provisions of this section and, in accordance with the city's comprehensive plan:

(1) In order to achieve the purpose of this section, a planned development district may be developed as a residential, business, industrial or mixed use entity and shall be identified as:

PDD residential	PDD/R
PDD business	PDD/B
PDD industrial	PDD/I
PDD mixed use	PDD/M

Within each PDD district, uses listed in the underlying zoning district may be permitted subject to major development plan review and the limitations of the applicable future land use designation of the comprehensive plan.

(2) In situations whereby PDD is applied to a general area rather than a unified single area or tract, singular parcels may be allowed to develop consistent with the underlying zoning district provided such

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development is not inconsistent with the future development scheme for the entire general area designated PDD. The city manager shall make this determination based upon a statement supplied by the applicant that describes how such underlying zoning district utilization will promote and advance the interest of PDD and not impact the future development of the entire general area designated PDD. If a singular parcel is exempted by the city manager, no development agreement will be required and the plan shall be reviewed as provided in this chapter.

(f) *Procedures for city-initiated rezoning.* Where the city initiates a rezoning to PDD based on a development or redevelopment plan, the PDD provisions shall serve to further the recommendations, goals and policies of that plan. Proposed developments within a city-initiated PDD will be evaluated for their consistency with the city's goals and policies relating to the area being proposed for development or redevelopment. The development or redevelopment plan shall serve as the concept plan as specified in subsection (g)(4) of this section, for all included land. Subsequent applications for development in the PDD shall constitute the major development plan and shall be substantially consistent with the recommendations, goals and policies of the concept plan. Application fees for a major development plan on a city-initiated PDD shall be the responsibility of the applicant.

(g) *Procedures and requirements for rezoning to a planned development district (PDD).*

(1) An application for a rezoning to planned development district shall be made only by the owner of the subject property or an authorized agent and processed in the same manner as other applications for rezoning of land as provided in section 32-966, except as otherwise provided in these regulations.

(2) The rezoning application fees for a planned development district shall be as set forth for rezoning applications in the city's fee schedule.

(3) Applications for rezoning to planned development district may be submitted for review as a concept plan in the absence of a major development plan that meets the requirements of subsection (h) of this section.

(4) Applications for rezoning to planned development district based on a concept plan shall provide the following information for review:

a. A certified boundary survey.

b. General schematic representation of the land uses with densities and intensities, along with a table of computation which depicts number of units, gross floor area, parking, building height and site coverage.

c. Approximate delineation of internal circulation, with hierarchical classification of streets.

(5) Applications for rezoning to PDD shall be reviewed with consideration given to the following criteria:

a. That the proposed project would further the development or redevelopment of an area of the city consistent with city land use and development goals, policies and development/redevelopment efforts.

b. That the proposed development would be of an equal or higher quality with regard to appearance, site design, compatibility with the adjacent area, landscaping, and provision of amenities that would result under the existing development standards.

c. That PDD would allow a more innovative design than would be possible under the development standards of the existing zoning district and development regulations.

d. That the proposed development would promote the public interest, including, if appropriate, the provision of open space and amenities available for public use.

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e. That mixed commercial and residential development proposals would be well planned, in an integrated design that would encourage use of mass transportation, pedestrian and bicycling modes of transportation.

f. That it would be more appropriate for a proposed project to be developed under PDD development standards and procedures than the existing zoning district development standards, and development review and variance procedures, when the criteria mentioned in this subsection are considered.

(h) *Procedures and requirements for major development plan.*

(1) The application fees for major development plan in a planned development district shall be those adopted in the city's fee schedule for concurrency evaluation and development review.

(2) An application for a major development in a planned development district shall not be presented to the planning and zoning board but shall conform to the requirements for development review as provided in article V of this chapter, except as otherwise provided in this chapter.

(3) In addition to the requirements of article V of this chapter, the following shall be submitted for major development plan approval:

a. A certified boundary survey.

b. General schematic representation of the land uses with densities and intensities, along with a table of computation which depicts number of units, gross floor areas, parking, building height and site coverage.

c. Approximate delineation of internal circulation, with hierarchical classification of streets.

d. Points of connection of the local streets to the trafficways, including general indication of the necessary improvements to the trafficways to accommodate the local trips generated by the planned development.

e. General location and size of any community facility included within the planned development such as parks, schools, fire stations, community center, etc.

f. Indication of existing vegetation and all other natural features within the planned development, together with general plans for their conservation or mitigation.

g. Schematic depiction of the water distribution and wastewater collection facilities and drainage system, including easements.

h. Specific indication of the development phasing, in terms of areas and sequence.

i. In addition, the city manager may require additional material such as elevation drawings and architectural renderings, plans, maps and studies necessary to make findings and determinations to ensure the applicable standards and guidelines of this chapter have been fully met.

(i) *Dimension and design regulations.*

(1) All site development standards and related development standards of this chapter are to be negotiated between the city and the applicant as part of the development process in accordance with the planned development district regulations and all other applicable city codes, regulations and standards set forth in the design guidelines manual.

(2) All planned development districts shall contain a minimum of 1.5 acres of land under unified control. However, the city commission may modify this minimum if it is determined to significantly inhibit neighborhood improvements. Such modification shall be filed with the city manager by an applicant with unified control of the site. The request shall be transmit-

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ted within 30 days of filing to the city commission accompanied by a staff recommendation for approval or denial. Such requests for modification shall be advertised, posted and noticed in conformity with the requirements of section 32-967 as to variances. The application fee for a modification request shall be those adopted by the city's fee schedule for variances.

(3) The planned development district permits smaller yard areas than those of the underlying zoning district where the use of reduced yard setbacks is appropriate for a particular project. Minimum setbacks for a planned development district shall be established by utilizing one of the following methods:

a. By utilizing the applicable setbacks of the underlying zoning districts in connection with the PDD overlay zone.

b. By conforming to the established setback pattern of adjacent property and property within 500 feet of the PDD site in all directions.

c. Setback minimums may be established using methods a. and b. in combination or as proposed by the applicant utilizing good planning and development practices. Such practices shall consider buffering; the prevention of overcrowding/lessening the adverse effects of density/intensity; accommodation of service areas; proper access for firefighting equipment and the containment of fire; accommodation of other development features (e.g., off-street parking, storage, etc.); view protection and visibility; and future roadway widening.

(4) All PDD development, redevelopment and exterior improvements shall be designed and constructed in conformance with the requirements and standards of the city's design guidelines manual, incorporated in this section by reference.

(j) *Conformance to approved major development plan.*

(1) *Building permits.* After rezoning to planned development district, no building permits shall be issued by the city and no development shall commence unless in conformance with a development agreement and approved major development plan unless otherwise exempted pursuant to subsection (e)(2) of this section.

(2) *Minor changes.* The city manager, after receiving staff recommendations, may approve minor changes and deviations from the approved major development plan which are in compliance with the provisions and intent of this chapter, and which do not depart from the principal concept of the approved major development plan, and which are not major changes as described in subsection (j)(3) of this section.

(3) *Major changes.* The city manager may determine that the requested changes and deviations from an approved development agreement and/or major development plan constitute a major change to the character of the development. A requested major change shall be submitted to the city commission as a revision to the development agreement and/or major development plan as specified in section 32-782(a)(2). Major changes shall include but not be limited to:

a. A change in the use of the planned development.

b. Any change resulting in greater than a ten percent variance in the following plan features:

1. An increase in floor area of proposed structures.

2. An increase in the density of use, but not exceeding that allowed by the underlying zone.

3. Plan revisions which increase trips and impact traffic and utilities.

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4. A reduction in open space specified in the approved major development plan.
5. A reduction of off-street parking and loading spaces specified in the approved major development plan.

c. Any change in the boundaries or phasing of the project.

(k) *Appeals from staff decisions.* Any person aggrieved by any decision of the planning and zoning staff under this section in the enforcement of any terms or provisions of this section may appeal to the city commission by filing, within 15 days after the date of the decision complained of, a written notice of appeal with the city manager, which shall set forth concisely the decision appealed from and the reasons or grounds for the appeal. Each appeal shall be accompanied by grounds for the appeal and by a fee as set forth by the city to cover the cost of the appeal proceeding. The city commission shall hear and consider all facts relative to the appeal and render a decision promptly. The city commission may affirm, reverse or modify the staff decision appealed. The decision of the city commission shall be final, and no petition for rehearing or reconsideration shall be considered.

(l) *Validity.* Should any subsection, paragraph, sentence, clause, phrase, or other part of this section be declared by a court of competent jurisdiction to be invalid, such decision shall not serve to invalidate the remaining words, subsections, and positions of this section.
(Code 1980, app. A, art. IV, § 22; Ord. No. 2001-24, § 1, 11-20-2001)

Sec. 32-175. CCB central city business district.

(a) *Purpose and intent.*

(1) The central city business district (CCB) is of special and substantial public interest because of its unique distinction as "The Wall Street of the South" and its high concentration of financial institutions located along the East Hallandale Beach Boulevard Corridor.

(2) It is the intent of this section to:

a. Encourage commercial and office uses which enhance and support financial and upscale office professional based industries;

b. Promote the development of mixed use projects with an emphasis placed on upscale office and commercial projects combined with upper floor residential;

c. Promote the creation of a pedestrian-friendly environment; and

d. Encourage more compact vertical development instead of sprawling horizontal development within the district.

Since the fostering of public/private partnerships is essential, it is intended that the city commission will exercise the ability to maximize redevelopment potential and provide for high-quality development by setting standards that are site-specific when appropriate. Through this site-specific approach to site redevelopment, the city can work with developers to consider specific constraints and opportunities relative to their parcels. Ultimately opportunities can be created for the further enhancement and fulfillment of the district goals and objectives.

(b) *District boundaries.* There is designated as the central city business district those lands generally and approximately bounded by all properties which front on East Hallandale Beach Boulevard (including properties fronting on NE First Street between Federal Highway and NE Eighth Avenue) to the north, all properties which front on East Hallandale Beach Boulevard (excluding the residential property at 1333 East Hallandale Beach Boulevard) to the south, to the Intracoastal Waterway to the east and to Federal Highway to the west, all as more particularly described in exhibit "1" attached to Ordinance No. 1999-2.

(c) *Uses permitted.* Uses permitted are as follows:

(1) Office uses, limited to:

a. Brokerage office; stocks, commodities, real estate and like services.

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b. Employment services.

c. Banks and financial institutions.

d. Insurance agencies.

e. Investment counselors.

f. Doctors, dentists, optometrists and other similar licensed medical practitioners.

g. Professional services, including accountants, architects, engineers, lawyers and other similar professions.

h. Secretarial and stenographic services.

i. Studio schools; art, sculpture, dance, drama and like instruction.

j. Bonding companies.

(2) Retail and service establishments, as follows:

a. Abstract and title services.

b. Alcoholic beverage establishments.

c. Antique shops.

d. Appliance stores (limited to small appliances).

e. Art galleries (private).

f. Art and graphic supplies.

g. Auction galleries.

h. Bakeries.

i. Barber, beauty and skin care services.

j. Bath shops.

k. Bicycle shops.

l. Book and stationery stores.

m. Camera shops.

n. Candy and ice cream stores.

o. Catalog sales.

p. China and flatware stores.

q. Copy and duplication services.

r. Delicatessens.

s. Drapery stores.

t. Drug and sundry stores.

u. Dry goods stores.

v. Florists.

w. Food stores.

x. Fruit stores.

y. Furniture stores.

z. Gift shops.

aa. Health and exercise studios.

bb. Hobby and handicraft shops.

cc. Hotels and motels.

dd. Interior decorators.

ee. Jewelry stores.

ff. Laundry and dry clean pickup station.

gg. Leather goods shops.

hh. Liquor package stores.

ii. Locksmith.

jj. Luggage shops.

kk. Messenger and delivery services.

mm. Movie theaters (indoor).

nn. Music and record shops.

oo. Newsstands.

pp. Office supply stores.

qq. Paint stores.

rr. Pet shops.

ss. Photographic studios.

tt. Shoe repair shops.

uu. Souvenir and novelty shops.

vv. Specialty shops; clothing, shoes and similar apparel.

ww. Sporting goods stores.

xx. Tailors and seamstresses.

yy. Telegraph offices.

zz. Tobacco shops.

aaa. Travel agencies.

(3) Restaurants (any size) provided freestanding restaurants located east of Federal Highway must have a minimum of 2,000 square feet of gross floor area and, if located on the same parcel as a shopping center, shall be compatible with the architectural features of the shopping center.

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(4) Home occupations.

(5) Drive-through windows serving financial, office or other permitted uses may be approved by staff provided each drive-through lane shall be screened from public view by a minimum of four feet in height opaque hedge or wall and dense landscaping to effectively screen the lane, and further, be designed in a manner which does not negatively impact pedestrian circulation.

(6) Other uses which are similar in nature to the uses permitted in this subsection and by permitted reasonable implication.

(d) *Uses permitted conditionally.* Uses permitted conditionally are as follows:

(1) Nightclubs, dancehalls and discotheques.

(2) Clubs organized for either religious, social, educational, charitable or cultural purposes.

(3) Parking garages and lots. In a parking garage, the portion of the first floor that is directly adjacent to the street should be utilized for commercial space. Parking lots shall contain no sales, sales display or service activity of any kind.

(4) Medium- and high-density residential uses in conjunction with a mixed use project subject to the provisions for residential and mixed uses set forth in the neighborhood commercial category of the city's comprehensive plan.

(5) Retail on-premises dry cleaning operations, provided that such operations do not exceed 2,000 square feet of gross floor area, that only self-contained dry cleaning units using nonflammable solvents are used and that such operations shall not service drops made outside the city limits or any commercial accounts. Such other conditions as may be necessary to ensure that the proposed use shall be operated in a manner not creating adverse effects on abutting and neighboring properties may also be imposed.

(e) *Prohibited uses.* This section lists permitted uses as provided in subsection (c) of this section, and all uses not listed as permitted are prohibited.

(1) Establishments dealing with sale or repair of major appliances.

(2) Establishments dealing with secondhand merchandise other than verifiable antique dealers.

(3) Restaurants (fast food) with drive-through facilities and drive-in restaurants.

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(f) *Site development standards.*

(1) No minimum lot area is required; however, the assemblage of land parcels is encouraged for redevelopment.

(2) Minimum lot width shall be 75 feet.

(3) Minimum yard setbacks are as follows:

Yard setbacks

a.	Front:	
	1. Minimum	5 feet
	2. Maximum, for first floors unless otherwise determined by the commission	15 feet
b.	Rear, minimum	15 feet
	Adjoining a residential zoned property or use	25 feet
c.	Side:	
	1. Interior	0 feet
	2. Corner, adjoining commercial	15 feet
(4)	Height:	
a.	Minimum	2 stories or 30 feet
b.	Maximum	200 feet
	Uses may exceed the prescribed maximum height by up to 50 percent above the average intensity for property within a quarter-mile radius of the site in question.	
(5)	Minimum landscape area percentage	15
(6)	Minimum floor area for residential uses in conjunction with a mixed use project:	
a.	One bedroom	1,000 square feet
b.	Two bedrooms	1,100 square feet
c.	Three or more bedrooms	1,200 square feet

(g) *Development review and approval.*

(1) Development proposals within the business district may be reviewed under three alternate procedures: the standard method as required pursuant to article V of this chapter; as a planned development district (PDD); and under the quality development incentive program. Each alternative is further described below.

a. The standard method permits the applicant to undertake development under the major/minor development review process pursuant to article V of this chapter. This method is only applicable to those projects that meet all standards listed in this district.

b. The planned development district method (PDD) permits the applicant to negotiate development details through a development agreement pursuant to section 32-173(d). The applicant must rezone the applicable property to the PDD overlay designation.

c. The quality development incentive program adopted by the design guidelines manual shall permit the applicant to negotiate for greater densities or modified minimum standards in exchange for certain amenities or maintenance and/or improvements to public facilities. Such negotiation shall be filed with the city manager, who shall transmit the request to the city commission accompanied by a staff recommendation. Such requests shall be advertised, posted and noticed in conformity with the requirements of section 32-967 as to variances. Modifications to density or development standards are limited by the city's comprehensive plan. This procedure is more expeditious and less expensive since the property is not required to be rezoned PDD. The application fee for quality development incentive program shall be the same as the city's fee schedule for variances for business districts.

(2) Properties currently under PDD development agreements will not be subject to the business district requirements unless their agreements are renegotiated based upon major changes.

(h) *Supplemental standards.*

(1) Nightclubs, dance halls and discotheques, including those with entertainment, shall be located at least 100 horizontal feet from any residential use or district.

(2) Existing nonconforming development within the financial district may only expand or redevelop in conformance with section 32-921 or through the quality development incentive program.

(3) If a property cannot adequately support a two-story building, the commission may waive this requirement or other applicable requirements in CCB upon making a finding that:

a. The proposal by the applicant meets the purpose and intent of the CCB and makes provision to comply with district regulations on an equivalent or greater basis.

b. In the particular circumstance, strict application of a CCB regulation or regulations is not necessary for the accomplishment of stated district purposes.

(4) Awnings, marquees, arcades or other architectural features which provide pedestrian protection from sun and inclement weather are encouraged. These elements should be designed so as to not interfere with pedestrian movement through the area.

(5) Upon submission of a development application within the CCB, the applicant shall focus on open space opportunities in areas with existing or projected peak pedestrian activity. The applicant shall coordinate open space plans with adjoining property owners. Such open spaces should include natural or artificially shaded areas.

(6) Site design for new structures and redevelopment projects shall review possible streetscape improvements and consider the following elements:

a. Open space/mini-parks;

b. Pedestrian scale site amenities;

c. Seating (benches/low walls/wide planter edges);

d. Signage;

e. Trash receptacles, bollards and bus shelters;

f. Brick and decorative concrete paving patterns;

g. Fountains and public art;

h. Enhanced pedestrian crosswalks; and

i. Wider sidewalks.

(7) When practicable and appropriate, developments which have parking in front of the building line and which exceed the property's off-street parking requirement will be encouraged to reduce the extent of the setback nonconformity when expan-

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sion or changes of use are proposed. The altered parking/setback area can be converted to landscape area, public/private open space or reserved for building expansion if applicable.

(8) Prior to submitting a development application with the city, the developer should consult with the growth management department for input concerning design guidelines and possible amenities and public facilities during negotiation under the quality development incentive program.

(i) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedure, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

a. Parking requirements for standard development within this district will follow section 32-451 et seq. To accommodate limited speculation within multiuse buildings, parking requirements will be based on the expected use. Additional parking or parking mitigation will only be required if actual parking requirements continually exceed proposed parking.

b. To better accommodate the actual needs of development, the city commission may permit the deferral of parking for larger or multiuse projects under a parking deferral program. For a parking deferral to be considered, a developer must demonstrate one or more of the following:

1. Through transmittal of a parking study, evidence that the parking requirement for the particular project is less than the requirement per this Code. The parking study shall be prepared by a licensed traffic engineer.

2. Public transportation satisfies transportation demand for a portion of the users of the facility that correspond to the amount of parking sought to be deferred.

3. The developer has established or will establish an alternative means of access to the use that will justify deferring the number of parking spaces sought to be deferred. Alternative programs that may be considered include, but are not limited to:

i. Private shuttles and public car pools and van pools;

ii. Provision of parking elsewhere in the district;

iii. Flexible work hour scheduling;

iv. Capital improvement for transit services;

v. Ride sharing; and

vi. Any other alternative program proposed by the developer that meets the consideration of the city.

(4) Landscaping regulations, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(6) Planned development district regulations, section 32-173 et seq.

(7) Design guidelines manual.

(Ord. No. 1999-2, § 1, 1-19-1999; Ord. No. 2001-24, § 1, 11-20-01; Ord. No. 2003-25, §§ 1, 2, 10-21-2003)

Cross reference—Finance and taxation, ch. 10.

Sec. 32-176. PRD planned redevelopment overlay district.

(a) *District boundaries.* For the purpose of defining the boundaries, the PRD Planned Redevelopment Overlay District area is divided into three sectors: the Hallandale Beach Boulevard, the North Federal Highway, and the South Federal Highway sectors. The Hallandale Beach Boulevard sector is bounded by I-95 to the west, SW 1

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Street, SE 1 Street, Church Drive, and Diana Drive to the south; NW 1 Street and NE 1 Street to the north; and the Intracoastal Waterway to the east. The boundaries of the North Federal Highway sector are: Pembroke Road to the north, NE 3 Avenue to the west, NE 8 Avenue to the east and Hallandale Beach Boulevard to the south. The South Federal Highway sector is all properties which front on South Federal Highway, excluding properties zoned Community Facilities District. All more particularly described in Exhibit A, attached hereto and on file in the office of the city clerk.

Note—Exhibit A is not set out herein.

All uses within the planned redevelopment district shall comply with both the otherwise applicable regulations, these supplemental regulations and the city's design guidelines. Where the regulations for this overlay district conflict with other overlay district regulations or otherwise application regulations, these provisions shall control.

(b) *Permitted uses.* All uses specifically permitted by this article and the underlying zoning district shall be permitted within the overlay district except as prohibited herein. Other uses, similar in nature to the uses permitted in the underlying zoning district but not specifically permitted therein, may be permitted within the overlay district if not prohibited by this article.

Retail and service establishments limited to:

(1) Restaurants provided that freestanding restaurants must have a minimum of 2,000 square feet of G.F.A.

(c) *Prohibited uses.*

(1) The following uses are prohibited within the Hallandale Beach Boulevard Corridor:

a. Automobile parts and accessory sales.

b. Automobile sales and display.

c. Automobile repair and service.

d. Boat sales and display.

e. Service stations including convenience stores with accessory gas sales.

f. Bus terminals.

g. Car washes.

h. Automobile rental agencies.

i. Taxi and limousine services.

j. Funeral supply and display stores.

(2) The following uses are prohibited within the Federal Highway Corridor:

a. Automobile parts and accessory sales.

b. Automobile repairs and service.

c. Boat sales and display.

d. Service stations including convenience stores with accessory gas sales.

e. Bus terminals.

f. Car washes.

g. Automobile rental agencies.

h. Taxi and limousine services.

i. Funeral supply and display stores.

(d) *Uses permitted conditionally.*

(1) All uses specifically permitted by the underlying zoning districts as a conditional use are permitted in accordance with established procedures for a conditional use permit, unless the use is prohibited within these provisions.

(2) Multi-family residential uses on commercial land use designated and zoned land on sites of not less than one acre including mixed residential uses on sites of not less than one acre, including mixed residential and commercial in the same structure subject to the density limitations established by the city's comprehensive plan future land use element and availability and apportionment of flexibility or reserve units under the Broward County flexibility rules contained in Article 2 of the Administrative Rules Document of the Broward County Land Use Plan.

(e) *Nonconforming uses.*

(1) Any previously lawful use status made nonconforming by the provisions of this section shall be rendered null and void if

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the nonconforming use is abandoned or discontinued for a period of 90 consecutive days.

In determining whether a nonconforming use has been abandoned or discontinued, the standards contained in article VII, section 32-925 of the Zoning and Land Development Code shall be applied.

(2) All property existing on January 2, 1979, which is not in compliance with the provisions of article IV, division 8, "Landscaping," and article IV, division 11, "Parking," shall be required to conform to the provisions of said articles. However, where nonconforming existing development does not meet the minimum perimeter and interior landscaping requirements of section 32-384(e)(f) said sections shall take priority over the provisions of section 32-452 relative to parking.

(3) Nonconforming lots, structures or uses located within this district, except as provided above, shall be subject to the provisions of article VII, §§ 32-924 through 32-928 of the Zoning and Land Development Code.

(f) *Supplemental standards.* Within the Planned Redevelopment Overlay District, the site development standards, landscaping, and parking requirements shall be those specified by the underlying zoning district, except as otherwise set forth herein.

(g) *Site development standards.* Commercial designated properties:

(1) Minimum lot area: 7,500 square feet

(2) Minimum lot width: 75 feet

(3) Minimum pervious lot area: 15 percent

(4) Maximum building height: 350 feet

(5) Yard setbacks:

a. *Front:* A street definition line shall be provided along the street frontage of Hallandale Beach Boulevard and Federal Highway Corridors at a maximum of 15 feet front yard setback from the street. The street definition line shall consist of a principal building structure, trees or pergola as further specified by section 7 of this article.

b. *Side yard:*

Interior adjoining commercial: 0 feet

Corner adjoining commercial: 15 feet*

Adjoining a residentially zoned property or use: 25 feet

* Subject to a 25-foot visibility triangle per section 32-384 provided at intersections.

(h) *Site development standards.* Residential designated properties:

(1) As specified by the underlying zoning district.

(2) Townhouse development shall comply with the standards specified in section 32-731.

(3) Maximum building height: 100 feet.

(i) *Awnings:*

(1) Projecting canvas, fabric or metal awnings may be placed over doors or windows but shall not project closer than two feet to any property line.

(2) On East Hallandale Beach Boulevard between N.E./S.E. 1 Avenue and Federal Highway, awnings may be placed over doors and windows and may project up to four feet over a public right-of-way provided such structure is located not less than 7½ feet above grade. All awnings encroaching into a public right-of-way are subject to the city manager's approval as to location and structure.

(3) Awnings projecting over a public right-of-way are erected at the risk of the property owner. If the city or other governmental entity determines that the awning must be removed or modified, it shall be the duty of the property owner to remove or modify same, and bear all costs associated therewith.

(4) Awning signage shall be maintained in good condition, free from fading, peeling,

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or any other condition which renders the signage unreadable, either partially or totally.

Additionally, all awnings installed in storefronts shall be maintained in good condition, free from tears, holes, fading or peeling, inclusive of all supporting structures.

Repairs of awnings or awning signage shall be with the same or comparable materials.

(5) Any awning which will abut into the public right-of-way may be constructed only after a permit from the city has been obtained for such encroachment into the public right-of-way.

(j) *Sidewalks, fences, walls, and street trees:*

(1) *Walls:* No barbed wire extensions shall be permitted on any wall or fences within the overlay district. Chain link and privacy wood fences are prohibited along the corridors.

(2) *Street trees:* The planting of street trees shall be required within the PRD Overlay District. The following criteria shall apply to the planting of street trees within the overlay district in the required landscaped perimeter buffer strips:

a. Street trees may be counted for credit towards the minimum number of trees required by Article IX, Landscaping Requirements, of the Zoning and Land Development Code.

b. Street trees shall be a minimum of 20 feet in height with a minimum diameter of three inches at a point four feet above ground level at the time of planting, and shall have trunks which can be maintained in a clean condition for over six feet of clear wood measured from ground level.

c. Street trees shall be spaced, center to center, at a maximum of one tree per 25 linear feet of street frontage, exclusive of accessways.

d. Street trees shall be of noninvasive root species. The designated street tree for Hallandale Beach Boulevard and North Federal Highway is the royal palm. The street tree for all other local streets shall be a species enumerated in the city's approved plant material list.

e. The minimum height required herein for street trees may be modified by the director of growth management, without penalty, in instances where the installation of trees would interfere with overhead utilities; so long as the minimum number and spacing of the trees is maintained.

(3) *Sidewalk:* A minimum of a five-foot sidewalk shall be provided along any street right-of-way or on private property by easement dedication if the right-of-way is of insufficient width.

(4) *New commercial buildings:* Facades shall occupy at least 60 percent but not more than 80 percent of the street frontage on any individual block. In addition, no more than 40 percent of the facade of any individual building nor any more than 1,000 square feet shall be a blank wall with no window or decoration treatment.

(5) *Existing commercial buildings:* Site redevelopment or expansions where existing development is such that a built to line at a maximum of 15 feet from the front property line is not provided, same shall be required to include street treatment such as trees or landscaped pergolas to create a sense of boundary. Trees installed to meet this requirement shall be in accordance with the designated tree for the subject street.

(6) *Density bonus residentially designated properties:* In the PRD District, the base density permitted by the underlying residential zoning district may be increased up to the prescribed maximum density permitted by the city's comprehensive plan in certain cases where the additional density is determined to promote redevelop-

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ment efforts while ensuring compatibility of land uses and structures within the proposed development and adjacent areas. In making such determination it shall be found additional densities as prescribed on the city's comprehensive plan may be permitted by taking the following into consideration:

a. The proposed development is on a parcel of land at least one acre in size.

b. For projects involving assembly of land, up to an additional 50 percent of the density permitted by the underlying residential district shall be permitted on project sites of 1.5 acres.

c. An additional 75 percent of the density permitted by the underlying residential district shall be permitted on a project site of three acres or more.

d. Additional density is subject to and conditioned upon availability and apportionment of flexibility or reserve units under the Broward County flexibility rules in Article 2 of the Broward County Land Use Plan. It is further provided that density of any such development shall be subject to approval by the city commission, and the city shall not be required to allow flexibility units to permit the maximum prescribed by the comprehensive plan.

(7) *Commercial designated properties:* In the PRD District, the density permitted for residential or commercial/residential mixed land use properties on commercial land use designated and zoned property shall be permitted subject to assignment of residential flexibility or reserve units and subject to the following criteria:

a. Projects on a parcel of land at least one acre in size are allowed up to a maximum density of 25 dwelling units per acre.

b. Projects on a parcel of land at least 1.5 acres in size are allowed a maximum density of 35 units per acre.

c. Projects on a parcel of land at least two acres in size are allowed a maximum density of 50 units per acre as permitted by the City's Comprehensive Plan Future Land Use Element.

d. Permitted density is subject to and conditioned upon availability and apportionment of flexibility or reserve units under the Broward County flexibility rules in Article 2 of the Broward County Land Use Plan. It is further provided that density of any such development shall be subject to approval by the city commission and the city shall not be required to allow flexibility units to permit the maximum prescribed by the comprehensive plan.

(8) *Redevelopment area modifications:* The provisions of Article V, Section 14, of the Zoning and Land Development Code shall apply within the Planned Redevelopment Overlay District, except as may be modified by the following:

a. The city commission may modify any zoning and land development code or Planned Redevelopment Overlay District regulation or requirement throughout the redevelopment area modification process if it is determined to significantly inhibit redevelopment improvement efforts.

b. The transmittal of a redevelopment area modification waiver:

1. Request for properties within the Planned Redevelopment Overlay District shall not be subject to the 30-day deadline, but shall coincide with transmittal of the corresponding major development review application, if applicable.

(Ord. No. 2001-16, § 1, 9-18-2001; Ord. No. 2003-26, § 1, 11-18-2003)

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Sec. 32-177. Redevelopment area modifications.

(a) Within officially designated redevelopment target areas, the city commission may modify specified yard setback, minimum floor area, landscaping, or off-street parking requirements relating to any proposed project if they are determined to significantly inhibit neighborhood or structural improvement efforts.

(b) All requests for such modifications shall be filed with the director by the property owner of record and transmitted within 30 days of filing to the city commission accompanied by a staff recommendation for approval or denial. There shall be a filing fee required, which is established and on file in the city clerk's office, with each such request. Such requests for modification shall be advertised, posted and noticed in conformity with the requirements of section 32-967 as to variances.

(c) Within officially designed redevelopment target areas, the city commission may waive the specified density unit count according to section 32-311, to allow permitted residential uses to be developed at greater than 14 net units per acre, but no more than 15.5 net units per acre, or the maximum density permitted by the adopted comprehensive plan, whichever is less; minimum lot size of existing platted lots must be at least 5,620 square feet for any lot or parcel to which the density waiver permitted by this section is applied.
(Code 1980, app. A, art. V, § 14; Ord. No. 2001-24, § 1, 11-20-2001)

Sec. 32-178. South Dixie Highway overlay district.

(a) *District boundaries.* For the purpose of defining the boundaries, the South Dixie Highway Overlay District is divided into two sectors: north and south of SW 3 Street. The north sector is bounded by SW 1 Street to the north; South Dixie Highway to the east; SW 1 Avenue to the west and SW 3 Street to the south. The boundaries of the south sector is bounded by SW 3 Street to the north; South Dixie Highway to the east; SW 2 Avenue to the west; and SW 11 Street to the south. All more particularly described in Exhibit "A", attached to Ordinance No. 2003-03, and on file in the office of the city clerk.

All uses within the South Dixie Highway Overlay District shall comply with the applicable regulations, these supplemental regulations and the City of Hallandale Beach Design Guidelines. Where the applicable regulations do not regulate uses, the provisions of this section shall control.

(b) *Permitted uses.* All uses specifically permitted by this provision and the underlying zoning district shall be permitted within the South Dixie Highway Overlay District. Other uses, similar in nature to the uses permitted in the underlying zoning district but not specifically permitted therein, may be permitted within the South Dixie Highway Overlay District if not prohibited by this provision.

Retail and service establishments limited to:

(1) Restaurants provided that:

a. Freestanding restaurants must have a minimum of 2,000 square feet of gross floor area.

(c) *Prohibited uses.* The following uses are prohibited within the South Dixie Highway overlay district:

(1) Automobile sales and display (used).

(2) Automobile repair and service.

(3) Automobile parts and accessory sales.

(4) Boat sales and displays.

(5) Service stations including accessory gas sales.

(6) Car washes.

(d) *Supplemental development standards.* Minimum development site standards:

(1) *Minimum lot width:*

Interior lot: 75 feet

Corner lot: 100 feet

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(2) *Minimum setbacks:* There shall be no minimum site development standards or setbacks in the South Dixie Highway Overlay District, except as follows:

a. Front yard: When parking is not provided within a front yard, the minimum setback shall be 15 feet.

b. Rear yard: The minimum setback shall be 10 feet. Abutting residential or separated by a right-of-way shall be a minimum of 20 feet.

c. Interior adjoining commercial: The minimum setback shall be 10 feet.

d. Side corner yard: The minimum setback shall be 15 feet and must provide visual clearance in accordance with section 32-332(6).

e. Parking structures: When parking structures are provided, the setback requirements shall be the same as set forth for front, side, and rear yards.

(3) *Awnings:* Projecting canvas, fabric or metal awnings may be placed over doors or windows, but shall not project closer than two feet to any property line. All awnings and awning signage installed in storefronts shall be maintained in good condition, free from tears, holes, fading or peeling, inclusive of all supporting structures. Repairs of awnings or awning signage shall be with the same or comparable materials.

(4) *Landscape buffer:* The buffer area between a commercial use in the overlay district and a residential use separated by the right-of-way shall be at least 10 feet wide and contain dense landscaping capable of effectively screening the two uses. The buffer strip shall be provided along the exterior of the masonry wall. Screening shall be composed of landscaped masonry walls that are incorporated into the design scheme for the project. Screened walls shall be eight feet in height and shall be subject to the vision clearance requirement of section 32-332, Zoning and Land Development Code. The required landscaped buffer strip shall be planted with a two-foot high hedge abutting the wall and 15 foot shade trees spaced 25 feet on center for the length of the wall.

(5) *Walls and fences:*

a. Masonry walls shall be painted to blend in with the overall architectural design scheme of the development proposal. All masonry walls shall be finished on both sides so that no CBS courses are visible.

b. Barbed wire on fences and walls is prohibited in the overlay district. Barbed wire shall be removed within one year of adoption of this section.

c. Galvanized chain link fences along South Dixie Highway and public rights-of-way are prohibited on commercially zoned properties. Walls and fences along such rights-of-way shall not exceed six feet in height. Existing chain link fences shall be removed or replaced with permitted fencing within one year of adoption of Ordinance No. 2003-03.

d. Vinyl-clad chain link fencing, masonry walls or aluminum picket fencing are permitted. When masonry walls are used other than as specified by section (4) above, a minimum of a two-foot landscaped area planted with hedges and trees shall be required on the exterior of the wall.

(6) *Landscape/screening treatment:* Building wall areas more than 20 feet in length shall be interrupted by landscaped areas and planted with a minimum of one tree 15 feet in height per every 20 feet of linear wall area to break up the monotony of the wall face.

(7) *Parking:* Minimum parking space requirements for new and existing development proposals within the overlay district shall be as set forth Chapter 32, Zoning and Land Development Code.

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(8) *Access requirements:* All development proposals shall provide shared access easements whenever feasible to adjoining properties and projects. Interconnection of developments shall be required as necessary to minimize the number of curb cuts and driveways onto local streets and particularly South Dixie Highway.

(9) *Provision of street trees:* The planting of street trees shall be required within the South Dixie Highway Overlay District. Development proposals shall provide for installation of street trees in conformance with the following criteria:

a. Street trees shall not be counted for credit toward the minimum number of on-site trees required by Chapter 32 of the Zoning and Land Development Code.

b. Street trees shall be a minimum of 20 feet in height with a minimum diameter of three inches at a point four feet above ground level at the time of planting and having trunks which can be maintained in a clean condition for over six feet of clear wood measured from ground level.

c. Street trees shall be spaced, center to center, at a minimum of one tree per 30 linear feet of street frontage, exclusive of accessways.

d. The minimum height and specified street trees for major transportation corridor standards contained herein for street trees may be modified by the city manager, without penalty, in instances where the installation of the trees would interfere with overhead utilities, so long as the minimum number and spacing of trees is maintained.

e. Street trees shall be of non-invasive root species and shall be designated as street or shade trees in the city's approved plant material list. The designated street tree for South Dixie Highway is the Queen Palm. The designation for all other local street trees shall be Mahogany trees.

(10) *Sidewalks:* A five-foot sidewalk shall be provided along any street right-of-way or on private property by easement dedication if the right-of-way is of insufficient width.

(11) *Signage:* Signage on buildings with multiple storefronts shall be of the same type (such as box sign channel lettering, molded lettering). Painted wood wall signs are prohibited within the overlay district.

(12) *Redevelopment area modifications:* Section 32-175 applies within the South Dixie Highway Overlay District, except as may be modified by the following:

a. The city commission may modify any Zoning and Land Development Code or South Dixie Highway Overlay District regulation or requirement through the redevelopment area modification process.

b. The transmittal of a redevelopment area modification waiver request for properties within the South Dixie Highway Overlay District shall not be subject to the 30-day deadline, but shall coincide with transmittal of the corresponding major development review application, if applicable.

(Ord. No. 2002-03, § 1, 4-2-2003)

Sec. 32-179. PLAC planned local activity center district.

(a) *Intent and purpose.* The following standards, regulations and requirements apply to areas to be rezoned as a planned local activity center (PLAC) district within the city. The PLAC district regulations are created to ensure development within a local activity center (LAC) future land use category is consistent with LAC land use designation. The PLAC is intended to encourage and promote development that facilitates a coordinated and balanced mix of land uses, including: retail, office, hotel/conference, certain types of commercial recreation uses, residential and other

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similar uses. The mix of land uses associated with the PLAC district shall also provide recreation, entertainment, and associated employment opportunities while creating an urban center with high quality architecture, pedestrian-friendly streets, outdoor public spaces and access to public transit.

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

Design guidelines mean a document created and submitted in conjunction with a planned local activity center rezoning and a major development plan approval application that describes the architectural and design goals of a specific development within the PLAC. The guidelines shall include a description and intent of the overall development and provide standards for vehicular and pedestrian circulation, architecture, landscaping, open space, signage, parking (surface and structured), loading, streets, and regulations addressing building placement, scale/massing, height, and character.

The PLAC design guidelines standards and criteria shall take precedent over the conceptual site plan design.

Development agreement means a valid and enforceable agreement between an applicant for a development approval and the city. The development agreement shall set forth any conditions and obligations to address impacts of the development on the city, shall be recorded in the public records and shall be binding on all property owners within the boundaries of the development. The development agreement shall be utilized to further the purpose and intent of PLAC set forth in subsection (a) of this section. No building permit shall be issued until a development agreement is signed.

Major development plan means a detailed proposal which incorporates specific site details and specifications including a site plan and other documents as required by subsection (h) of this section and the development review requirements of article V of this chapter.

Planned local activity center (PLAC) means an area zoned as a dense, urban, mixed-use development area to achieve an interdependent live/work/entertainment environment while also enhancing the quality of life in the city and minimizing the demand and dependence on the automobile.

(c) *Applicability* means the city commission may zone lands as a PLAC district consistent with the intent and purpose of the LAC land use category in the city's comprehensive plan.

(d) *Permitted, accessory and prohibited uses.*

(1) *Permitted uses.* Uses consistent with or customary to mixed-use urban centers including but not limited to multi-family residential, office, retail and commercial uses including cinemas, nightclubs, cafe/restaurants, hotels, accessory parking, and certain commercial recreation uses. The following commercial recreation uses shall not be permitted: simulcasting, slot gaming facilities, casinos, pari-mutuel facilities and related wagering systems.

(2) *Accessory uses.* Accessory uses include uses customarily accessory to the principal permitted use but not including any of the uses listed as prohibited.

(3) *Temporary uses.* Temporary uses and structures, such as trailers, in connection with sales, marketing, leasing, construction or development subject to the following restrictions:

a. Temporary uses and structures shall only be permitted as part of a conceptual site plan and approved design guidelines. The approval shall include a duration of not more than two years or when the first component or building is completed, whichever is earlier.

b. Construction trailers shall only be permitted for the duration of a construction phase, beginning with the date a building permit is issued and continuing not longer than the date a certificate of occupancy is issued for the development.

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c. The city manager may extend the approved duration in increments of no more than two years upon finding that the temporary use or structure is necessary to facilitate completion of the development.

d. A designated parking area with a minimum of 20 parking spaces as approved by the city manager shall be provided in connection with the use of a sales trailer.

(4) *Prohibited uses.* Any use not consistent and/or compatible with the permitted and accessory uses established in the LAC land use category text for the specific project area, the PLAC district design guidelines, and specifically prohibiting the following: single-family and duplex residential (not including townhouses), mobile homes, retail sales of secondhand merchandise, auto sales and repair, gas stations, boat yards, warehouse/storage, heavy commercial uses, industrial uses, and any use not specifically permitted and/or compatible with the intended development as determined by the city.

(e) *PLAC district criteria.* Consistent with the LAC land use category requirements in the city's comprehensive plan and the county land use plan, the following criteria must be met for an area to be eligible for designation as a PLAC district:

(1) *Minimum/maximum lot size.* The minimum area or lot size considered for the PLAC district shall be contiguous 10 acres. The maximum area or lot size considered for the PLAC district shall be 160 acres. At such time as 75 percent of the originally zoned PLAC district is developed, an expansion to the subject PLAC district to include abutting properties may be considered without regard to minimum size requirements.

(2) *Proximity to public transportation.* Seventy-five percent of the land within the proposed PLAC district must be located within a quarter-mile of public transit, a community shuttle or multi-modal facilities, or are designed, built and located within a quarter-mile of such facilities upon build-out. Where such facilities are not in place or planned to be in place at the time of the rezoning, design standards shall be required in the design guidelines to ensure that the primary priority is a safe, comfortable, and attractive pedestrian environment that will allow convenient connection to public transit, will reduce the number of automobile trips internally, and will ultimately support an integrated multimodal transportation system.

(3) *[Appropriate depth and frontage.]* A proposed PLAC district must have a geographic configuration of appropriate depth and frontage to support the location of uses in a manner oriented around a five-minute (i.e. quarter-mile) walk. Multiple nodes of activity oriented around a five-minute walk may be included within one PLAC district.

(f) *General PLAC district requirements.* All development within a PLAC district shall conform to the following requirements unless modified by a development agreement enacted pursuant to subsection 32-173(d)(2) by the city commission.

(1) *Setbacks.* All buildings, structures and additions shall meet the setback requirements defined in the approved design guidelines required in subsection (h).

(2) *Height.* Building heights shall comply with the height standards established in the approved design guidelines. At no time shall a building be higher than 30 stories. As one of the main purposes of the PLAC is to create a dense urban appearance, buildings should be designed in such a manner to avoid the appearance of a one-story "strip commercial" building. To that end, portions of buildings that are approved as one-story structures must be designed in a manner that the average parapet height is at least 20 feet above grade.

(3) *Off-street parking.* Off-street parking shall be designed and calculated pursuant to section 32-452 of this Code, entitled "Off-street parking requirements," or as ap-

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proved in the PLAC design guidelines and major development plan approval. In general, shared parking shall be encouraged to permit a reduction in the total number of required parking spaces for individual uses in mixed-use projects which typically do not experience peak parking demands at the same time or patrons that may visit a number of uses within the project. The city may approve a reduction in the quantity, location or type of required parking spaces based on the submission of a professional parking study acceptable to the city.

(4) *Landscaping.* All property or parcels within a PLAC shall conform to the requirements in section 32-384, entitled "Landscape requirements," or as modified as part of the design guidelines. The design guidelines and subsequent major development plans shall include a planting theme consistent with South Florida landscaping and supporting a pedestrian-friendly environment. Park and open space land may include squares, plazas, arcades, landscaped pedestrian walkways, greenbelts, greenways and playgrounds. Required perimeter buffers, median strip landscaping and interior parking lot islands may not comprise more than 20 percent of the total required landscaped area. All such land must be within the boundaries of the PLAC district.

(5) Notwithstanding the above provisions, the city reserves the right, but is not obligated, to modify the PLAC criteria upon submission of a request from the owner/applicant.

(g) *PLAC submittal requirements.* The following shall be submitted for PLAC approval:

(1) *General location map, boundary survey and PLAC narrative.* A general location map depicting the PLAC area and its relationship to adjoining land uses and roadways within at least one-half mile of the site; a boundary survey and legal description; and a narrative describing the overall PLAC and the components thereof.

(2) *Conceptual site plan.* A conceptual site plan illustrating the general layout of streets, sidewalks, open space, parking, and buildings and any proposed temporary uses or structures. The conceptual site plan drawings must have sufficient detail to clearly illustrate and denote building forms and relationships, architectural styles, setbacks, approximate sizes of uses and functional use areas including dimensions/square footages. The conceptual plan may be revised consistent with the approved design guidelines through the major development plan review/process for each phase of the development. The conceptual site plan approval is deemed conditional until a development agreement is executed by the city and applicant pursuant to the paragraph (n).

(3) *Design guidelines.* Design guidelines (text and graphics) providing specific guidelines for the PLAC district governing vehicular and pedestrian circulation, architecture (including building elevations), landscaping, open space, signage, site lighting, parking (surface and structured), loading, streets, and standards addressing building placement, scale/massing, height and character. Unless specifically modified in the design guidelines, all development in the PLAC district shall comply with the city's minimum code requirements.

(4) *Phasing plan.* An anticipated development phasing schedule including the sequence for each phase, and approximate size of the area in each phase of the PLAC district consistent with the conceptual plan.

(5) *Infrastructure assessment.* An assessment of the infrastructure necessary to serve the PLAC including potable water, sanitary sewer, stormwater, electricity, telephone, gas installation, cable TV, satellite

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communication facilities, solid waste and waste disposal facilities, loading zones and proposed street improvements.

(6) *Recreation and open space assessment.* An assessment of designated recreational opportunities and open spaces within the PLAC district addressing conformance to the goals, objectives and policies of the city's comprehensive plan and applicable land development regulations. Residual areas such as buffers, median strips and retention areas are not considered parkland or open space but may be counted toward minimum landscape requirements.

(7) *Transportation and parking analysis.* A transportation and parking analysis including on-site and off-site vehicular traffic, mass transit, pedestrian and bicycle facilities.

(8) *Security measure assessment.* An assessment and description of any security measures to be provided within the general area and sub-areas of the PLAC.

(9) *Additional requirements.* The city manager, or designee, may require additional materials and studies, as customarily required, to ensure that the applicable standards and guidelines of this chapter have been fully met. The additional requirements must be identified prior to submittal of the major development plan application.

(10) *Application fees.* The rezoning application fees for a PLAC district shall be as set forth for rezoning applications in the city's fee schedule.

(h) *Major development plan submittal requirements.* In addition to the requirements of article V of this chapter, the following shall be submitted for major development plan approval:

(1) *Design guidelines.* Submit a copy of the design guidelines as approved as part of subsection (g).

(2) *Land use tabulations.* The site development plan for the major development plan submittal shall include the number, height and type of residential units and proposed hotel units, as well as proposed uses, square footages and the heights of any non-residential uses.

(3) *Site development plan.* Site development plan for the major development plan area, illustrating building footprints and elevations, parking areas, functional use areas, vehicular and pedestrian circulation and pedestrian/public amenities.

(4) *Signage and lighting plans.* General signage and lighting plans detailing the location, size and type of signage and lighting, consistent with the design guidelines.

(5) *Landscape plan.* A detailed landscape plan consistent with the design guidelines and including those items of information and document format contained in section 32-386 of this Code.

(6) *Infrastructure plans.* A detailed set of infrastructure plans for the major development plan area including potable water, sanitary sewer, stormwater and other private utilities serving the site.

(7) *Additional requirements.* The city manager, or designee, may require additional materials and studies, as customarily required, to ensure that the applicable standards and guidelines of this chapter have been fully met.

(8) *Application fees.* The major development plan application fees shall be as set forth in the city's fee schedule.

(i) *Review, approval and modification of major development plans.* A major development plan for each phase shall be submitted to and processed by the city in accordance with the provisions of subsection 32-174(h), except that changes and deviations of a major development plan for any phase within a PLAC that does not exceed ten percent of the approved square footage in each phase or permitted uses and continues to be consistent with the approved design guidelines and/or development agreement within the PLAC district area shall only require administrative approval. All building permits issued subsequent

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to the approval of the PLAC rezoning shall be consistent with the respective approved major development plans.

(j) *Zoning approval versus major development plan.* The approval of a rezoning to a PLAC district is intended to establish the conceptual plan of development. Notwithstanding anything to the contrary, prior to the submission of building permits, all phases of development within the PLAC shall submit and receive approval of a major development plan, consistent with the PLAC district conceptual plans and design guidelines.

(k) *PLAC expiration date.* Approved developments must submit a detailed major development plan application for at least the first phase within 18 months of the PLAC zoning approval, unless otherwise addressed in the development agreement. Submittal of a major development plan shall be deemed a good faith effort to implement the PLAC district. Failure to submit the major development plan application as specified herein will invalidate the PLAC concept plan and a new concept plan application will have to be submitted to the city.

(l) *PLAC extension.*

(1) Prior to the expiration of the 18-month period for major development plan submittal, the owner/applicant may apply for an extension by filing a petition with the city. Such petition may be granted upon a determination by the city commission that the owner/applicant has made a good faith effort to submit the major development plan application.

(2) The city commission shall not grant more than one extension. No extension shall exceed 18 months from the date of the expiration of the initial 18-month period.

(3) Notice of the meeting of the city commission shall be provided to the owner/applicant by regular mail within 15 days of the date of the public hearing at which the extension request is to be heard. The applicant shall be given an opportunity to be heard at the city commission meeting.

(4) If a petition for an extension is denied, the owner/applicant may appeal such decision to the circuit court.

(m) *Major development plan expiration.* A complete, valid building permit application for one or more of the major land uses, not including fencing or utility work, shall be submitted within 18 months from the date of a major development plan approval, unless otherwise addressed in the development agreement. The city manager, or designee, may grant a one-time extension of no more than six months. The city commission may grant an additional six-month extension (total of 12-month extension) after a public hearing upon a determination that the owner/applicant has made a good faith effort to submit the building permit application. Failure to submit a building permit as specified herein will invalidate the major development plan, and a new application will be required to be made to the city.

(n) *Development agreement required.* Each PLAC development shall be governed by a development agreement whereby the city and other appropriate entities enter as parties to the agreement. The development agreement shall be utilized to further the purpose and intent of PLAC as set forth in subsection (a) of this section.

(o) *PLAC monitoring report.* The recipient of an approved PLAC district rezoning shall submit an annual report to the city. The first annual report shall be submitted one year after the effective date of the approved PLAC district, and on that same date every year thereafter, until development is complete. Failure to submit the report shall not result in a loss of development rights. The city may suspend further development approvals including building permits and certificates of occupancy for failure to submit the report upon notification as described herein. The report shall include the following information:

(1) An outline of the development activity that occurred since the previous report with an analysis of the maximum allowed, built and remaining development activity.

(2) Identification and degree of any alterations, modifications or additions to the PLAC master development plan approval;

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(3) If no changes or amendments to the initial plan have been made during the reporting period, a short statement to that effect will be filed with the city, which shall satisfy this requirement.

(p) *Validity.* Should any subsection, paragraph, sentence, clause, phrase or other part of this section be declared by a court of competent jurisdiction to be invalid, such decision shall not serve to invalidate the remaining words, subsections, and positions of this section.
(Ord. No. 2006-22, § 3, 11-6-2006)

Sec. 32-180. Foster Road Corridor overlay district.

(a) *District boundaries.* There is designated as the Foster Road Corridor overlay district those lands generally and approximately bordered by all properties which front on Foster Road. All more particularly described in Attachment "A," attached hereto.

Note—Attachment "A" is not set out herein, but is on file in the offices of the city.

(b) *Permitted uses.* All uses within the Foster Road Corridor overlay district shall comply with both the otherwise applicable regulations, these supplemental regulations and the city design guidelines manual. Where the regulations for this overlay district conflict with other overlay district regulations or otherwise applicable regulations, these provisions shall control.

All uses specifically permitted by this article and the underlying zoning district shall be permitted within the Foster Road Corridor except as prohibited herein. Other uses, similar in nature to the uses permitted in the underlying zoning district but not specifically permitted therein, may be permitted within the corridors if not prohibited by this article.

Retail and service establishments limited to:

(1) Restaurants provided that:

a. Freestanding commercial buildings must have a minimum of 1,000 square feet of G.F.A.

(c) *Prohibited uses.*

(1) The following uses are prohibited within the Foster Road Corridor:

a. Liquor package stores.

b. Automobile parts and accessory sales.

c. Nightclubs, dance halls and discotheques.

d. Alcoholic beverage establishments.

e. Automobile sales and display.

f. Automobile rental agencies.

g. Boat sales and display.

h. Bus terminals.

i. Car washes.

j. Taxi and limousine services.

k. Automobile repair and service activities.

l. Funeral supply and display stores.

m. Automobile paint and body shops.

n. Service stations with accessory gas sales.

o. Wholesale distributor showrooms.

p. Accessory manufacturing to retail sales.

q. Convenience stores with less than 2,000 square feet in G.F.A.

(d) *Uses permitted conditionally.*

(1) All uses specifically permitted by the underlying zoning districts as a conditional use are permitted in accordance with established procedures for a conditional use permit, unless the use is prohibited within these provisions.

(2) Townhouse development and multi-family residential uses on sites of not less than 10,000 square feet, including mixed residential and commercial in the same structure on commercial land use designated and zoned property subject to a maximum density of 25 dwelling units/acre in accordance with the city comprehensive plan future land use element. Townhouse development and shall comply with the standards set forth in section

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32-731. Permitted density is subject to availability and apportionment of flexibility or reserve units under the county flexibility rules contained in article 2 of the administrative rules document of the county land use plan. It is further provided that density of any such development shall be subject to approval by the city commission and the city shall not be required to allow flexibility units to permit the maximum density prescribed by the comprehensive plan.

(3) Where residential dwelling are designed within the same project as nonresidential uses, the developer shall be required to identify in a supplemental report, and, on the face of plans, the special provisions made to ensure the compatibility of the uses.

(4) Site plans and elevations shall show the typical architectural design of each side of all residential and commercial buildings, loading zone area, dumpster enclosure areas, and outside accessory activity areas; shall be submitted as part of the conditional use application material for city commission review and approval. Once approved, the development must be constructed in substantial compliance with approved site plans, elevations and other design plans.

(e) *Nonconforming uses.*

(1) Any previously lawful use status made nonconforming by the provisions of this division shall be rendered null and void if the nonconforming use is abandoned or discontinued for a period of 90 consecutive days. In determining whether a nonconforming use has been abandoned or discontinued, the standards contained in section 32-925 of this Code shall be applied.

(2) All property existing on January 2, 1979 which is not in compliance with the provisions of section 32-383, "Landscaping," and section 32-452 "Parking," shall be required to conform to the provision of said articles. However, where nonconforming existing development does not meet the minimum perimeter landscaping requirements of section 32-384, said sections shall take priority over the provisions of section 32-383 relative to parking.

(3) Nonconforming lots, structures or uses located within this district, except as provided above, shall be subject to the provisions of article IV, division 8 of this Code.

(f) *Supplemental standards.* Within the Foster Road Corridor overlay district, the site development standards, landscaping, and parking requirements shall be those specified by the underlying zoning district, except as otherwise set forth herein.

(1) *Site development standards.* Commercial uses:

a. Minimum lot area:

Interior lot: 5,000 square feet

Corner lot: 6,000 square feet

b. Minimum lot width:

Interior lot: 50 feet

Corner lot: 60 feet

c. Maximum height to roof line: 30 feet or 2 stories

d. Yard setbacks: Street definition line shall be provided at a maximum of ten feet as follows:

Minimum front yard: 2 feet

Maximum front yard: 10 feet

Interior adjoining commercial: 0 feet

Corner: 10 feet*

Rear: 10 feet

Adjoining residentially zoned: 20 feet

*Subject to a 25-foot visibility triangle per section 32-384 provided at intersections.

(2) *Site development standards.* Mixed residential/commercial uses in same building:

a. Minimum lot area: 10,000 square feet

b. Minimum lot width: 75 feet

c. Maximum height to roof line: 40 feet or 3 stories

d. Yard setbacks: Street definition line along Foster Road Corridor shall be provided at a maximum of ten feet as follows:

Minimum front yard: 2 feet

Maximum front yard: 10 feet

Interior adjoining commercial: 0 feet

Corner: 15 feet*

Rear: 10 feet

Adjoining residentially zoned property or use: 20 feet

*Subject to a 25-foot visibility triangle per section 32-384 is provided at intersections.

e. Minimum floor area:

Efficiencies limited to a maximum 10 percent project unit type: 500 square feet per unit

One bedroom: 700 square feet per unit

Two bedroom: 850 square feet per unit

Three or more: 1,050 square feet per unit

(g) *Awnings.*

(1) Projecting canvas, fabric or metal awnings may be placed over doors or windows but shall not project closer than two feet to property lines provided however, that commercial uses fronting on Foster Road may project up to three feet over existing sidewalks into public rights-of-way. Such structure shall not be less than seven and one-half feet from grade. All awnings encroaching into a public right-of-way are subject to the city manager's approval as to location and structure.

(2) Awnings projecting over a public right-of-way are erected at the risk of the property owner. If the city or other governmental entity determines that the awning must be removed or modified, it shall be the duty of the property owner to remove or modify same, and bear all costs associated therewith.

(3) Awning signage shall be maintained in good condition, free from fading, peeling, or any other condition which renders the signage unreadable, either partially or totally. Additionally, all awnings installed in storefronts shall be maintained in good condition, free from tears, holes, fading or peeling, inclusive of all supporting structures. Repairs of awnings or awning signage shall be with the same or comparable materials.

(4) Any awning which will abut into the public right-of-way may be constructed only after a permit from the city has been obtained for such encroachment into the public right-of-way.

(h) *Parking.*

(1) Minimum parking space requirements for new or existing development proposals within the overlay district are contained in section 32-455.

(2) Within the Foster Road Corridor overlay district, the requirements of section 32-453 relative [to] the number of parking spaces allowed in a row is six parking spaces.

(i) *Sidewalks, fences, and walls.*

(1) *Walls.* No barbed wire extensions shall be permitted on any wall or fences within the overlay district. Barbed wire shall be removed within one year of adoption of this section. Galvanized chain link and privacy wood fences are prohibited along the Foster Road Corridor and public rights-of-way on commercially-zoned properties. Existing chain link fences shall be removed or replaced with permitted fencing within one year of adoption of this section.

(2) *[Fencing.]*Aluminum picket fencing and masonry walls are permitted along the Foster Road Corridor. Permitted fencing along Foster Road shall be setback a minimum of two feet to be finished as landscaping or as a sidewalk extension to existing sidewalk in the public right-of-way.

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(3) *Sidewalk.* A minimum of a five-foot sidewalk shall be provided along any street right-of-way or on private property by easement dedication if the right-of-way is of insufficient width.

(j) *New commercial buildings.*

(1) No more than 40 percent of the facade of any individual building nor more than 1,000 square feet shall be a blank wall with no window or decoration treatment.

(2) Security bars over doors and/or windows are prohibited on buildings located within commercially-zoned property.

(k) *Existing commercial buildings.*

(1) Site redevelopment or expansions where existing development is such that a built to line at a maximum of ten feet from the front property line is not provided, same shall be required to include landscaped street treatment such as trees, to create a sense of boundary. Trees installed to meet this requirement shall be in accordance with the designated tree for the subject street.

(2) Security bars over doors and/or windows on buildings located within commercially zoned property shall be removed within one year of adoption of this section.

(l) *Uniform signage.* Signage on buildings with multiple storefronts must be of the same type (such as box sign channel lettering, molded lettering). Painted wood wall signs are prohibited within the overlay district. Existing nonconforming painted wood signs shall be removed within one year of adoption of this section.

(m) *Dumpster enclosures.* Dumpster enclosures shall be of masonry construction. All exterior walls shall be stuccoed and painted to present a finish appearance.

(n) *Redevelopment area modifications.* The provisions of section 32-177 of this Code shall apply within the Foster Road Corridor overlay district, except as may be modified by the following:

(1) The city commission may modify any Code or Foster Road Corridor overlay district regulation or requirement through the redevelopment area modification process if it is determined to significantly inhibit redevelopment improvement efforts.

(2) The transmittal of a redevelopment area modification waiver:

a. Request for properties within the Foster Road Corridor overlay district shall not be subject to the 30-day deadline, but shall coincide with transmittal of the corresponding major development review application, if applicable.

(3) Administrative waivers. Within the redevelopment area modification area, staff shall be allowed to approve administrative waivers up to 20 percent of minimum required as to number of parking spaces, landscaping and setback requirements.

(Ord. No. 2003-15, § 1, 9-2-2003)

Editor's note—Ord. No. 2003-15, § 1, adopted September 2, 2003, did not specifically amend the Code; hence, inclusion herein as § 32-180 was at the discretion of the editor. See also the Code Comparative Table.

Secs. 32-181—32-190. Reserved.

Subdivision II. Special Uses

Sec. 32-191. Home occupation.

(a) *Purpose.* This section is intended to provide for home occupational uses within residential districts which are compatible with residential uses and do not detract from the residential character of the neighborhood. It is further the intent of this section to regulate the operation of a home occupation in such a manner that the average neighbor will be unaware of its existence. All home occupations shall conform with all requirements and stipulations of this section prior to the issuance of an occupational license.

(b) *Performance standards.* A home occupation is allowable as an accessory use in a dwelling unit in any residential area. No home occupation shall be permitted unless it complies with all of the following standards:

(1) The use shall be conducted entirely within a dwelling and carried on only by the residents of the dwelling.

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(2) No more than 25 percent of the area of the residence and no garage or accessory building or structure is used for the business purpose.

(3) No sign relating to the home occupation or any business may be posted or displayed on the site and no vehicles with any signs displaying the business or residential address, which might serve to indicate that the dwelling is being used for a business occupation use, may be located on the premises.

(4) No person or customer shall be serviced in person on the site nor shall the occupation be conducted in any way which would necessitate suppliers or customers visiting the site.

Exception. Individual tutoring shall be permitted at the residence, provided there are no more than two students at any one time in the residence.

(5) No goods shall be displayed for sale or as samples either inside or outside on the site.

(6) No noise, odors, smoke, electrical interference, hazardous materials or nuisance of any type shall arise from or be used in the conduct of the occupation.

(7) The address or telephone of the premises may be used for receiving business mail and telephone calls provided no more than one business phone line and one fax/modem line are used and the home address is not listed in any Yellow Pages advertising.

(8) The home address shall not be used for purposes of advertising, soliciting or announcing the licensed use of the premises through printed material or any other media, except stationery and business cards.

(9) The use shall not generate additional pedestrian or vehicular traffic.

(c) *Occupational licenses.* All applicants for restricted occupational license shall be required to sign a sworn statement attesting to their knowledge and understanding of the restrictions and conditions of operating a home business, as set forth by this section, and advising that the residence is subject to inspection by the city. The applicant shall further execute a waiver permitting inspection, upon prior notice by the city, if the city has reasonable cause to believe that the applicant is in violation of this chapter. The license fee shall be as set by resolution of the city commission.

(d) *Applicability of chapter.* No provision of this section may be deemed to be a waiver of any other requirement of this chapter unless it is expressly so stated.
(Code 1980, app. A, art. V, § 18)

Secs. 32-192—32-220. Reserved.

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ARTICLE IV. DEVELOPMENT STANDARDS

DIVISION 1. GENERALLY

Secs. 32-221—32-240. Reserved.

DIVISION 2. ACCESSORY USES AND STRUCTURES

Sec. 32-241. Authorization.

Only the accessory uses and structures specified in section 32-242 may be permitted in any zoning district.
(Code 1980, app. A, art. V, § 7.01)

Sec. 32-242. Permitted accessory uses.

(a) Permitted accessory uses in all residential districts are as follows:

(1) Children's playhouses not to exceed 100 square feet of gross floor area.

(2) Juvenile play equipment.

(3) Private garages and carports subject to the following limitations:

a. Shall not exceed 40 percent of the size of the main structure or building and shall not exceed 500 square feet in area.

b. Shall not exceed one story or 15 feet in height.

c. Shall be constructed of the same material as the principal use it serves (carports are exempt from this requirement).

d. Shall be used solely by the occupants of the principal building served.

e. Shall not be used in any way as living quarters for animals or humans.

(4) Gazebos, chickees and cabanas shall not exceed 100 square feet or 15 feet in height.

(5) Private swimming pools.

(6) Tennis, basketball or volleyball court and other similar private outdoor recreational uses.

(b) The following accessory uses are permitted in all zoning districts unless otherwise specified:

(1) Antenna structures for television, radio, telephone, cellular, microwave and satellite shall be permitted as set forth in these provisions:

a. *Satellite dish antennas.* Satellite dish antennas, no greater than 12 feet in diameter, shall be permitted in all zoning districts subject to the following restrictions:

1. All satellite dish antennas shall be mounted at ground level in any single- or two-family district or in any mobile home park.

2. Only one satellite dish antenna shall be allowed per property in single- or two-family districts.

3. No satellite dish antenna shall be ground-mounted in any required front or side yard in any zoning district.

4. No ground-mounted satellite dish antennas shall be closer than ten feet from any side property line and 15 feet from any rear property line.

5. No ground-mounted satellite dish antennas shall exceed 18 feet above grade.

6. The provisions of section 32-921(3), which prohibit the erection of new accessory structures shall not apply for purposes of erecting satellite dish antennas for nonconforming residential uses, provided all the criteria of this subsection are met.

7. Satellite dish antennas 24 inches or less in diameter are exempt from the provisions of this chapter, provided that they

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are installed and maintained in a manner as not to be visible from any street right-of-way and do not encroach into any setback area.

b. *Amateur radio antennas.* Amateur radio antennas, restricted to use in the operation of an amateur radio station, licensed by the Federal Communications Commission for transmitting and receiving on amateur radio bands, may be permitted, subject to the following conditions and restrictions:

1. The antenna shall be ground-mounted in single-family and two-family districts and located in the rear yard of the property and shall meet the rear and side setback requirements for the principal structure.

2. Only one freestanding amateur radio antenna structure shall be permitted per property in residential districts.

3. Amateur radio antennas shall not exceed a height of 30 feet above grade. Antennas which exceed a height of 30 feet may be permitted by the city commission after a public hearing. The decision of the commission shall be based upon the following factors:

i. The compatibility of the antenna with the existing natural environment and other properties within the neighborhood.

ii. The effect of the antenna on property values in the neighborhood.

iii. The adequacy of setbacks and buffering for the antenna.

iv. Whether the land is sufficient, appropriate and adequate for the use.

v. Whether the antenna will interfere with radio, television or telephone transmission in the neighborhood.

4. Applications for amateur radio antennas exceeding 30 feet in height shall be accompanied by a nonrefundable application fee as established by resolution.

c. *Communication towers and antennas (rooftop or building-mounted).* Rooftop or building-mounted communication towers or antennas are permitted as an accessory use in multifamily residential, commercial, community facilities, educational, and light industrial districts; and such antennas are subject to the following requirements:

1. Antennas shall not exceed a height of 18 feet above the roof or parapet, whichever is higher. Antennas may exceed 18 feet above the roof in the CF or OS district if erected by a governmental agency and public needs warrant additional height.

2. Antennas shall be located or screened so as not to be visible from public streets and shall be of a material or color which matches the exterior of the building or structure upon which it is situated.

3. Microwave antennas shall only be roof-mounted. The diameter of such microwave antenna shall not exceed six feet in diameter and must be located or screened in a manner which minimizes, to the extent feasible, visibility from public streets.

4. Any related unmanned equipment building located on the roof of the building shall not occupy more than 25 percent of the roof area.

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5. Directional or panel antennas must not exceed six feet in height, two feet in width, and two feet in depth. Such antenna must be painted with the same color as the wall to which it is attached and shall not extend beyond the roof line of the building, parapet or structure to which it is attached. If roof-mounted, such antenna shall be located or screened in a manner which minimizes, to the extent feasible, visibility from public streets.

6. Plans for all rooftop or building-mounted antennas shall be submitted with each application for a building permit and shall include a site plan drawn at a scale of not less than one inch equals 20 feet, indicating the diameter, screening, location, setbacks from edges of building for any existing and proposed tower or antenna and the height above the roof, proposed screening, and any other criteria deemed necessary by the city manager. A mounting detail drawn at a scale no smaller than one-half inch equals one foot shall also be provided.

d. *Communication towers, freestanding.*

1. *Siting preferences.* To minimize adverse visual impacts on residential or nonresidential properties, the city will encourage the location of communication tower sites on public property consistent with the intent of the congressional legislation on this subject. Accordingly, the city shall consider when evaluating whether to approve a communication tower application whether there is suitable public property near the proposed site which would physically accommodate the communication tower without unreasonably compromising the antenna tower's signal reception or transmitting capability or unreasonably compromising the communication system capability.

Towers on public property shall be located based upon the following hierarchy of zoning districts:

i. OS—Open space district.

ii. CF—Community facility district (conditional use required).

If it is not feasible to locate the communication tower on public property or if a private site is preferred, the applicant shall demonstrate the reasons for the preference. The city may require opinions from suitable engineers or other learned professionals or experts when evaluating siting preferences and may defer considering applications for up to 30 days to permit for analysis of the proposal.

2. *Shared use.* Towers in combination with existing utility poles may be permitted as an accessory use on land designated utilities on the city's land use plan and zoned CF zoning district. Such towers shall be constructed as part of the existing utility poles or as replacements for the existing utility poles. No communication tower constructed exclusively for personal wireless services shall be permitted.

3. *Conditional use on nonpublic property.* If a communication

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tower cannot be located on public property, such towers shall be permitted as follows:

i. Monopoles are permitted as a conditional use in B-I, CR-A, CR-P, CF, ED and I-L districts.

ii. Guyed wire and lattice transmission towers are permitted as a conditional use in I-L and CF districts.

4. *Application; required information.* Every application for a communication tower shall include a statement prepared by a licensed professional engineer, which describes the tower height and design and includes a cross section of the structure showing the tower's compliance with applicable standards as set forth in the South Florida Building Code, latest Broward County Edition; and describes the tower's capacity, including the number and type of antennas it can accommodate. No tower shall be permitted to exceed its loading capacity. For all towers attached to existing structures, the statement shall include certification that the structure can support the load superimposed from the tower. All towers shall have the capacity to permit multiple users; at a minimum, monopole towers shall be able to accommodate two users, and at a minimum, self-support/lattice or guyed towers shall be able to accommodate three users.

5. *Height / setbacks and related location requirements.*

i. Communication towers as set forth in this section shall be located on sites containing a principal use on the same property which meets the minimum lot size requirement for the zoning district in which it is located.

ii. The height of a communications tower shall not exceed 150 feet. Tower height shall be measured from the crown of the road of the nearest public street.

iii. Communication towers shall comply with the minimum setback and distance requirements provided in table I [sic].

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TABLE I

COMMUNICATIONS TOWERS LOCATION REQUIREMENTS

	Monopole	*Lattice*	*Guyed*
Required setback from property lines	50 ft.	100 ft.	100 ft.
Required setback in I-L, OS or CF districts	25 ft.	250 ft.	250 ft.
Minimum distance from residential zoning district or use*	100 ft.	250 ft.	250 ft.
Minimum setbacks for tower guy wire or supports	—	—	50 ft.

*As measured in a straight line from the two closest points between the nearest residential zoning district line and the nearest property line of the proposed tower site.

iv. Communication towers shall not be located within 1,000 feet of any existing monopole, lattice, or guyed communication tower.

v. The number of communication towers shall be limited to one per property.

6. *Antennas on towers.* Panel or whip antennas are permitted on monopoles or towers. To reduce visual clutter, dish antennas may not be installed on a monopole. No more than three groupings of antennas shall be installed on a monopole. No more than four dish antennas shall be permitted on a tower.

7. *Buffering.*

i. An eight-foot fence or wall, with access by a locked gate only, shall be required around the base of a lattice tower.

ii. A minimum ten-foot landscaping buffer, consistent with the requirements of article IV, division 8 of this chapter, shall be installed around the entire perimeter of the fence or wall. Additional landscaping may be required around the perimeter of the fence and around any or all anchors or supports if deemed necessary to buffer adjacent properties. The city commission may require landscaping in excess of the requirements of this chapter in order to enhance compatibility with adjacent residential and nonresidential land uses. Landscaping shall also be installed around any accessory buildings or structures.

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8. *Signs and advertising.* The use of any portion of a tower for signs or advertising purposes, including a company's name, is prohibited.

9. *Accessory buildings or structures.* An equipment building up to 750 square feet in floor area and 12 feet in height shall be allowed in connection with an approved tower. Such building or structure shall be set back to conform with the setbacks established for the underlying zoning district. Accessory uses shall not include offices, longterm vehicle storage, outdoor storage, broadcast studios, except for temporary emergency purposes, or other structures or uses which are not needed to send or receive transmissions. Transmission equipment shall be automated to the greatest extent feasible. Where the site abuts or has access to a collector street, access for motor vehicles shall be limited to the collector street. Equipment shall not emit sounds at higher decibel levels than permitted by chapter 9 of this Code.

10. *Colors.* Towers shall be painted in neutral colors, designed to blend into the surrounding environment. This requirement may be superseded by the requirements of other county, state, or federal regulatory agency possessing jurisdiction over communications towers.

11. *Lighting.* No signals, lights or illumination shall be permitted on an antenna unless required by the Federal Communications Commission or the Federal Aviation Administration. Security lighting around the base of a tower may be provided if such light is positioned in such a manner as to minimize interference with the use and enjoyment of neighboring properties.

12. *Noninterference.* Each application to allow construction of a communication tower shall include a certified statement that the construction of the tower, including reception and transmission functions, will not interfere with the usual and customary transmission or reception of radio, television, or similar services enjoyed by adjacent residential and nonresidential properties. The statement shall be prepared by an engineer licensed to practice in the state. If any reasonable complaints or allegations of interference are raised by adjacent residential and nonresidential properties, the city, at the expense of the applicant, may require an inspection of the communication tower. The applicant shall be required to correct any confirmed complaints or allegations of interference. Applicants failing to correct problems may be subject to having the conditional use approval revoked and the communication tower removed, at the applicant's expense.

13. *Equipment storage.* Mobile or immobile equipment shall not be stored or parked on the site of the communication tower unless repairs to the tower are being made.

14. *Removal of abandoned or unused facilities.* All abandoned or unused communication tower facilities shall be removed by the property owner within 180 days of cessation of use. A tower

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shall be considered abandoned if the use has been discontinued for 180 consecutive days. Communication towers being utilized for other purposes, including but not limited to light standards and power poles, may be exempt from this provision.

15. *Aircraft hazard.* Communication towers shall not encroach into or through any established, public or private airport approach path, as established by the Federal Aviation Administration (FAA). Each application to construct a communication tower shall include proof of approval or a statement of no objection from the FAA or the county aviation department.

16. *Approval from other governmental agencies.* Each application for a communication tower shall include written approval for a statement of no objection from other federal or state agencies that may regulate communication tower siting, design or construction.

17. *FCC emissions standards.* All proposed communication towers shall comply with current radio frequency emissions standards of the Federal Communications Commission.

18. *High-voltage and no trespassing warning signs.*

    i. If high voltage is used in the operation of the communications tower or any accessory structures, "NO TRESPASSING" and "HIGH VOLTAGE—DANGER" warning signs shall be affixed upon the surrounding fence or wall and shall be spaced no more than 30 feet apart.

    ii. The letters for the "HIGH VOLTAGE—DANGER" and "NO TRESPASSING" warning signs shall be at least six inches in height. The two warning signs may be combined into one sign. The warning signs shall be installed at least five feet above the finished grade of the fence.

    iii. The warning signs may be attached to freestanding poles if the content of the signs may be obstructed by landscaping.

19. *City commission action; review criteria.* In approving applications for the installation of amateur radio antennas or conditional use for freestanding communication towers or antennas, the city may prescribe appropriate conditions and safeguards in conformity with the provisions of conditional use criteria of article VIII of this chapter. Violations of the specified conditions and safeguards, when made part of the terms under which the antenna is approved, shall be deemed grounds for revocation of the conditional use permit.

    In addition to the review criteria for conditional use of section 32-964, the city commission shall evaluate applications for communication towers based upon the following standards:

    i. Whether the proposed antenna or tower minimizes adverse visual impacts.

    ii. Whether the proposed antenna or tower has been designed to blend with the surrounding environment, which may include camou-

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flaging the antenna or tower such as a light pole or tree.

20. *Shared use of communication antennas.*

i. To minimize adverse visual impacts associated with the proliferation and clustering of communication towers, collocation of communication antennas by more than one provider on existing or new communication towers, or existing suitable structures such as water towers or athletic lighting shall be required and take precedence over the construction of new single-use communication towers. Accordingly, each application for a communication tower shall include a written evaluation of the feasibility of sharing a communication tower, or other suitable structures if available. The evaluation shall analyze, but is not limited to, the following factors:

(i) Structural capacity of the tower or towers.

(ii) Radio frequency interference.

(iii) Geographic service area requirements.

(iv) Mechanical or electrical incompatibility.

(v) Inability or ability to locate equipment on the tower or towers.

(vi) Availability of towers for collocation.

(vii) The tower has been designed for sharing.

(viii) Any restrictions or limitations of the Federal Communications Commission that would preclude the shared use of the tower.

(ix) The tower owner is prepared to offer adequate space on the facility to others on fair and reasonable, nondiscriminatory terms.

(x) Additional information requested by the city.

(xi) The provisions of section 32-925 shall not apply for purposes of erecting antennas on nonconforming communication towers.

ii. The facility owner shall provide documentation acceptable to the city, agreeing to offer space on fair, reasonable, nondiscriminatory terms, at fair market value, and to negotiate leases promptly with other nonaffiliated entities without undue delay.

iii. The city commission may waive the maximum number of towers listed in subsection (b)(1)d.5.v. of this section and the maximum number of antennas listed in subsection (b)(1)d.6. of this section, provided that the applicant demonstrates that the additional towers or antennas will not adversely impact the structural integrity, aesthetic or land use compatibility of the existing tower. The city may deny an application if an available collocation site is feasible and the application is not for collocation.

iv. A communication tower that is determined to be

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inappropriate for sharing shall be assumed to be inappropriate for sharing the same types of facilities in the future. Such towers will not need to be evaluated in the future regarding sharing with the same type of facility for which it has been determined to be inappropriate. The city shall retain a list of such towers and will provide a copy of the list to all potential applicants. The city may require additional sharing feasibility evaluations if warranted by changes in technology.

v. For any communication tower approved for shared use, the owner of the tower shall provide notice of the location of the communication tower and the tower's load capacity to all other providers.

e. *Applications.*

1. The city shall act promptly on any application submitted in accordance with the provisions of this section. The reasons for rejecting any application filed under these provisions shall be explained, set forth in writing and based on substantial evidence.

2. The issuance of a permit, however, is not a lease; and no municipally owned property may be used without a lease agreement with the city. The city may, as appropriate, to protect its property and the public interest, establish additional requirements beyond the minimum requirements of a permit for municipally owned property. This provision further does not preclude the city from issuing a letter of interest for the purposes of leasing sites on designated city property for the construction and installation of personal wireless service facilities. For designated parks, the city will encourage the installation of facilities which have a minimum impact on the surrounding areas and are consistent with the development of the park.

f. *Inspections.*

1. The city may require, at the tower owner's expense, periodic inspections of new and existing installations of communication towers and antennas, including satellite dish antennas used for commercial purposes, in order to ensure structural and electrical integrity.

2. The owner of new and existing towers, antennas and communication installations shall pay an annual renewal/inspection fee as established in the fee booklet. The building official shall conduct the annual inspection of the structures and installations. The applicant, at his expense, may provide certification by a state licensed engineer as to the structural integrity of the towers, antennas and associated communication installations which satisfies the annual inspection requirement. The building official shall require repair or removal as deemed necessary.

(2) Reserved.

(3) Storage structures, incidental to a permitted use provided such structures shall:

a. Not exceed 150 square feet in gross floor area.

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b. Not exceed one story or 15 feet in height.

c. Not be used in any way as living quarters for animals or humans.

d. Be limited to one per development site.

(4) Doghouses, pens and other similar structures for the keeping of commonly accepted household pets, which shall not exceed 30 square feet in area.

(5) Reserved.

(6) Amusement machines subject to the following limitations:

a. In any lawfully established retail or commercial establishment, multi-family dwelling of five units or more, except nonconforming uses:

1. For establishments and residential recreation rooms of zero to 999 square feet of gross floor area, one machine.

2. For establishments and residential recreation rooms of 1,000 to 1,999 square feet of gross floor area, two machines.

3. For establishments and residential recreation rooms of 2,000 to 3,999 square feet of gross floor area, three machines.

4. For establishments and residential recreation rooms of 4,000 square feet or more gross floor area, four machines.

5. Jukeboxes shall be exempt from limitations based on gross floor area.

b. In any nonconforming retail or commercial establishment or in any nonconforming multi-family dwelling of five units or more:

1. For nonconforming establishments and residential recreation rooms of zero to 999 square feet of gross floor area, one machine.

2. For nonconforming establishments and residential recreation rooms of 1,000 square feet or more of gross floor area, two machines.

3. Jukeboxes shall be exempt from limitations based on gross floor area.

c. In any hotel, motel, bowling alley, skating rink, parimutuel facility or similar establishment, including any alcoholic beverage establishment or restaurant licensed to sell alcoholic beverages, not more than eight amusement machines may be permitted as conditional accessory uses, subject to application for conditional use review as defined in article VIII of this chapter, provided that such number of permitted machines may be increased to a number not inconsistent with the standards for review of conditional use applications.

d. Amusement machines may be installed in any multi-family dwelling of five units or more as permitted in this subsection (b)(6) on a temporary basis for not more than 90 days in any calendar year.

(Code 1980, app. A, art. V, § 7.02; Ord. No. 2000-9, § 3, 4-4-2000)

Sec. 32-243. Special regulations.

The following shall apply to all accessory uses and structures:

(1) No accessory structure may be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.

(2) All accessory uses and structures shall comply with the use limitations in the applicable zoning district.

(3) All accessory uses and structures shall comply with the site development standards in the applicable zoning district.

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(4) No accessory uses may encroach into any required front yard.

(Code 1980, app. A, art. V, § 7.03)

Secs. 32-244—32-260. Reserved.

DIVISION 3. ADULT ENTERTAINMENT*

Sec. 32-261. Accessory adult use.

An establishment that rents or sells any books, magazines, periodicals, still or motion pictures, video cassettes, CD-ROM's, laser disks, digital video disks, instruments, devices or paraphernalia, or other materials which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, shall:

(1) Segregate all adult materials from non-adult materials.

(2) Deny access to minors to the sections of the establishment where adult materials are displayed.

(3) Package all purchases or rentals of adult materials in an opaque bag.

(4) Insure that the purchase point of adult materials is segregated from the purchase point of non-adult materials.

(5) Insure that adult material is not visible from the exterior of the establishment.

(Code 1980, § 18-90; Ord. No. 2003-02, § 2, 1-2-2003)

Cross reference—Definitions generally, § 1-2.

Sec. 32-262. Reserved.

Editor's note—Ord. No. 2002-5, § 4, adopted Apr. 4, 2002, repealed § 32-262, which pertained to separate licensing of adult entertainment businesses and derived from Code 1980, § 18-100 and Code 1980, app. A, art. V, § 11.01. For similar provisions see § 7-52.

Sec. 32-263. Zoning district and distance limitations.

Adult entertainment businesses shall be permitted only in B-I and I-L zoning use districts. All adult entertainment businesses, where permitted, shall not be located within 1,000 feet of any other such uses, or within 1,000 feet of a residentially zoned district or within 1,000 feet of a church or other place of religious worship, school, or publicly owned or operated park, playground, library or other recreational facility. Distance measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the property used as an adult entertainment business to the nearest property lines of the premises used [as] a church or other place of religious worship, school, residentially zoned district, or publicly owned or operated park, playground, library or other recreational facility. Measurement of distances between adult entertainment establishments shall be from lot line to lot line at their nearest points. A variance may not be granted to permit an adult entertainment business to operate within the minimum distance separation requirements of this section.

(Code 1980, § 18-91; Ord. No. 2002-05, § 4, 4-2-2002; Ord. No. 2008-20, § 2, 9-3-2008)

Sec. 32-264. Performance standards for adult entertainment businesses.

(a) No adult entertainment business shall display more than two exterior signs, consisting of one identification sign and one sign not larger than three square feet in size giving notice that the premises are off limits to minors. The identification sign may be a wall sign or freestanding monument sign, and shall not exceed 40 square feet in size. If a monument sign is used, the top of such sign may not exceed six feet in height.

(b) All building openings, entries, windows, doors or other apertures for adult bookstores, adult motion picture theaters and adult mini motion picture theaters shall be located, covered or screened in such a manner as to prevent a view into the interior from any public area; however, such openings shall not be painted out, blacked out or otherwise obscured in a garish manner.

(c) The entire interior of an adult bookstore, or an adult mini motion picture theater which has separate projection or viewing booths or areas, shall have a minimum illumination of at least two

*__Cross reference—__Adult entertainment business, § 7-31 et seq.

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watts per square foot on floor area while open, and every portion of the interior shall be readily visible at all times to the clerk or other supervisor personnel from the counter or other regular station.

(d) If separate booths, rooms, cubicles or other similar areas are provided for use by clients of the adult entertainment business, such areas may not have doors or other solid enclosures, but may only have a thin, opaque cloth curtain which may be opened from the exterior at all times and which does not extend any closer than three feet to the surface of the floor.

(e) Off-street parking requirements for adult entertainment businesses shall be those specified in this Code for the nature of the use apart from its adult entertainment characteristics (such as retail and service stores, theaters, etc.), where applicable. With respect to adult mini motion picture theaters which provide booths, rooms, cubicles or other separate areas for viewing, the parking standards shall be one space for each 250 square feet of gross floor area, or one space for each 250 square feet of gross floor area excluding such separate areas, together with one space for each such separate area, whichever is greater.
(Code 1980, § 18-92; Code 1980, app. A, art. V, § 11.03; Ord. No. 2002-05, § 4, 4-2-02)

Secs. 32-265—32-290. Reserved.

Editor's note—Ord. No. 2002-05, § 4, adopted Apr. 4, 2002, repealed §§ 2-265—2-267, which pertained to waiver of modification of restrictions and fee requirements, and derived from Code 1980, § 18-93, and Code 1980, app. A, art. VI, §§ 11.04 and 11.05.

DIVISION 4. BOATS, DOCKS AND PIERS*

Sec. 32-291. Permitted; regulated.

(a) Dockage space and facilities for mooring and storing pleasure boats, yachts, and noncommercial watercraft shall be permitted in any residential or commercial district on any waterway as an accessory use.

(b) No boat or vessel may be used or maintained for overnight sleeping or living purposes or as a place of residence.

(c) On lots that are more than 40 feet in width, as measured at the waterway line, the following requirements and regulations shall be followed:

(1) No dock may project more than five feet from the seawall into any waterway nor extend closer than ten feet to the lot line of any residentially zoned property, except as provided in item (4) of this subsection.

(2) Dolphin piling, being defined as those kinds or types which are self-supporting and unattached to the dock proper, shall be allowed, provided they do not project more than 20 feet into any waterway nor extend closer than ten feet to the lot line of any adjacent property except as provided in item (4) of this subsection.

(3) Davits shall be allowed, provided they do not extend closer than ten feet to the lot line of any adjacent property.

(4) No docks, piers, dolphin pilings and other mooring facilities for properties abutting Golden Isles Lake or the Venetian Marina may project up to 50 feet from the seawall provided a minimum clear width of 25 feet from the centerline of the waterway is maintained.

(d) On lots that are 40 feet in width or less, as measured at the waterway line, the following requirements and regulations shall be followed:

(1) No dock may project more than 20 feet from the seawall into any waterway nor extend closer than two feet to the lot line of any residential zoned property.

(2) Dolphin piling shall be allowed, provided they do not project more than 20 feet into any waterway nor extend closer than two feet to the lot line of any adjacent property.

(3) Davits shall be allowed, provided they do not extend closer than two feet to the lot line of any adjacent property.

*Cross reference—Traffic and motor vehicles, and boats, ch. 28.

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(e) Nighttime reflectors shall be affixed to all docks and dolphin piling that extend more than five feet into any waterway.

(f) Boats and vessels shall not be moored or stored in such a way as to encroach into the water abutting adjacent property.

(g) No perpendicular mooring or storage of any vessel may be permitted in any waterway in the city except for those properties abutting Golden Isles Lake or the Venetian Marina.

(h) No docked boat, dock or dolphin piling may project into any waterway more than 25 percent of the distance across the waterway.

(i) No dock shall be constructed to a height greater than the height of the seawall.

(j) Noncommercial use. Docks within a commercial district are permitted as an accessory use only and shall not be used for any commercial purpose. A commercial purpose includes but is not limited to providing access to any commercial enterprise, docking a boat for a fee, fishing ventures for a fee, marine salvage ventures, teaching or training of any marine-related activity such as boating, fishing or diving, and the sale of marine-related products, such as gasoline and oil, boat equipment, fishing equipment, and diving equipment.
(Code 1980, app. A, art. V, § 5; Ord. No. 2004-19, § 1, 9-7-2004)

Secs. 32-292—32-310. Reserved.

DIVISION 5. DENSITY

Sec. 32-311. Limits.

(a) Density limits are expressed in the maximum number of residential dwelling units permitted per net acre of land.

(b) Density for the RM multi-family residential district shall be computed as follows:

Dwelling Unit Type	*Density Unit Count*
(1) Motel/hotel room	0.5
(2) Efficiency	0.7
(3) One or more bedrooms	1.0

(c) No plans may be permitted that allow illegal conversions, that create a greater density than that allowed under the applicable regulations. This includes, without being limited to, allowing two outside entrances and easily partitioned interiors in duplex units, and other similar circumstances.
(Code 1980, app. A, art. V, § 9)

Secs. 32-312—32-330. Reserved.

DIVISION 6. FENCES, WALLS, STRUCTURES AND PLANTINGS

Sec. 32-331. Requirements.

(a) A six-foot-high landscaped masonry wall shall be required on all commercial or industrial property that has side or rear lot lines abutting or separated by a public right-of-way from residentially zoned property. This wall shall be on the entire rear and side abutting lines, but in front of the building line the height of the wall shall be subject to the vision clearance requirements contained in section 32-332. A minimum of two feet of the landscaped buffer strip required by article IV, division 8 of this chapter shall be located between the wall and the right-of-way. The required landscaping shall meet the specifications for shrubbery in article IV, division 8 of this chapter.

(b) All permitted outdoor storage areas relating to nonresidential uses shall be visually screened from public view by a six-foot-high opaque fence or wall. This provision supplements but does not supersede any applicable South Florida Building Code requirements.

(c) All existing salvage or junk operations shall be visually screened from public view by an eight-foot-high fence or wall, which shall be of masonry construction and shall be without openings, except entrance and exit. Such opening shall be equipped with gates forming an opaque visual obstruction.
(Code 1980, app. A, art. V, § 1.01)

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Sec. 32-332. Prohibitions.

(a) No fence, planting, wall or other structure may be erected, constructed, installed or maintained within six feet of a fire hydrant or other emergency apparatus.

(b) No fence, planting or other structure may be erected, constructed, installed or maintained that creates in any manner a visual obstruction to vehicular traffic.

(c) No fence, planting or other structure may be erected, constructed, installed or maintained within a triangular area created within a distance of 25 feet along the front and side lot lines from the point of street right-of-way intersection of a corner lot.

(d) No fence or wall may be erected, constructed, installed or maintained with barbed wire, broken glass, electrical elements, exposed sharp projections, or other hazardous materials, except that in nonresidential areas, a one-foot-high barbed wire on vertical extensions may be allowed in addition to the maximum allowable height.
(Code 1980, app. A, art. V, § 1.02)

Sec. 32-333. Exemptions.

All temporary fences used at a construction site for the purpose of security or protection may, at the discretion of the director, be exempt from the provisions of this division provided they do not obstruct the vision of motor vehicle operators or create other hazards to public safety.
(Code 1980, app. A, art. V, § 1.03)

Sec. 32-334. Permits.

(a) All fences and walls shall comply with required building permit procedures.

(b) No certificate of occupancy for the principal structure or use may be granted until all fences, walls and plantings are installed as required.
(Code 1980, app. A, art. V, § 1.04)

Sec. 32-335. General requirements.

(a) *Material and construction.*

(1) All fences and walls shall be constructed to comply with the Florida Building Code, as amended.

(2) No fence or wall may be constructed of materials which will be hazardous to the health, safety, or welfare of persons or animals.

(3) When masonry walls or fences are used as barriers in landscape buffers, all exposed surfaces must be of finished materials, including brick, stone, tile, and/or painted or tinted stucco. These finishes must be applied so as to completely conceal coursework and unify the design or architectural treatment.

(4) All fences or walls in residential districts shall have at least one gate or opening so as to provide access from the front yard.

(5) All fences shall be finished on the side facing the neighboring property or right-of-way, except when a new fence directly abuts an existing wall or fence preventing access. When a fence is located in a manner where both sides are visible from a right-of-way, both sides of the fence shall be finished. A two-foot landscaping buffer is required between the wall and the right-of-way.

(b) *Maintenance.* All fences, walls and plantings shall be maintained in a safe, nonhazardous condition and good appearance. Walls and fences, unless of natural materials or galvanized, shall be properly painted.

(c) *Height.*

(1) *Residential districts.* In residential districts, no fence or wall may be installed, constructed, or maintained six and one-half feet in height within the required side and rear yards or over four feet in height in the required front yard, except that, in townhouse or multi-family developments with six units or more and in single-family communities with six homes or more controlled by a developer or a properly constituted homeowner's association, a maximum height of six and one-half feet shall be permitted within the required front yard. Hedges may be six inches higher. Where residentially zoned property has lot lines abutting or sepa-

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rated by a public right-of-way from commercial or industrial property, walls, hedges or shrubbery may be permitted along those side or rear lot lines to a maximum height of eight feet, or five feet in height along the front lot line, subject to the limitations of section 32-332.

(2) *Nonresidential districts.* In nonresidential districts, no fence, wall or hedge may be installed, constructed or maintained over eight feet in height, except as permitted in section 32-332(d).

(3) *Properties significantly impacted by crime.* Notwithstanding the provisions of subsections (c)(1) and (c)(2) of this section, the city manager may authorize the erection of a chainlink security fence not exceeding six feet in height. A barbed wire or concertina barbed wire extension not exceeding one foot in height for properties significantly impacted by crime may be added. In determining whether a property is significantly impacted by crime, the city manager shall consider recent police statistics on arrests for crimes which have occurred in the vicinity and shall consider the number and frequency of arrests, the types of crimes committed, the location of such arrests with aspects to the property on which it is proposed to construct a security fence, how recently such events have occurred, whether the proposed security fence will have a significant detrimental effect on property values, the environment, or other properties in the neighborhood and whether adequate setbacks, buffering and general amenities are provided to control adverse effects of the proposed security fence. An administrative review fee, which is on file in the city clerk's office and shall be in addition to any required fence permit fee, shall be charged for reviews of applications under this division. If the city manager denies the application, the applicant may appeal the decision of the city manager to the city commission by filing a written request for hearing within 15 days of the decision with the city clerk. Upon hearing, the city commission may affirm, modify or reverse the decision of the city manager.

(Code 1980, app. A, art. V, § 1.05; Ord. No. 2000-1, § 1, 1-4-2000; Ord. No. 2004-20, § 1, 9-7-2004)

Secs. 32-336—32-360. Reserved.

DIVISION 7. HEIGHT EXCEPTIONS

Sec. 32-361. Application.

Height limitations indicated in the district regulations shall apply only to buildings and portions of buildings designed for human occupancy or use. Steeples, flagpoles, elevator penthouses, air conditioning units, television or radio antennas, other mechanical or functional features may exceed the district height requirements after being approved by the director prior to installations.

(Code 1980, app. A, art. V, § 3)

Secs. 32-362—32-380. Reserved.

DIVISION 8. LANDSCAPING

Sec. 32-381. Purpose and intent.

(a) The purpose and intent of this division is to establish minimum standards for the installation and maintenance of landscaped areas within vehicular use areas and other developed properties.

(b) The importance of preserving and replenishing the natural environment and maintaining an ecological balance is of increasing concern to the residents of the city. Excessive land coverage by structures and paving tends to significantly increase ambient air temperatures, a problem especially noticeable in subtropical climates. The presence of trees, plants and other types of vegetation has the opposite effect through transpiration and the creation of protective shade. Impervious nonlandscaped surfaces also generate greater water runoff, causing problems from erosion, flooding, water pollution, and interfere with recharge of the aquifer.

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(c) The use of landscape elements effectively contributes to the processes of air purification, oxygen regeneration, water absorption, and noise, glare and heat abatement, as well as the preservation of the community's aesthetic qualities.
(Code 1980, app. A, art. IX, § 1; Ord. No. 79-01, 1-2-1979)

Sec. 32-382. Applicability; new development or reconstruction.

(a) All new development or reconstruction within the city shall be in full compliance with the provisions of this division. For the purposes of this division, any use of property which is being improved, renovated or replaced at a cost of more than 50 percent of its assessed value as determined by the most recent official records of the county property appraiser shall be deemed to be reconstructed.

(b) If a principal use and some or all of its ancillary vehicular use areas (required or otherwise) are located on separate parcels, the requirements in this division shall apply to all properties.
(Code 1980, app. A, art. IX, § 2.01; Ord. No. 79-01, 1-2-1979)

Sec. 32-383. Nonconforming existing development.

All existing development, as of the effective date of this division, which is not in compliance with the provisions in this division, shall be required to conform and shall secure from the director a certificate of compliance. Exceptions shall include:

(1) No existing structure shall be required to be altered or moved in order to comply with the provisions of this division, except in the event of reconstruction.

(2) If existing parking does not meet the minimum space requirements of division 11 of this article, the provision of such spaces shall take priority over the provision of required landscaping elements, except to the extent new vehicular use areas are required to be landscaped.

(3) Where nonconforming existing development cannot otherwise meet the full requirements of this division, they shall be required to approach such requirements by installing landscaping in all areas which are vacant and not currently essential to the use of the parcel.

(4) Single-family detached residential developments existing on January 30, 1983, nonconforming to the landscape area requirements of section 32-384(a)(1) shall not be required to conform to the requirements of that section.

(5) The director is authorized to waive all or part of the required buffer strip landscaping described in section 32-385(c)(7) if it is shown that the vehicular use areas are adequately screened by existing plantings on the abutting property. A denial of this waiver may be appealed to the city commission by filing a written notice with the city manager within ten days of notification of denial. If the screening on the abutting property is removed for any reason, any waiver granted under this subsection shall be deemed revoked.

(6) Nonconforming existing development which complied with the landscape requirements of Ordinance No. 79-01 prior to the adoption of this section shall be considered in conformance, unless not properly maintained or substantial reconstruction occurs on the property. This provision does not require removal of healthy plant material for existing landscaped nonconforming development.

(Code 1980, app. A, art. IX, § 2.02; Ord. No. 79-01, 1-2-1979)

Sec. 32-384. Landscaping requirements.

(a) *Landscape area requirements.* The minimum amount of required landscape area for all uses, unless otherwise stipulated within this chapter, shall be as follows:

(1) All single-family detached residential uses: 50 percent, with at least 15 percent in the rear yard.

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(2) All duplex uses: 40 percent.

(3) Townhouse development: 50 percent.

(4) Mobile home uses: 30 percent.

(5) Multi-family uses in RM-18 district: 30 percent.

(6) Multi-family uses in RM-25 district: 35 percent.

(7) All public and institutional uses: 25 percent.

(8) All commercial uses: 18 percent.

(9) All industrial uses: 15 percent.

(b) *Calculation of landscape area.*

(1) All ground level sodded or landscaped areas including ground level planters: 100 percent credit.

(2) All nonground level planted areas and interior atriums: 50 percent credit.

(3) All sodded off-site abutting swale areas: ten percent credit.

(c) *Tree requirements.*

(1) Required trees shall be of a species not injurious to the public, and of a species determined by the director not to create a possible nuisance, safety hazard or damage to public property.

(2) The director will make available for public inspection and distribution a list of trees and shrubs that are preferable for this area and climate and shall maintain a list of prohibited species established by the city.

(3) For each 1,500 square feet of total project site area, except for single-family residences, at least one tree, shall be provided.

(4) When palm species are used, where traffic visibility may be impaired, they shall have a minimum of six feet of clear wood at the time of planting.

(d) *Existing tree credits.* Existing healthy trees of desirable species are encouraged to be retained on-site and shall be credited toward meeting the required number of trees specified in subsection (c) of this section, in the following manner:

(1) For each tree with a diameter of three inches to six inches at a point four feet above ground level that is retained, a credit in the amount of two required trees shall be allowed;

(2) For each tree with a diameter of six inches to 12 inches at that point, a credit of four trees;

(3) For each tree with a diameter of 12 inches to 24 inches at that point, a credit of six trees; and

(4) For each tree with a diameter of 24 inches or more at that point, a credit of eight trees.

(e) *Perimeter landscaping.* Landscaped buffer strips shall be required around the perimeter of all vehicular use areas, exclusive of permitted accessways. The minimum width of such buffer strips shall be as follows:

(1) Abutting public rights-of-way, excepting alleys: ten feet.

(2) Abutting alleys and rear or side common property lines: five feet.

(f) *Interior landscaping.*

(1) Within vehicular use areas, all rows of parking spaces shall be terminated with landscaped islands not less than five feet in width and running the entire length of the abutting space. At least one tree shall be provided within each terminal island.

(2) In addition to the required terminal islands, one interior island shall be provided for every ten spaces in a row. Each interior island shall also be not less than five feet in width and extend the entire length of the parking space. The location of interior islands should be staggered in order to avoid regimented appearance. At least one tree shall be provided within each interior island.

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(g) *Landscaping of nonvehicular use areas.* Yards and other portions of a parcel of land not utilized for permitted structures, required walks, vehicular use areas, decking, pools and legal amenities shall be covered with lawn grass or ground cover, or otherwise landscaped.

(h) *Use of wheel stops and curbing.* In meeting the requirements of section 32-453(d), the area forward of the required wheel stops or curb may be landscaped in lieu of pavement, provided the design is approved by the city manager. Such area shall not be included to meet minimum landscape area requirements of subsection (a) of this section. The width of curbing shall be excluded from the calculation of the minimum dimensions of all required landscape areas.

(i) *Vision clearance.* Unobstructed cross visibility at a level between two feet and six feet above ground shall be required within the triangular area formed by the intersection of two public rights-of-way or an accessway and a public right-of-way. Vision clearance areas shall be determined by measuring a distance of 25 feet along each intersection right-of-way or accessway line and then connecting the ends of such lines with an imaginary diagonal line.
(Code 1980, app. A, art. V, § 3; Ord. No. 79-01, 1-2-1979)

Sec. 32-385. General requirements.

(a) *Installation.* All landscape materials shall be installed in a sound workmanlike manner according to accepted good planting procedures with the quality of plant materials as described in this section.

(b) *Maintenance.*

(1) The legal owner of record as appears on the current tax assessment roll shall be responsible for the maintenance of all landscape areas, which shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of invasive plants such as weeds and from refuse and debris. Maintenance shall include the pruning and replacement of all dead plant materials and treatment of diseased plant material, including lawn grass. Where curbing is used to protect landscaped areas, it shall be maintained in good repair. Tree abuse as defined in section 32-8 is prohibited.

(2) All landscaping shall be maintained to minimize property damage and public safety hazards, including removal of dead or decaying plant material, removal of low-hanging branches next to sidewalks and walkways and removal of root systems which show evidence of destroying public or private property, and maintenance of sight distant standards as set forth in this division.

(3) All landscaping shall be effectively supported with a water-conserving irrigation system, except for single-family or duplex dwellings. The city manager may waive the irrigation requirements for nonconforming existing developments if it is determined that existing site conditions render the site unsuitable for installation of an irrigation system.

(4) Vehicular parking is prohibited on sodded or otherwise landscaped areas in all zone districts, excluding the right-of-way.

(c) *Plant materials.*

(1) *Quality.* Plant materials used in conformance with the provisions of this division shall conform to the standards for Florida No. 1 or better as given in "Grades and Standards for Nursery Plants," part I, 1963, as amended and part II, state department of agriculture, or their equal. As a prerequisite to the issuance of a certificate of occupancy, certification that materials installed conform to the requirements of this section must be provided. Plant materials which are known to be intolerant of paving environments or the physical characteristics of which may be injurious to the public shall not be permitted.

(2) *Trees.* Trees planted for credit under sections 32-384(c) and 32-384(f) shall be a minimum of 15 feet in height for nonresidential uses and ten feet in height for residential uses when measured immedi-

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ately after planting and have a minimum diameter of three inches at a height of 4½ feet above grade and have a minimum of a five-foot spread. Trees shall be of a species having an average mature spread of crown of greater than 15 feet and having trunks which can be maintained in a clean condition for over five feet of clear wood measured from ground level. Trees having an average mature crown of spread less than 15 feet may be substituted by grouping them so as to create the equivalent of 15-foot crown spread but shall count as one tree. Tree species the roots of which are likely to cause damage to public roadways or other public improvements shall not be planted nearer than 12 feet to such improvements. Tree species which require frequent pruning shall not be planted under overhead power lines. If palms are used, they shall consist of no more than 50 percent of the total required trees. The minimum height of a palm at planting shall be 15 feet overall height for nonresidential uses and ten feet in overall height for residential uses.

(3) *Ground covers.* Ground covers, other than grass, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within three months after planting. An area not in excess of ten percent of the required landscaped area may consist of rocks, pebbles, mulch, wood chips, or similar natural materials used for decorative purposes.

(4) *Lawn grass.* Grass areas shall be sodded with species normally grown as permanent lawns in South Florida. Grass areas shall not be plugged, sprigged or seeded. Sod shall be used in swales or other areas subject to erosion.

(5) *Synthetic materials.* Synthetic or artificial material in the form of trees, shrubs, ground covers, sod, flowers or vines shall not be used in lieu of plant requirements.

(6) *Architectural planters.* Architectural planters may be permitted by the city manager in fulfillment of landscape area requirements. Such architectural planters shall contain a surface area of not less than ten square feet and shall have at least a dimension of not less than 15 inches.

(7) *Landscaped buffer strips specifications.*

a. All landscaped buffer strips required by this division shall consist of a hedge at least two feet in height when measured immediately after planting in a bed of mulch, wood chips, pebbles, rocks or similar materials, and so pruned as to provide maximum opacity. Hedges, where required, shall be planted and maintained so as to form a continuous, solid visual screen within a maximum of one year after time of planting. Hedges shall be planted with branches touching, so as to create a solid screen with no visual spacing. Spacing of plants shall be no more than two feet on center, depending on species.

b. Plants shall be of a species that can reasonably be expected to thrive in the situation in which they are to be planted. Preferably they should be native plants. Plants should be of a type that will not create health hazards or nuisances.

c. All hedge plants shall be of a species approved by the director as meeting the criteria established in this section. Single-family detached and duplex residential dwellings shall be exempt from the requirement to plant shrubs or hedges in required perimeter landscaping around parking areas.

(d) *Exceptions.* Interior parking garages or other vehicular use areas contained entirely within a roofed and walled structure are exempt from the landscaping requirements of this article.

(e) *Required landscaping in the public right-of-way.* All of the right-of-way area, not otherwise used for pavement, sidewalks and other improvements, shall be landscaped subject to the requirements of sections 25-2(e) and 25-2(f).

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(f) *Right-of-way swales.* Street right-of-way swales shall be contoured, sodded and maintained by the abutting property owner, to ensure satisfactory surface runoff retention and flow control in accord with city drainage designs.
(Code 1980, app. A, art. IX, § 4; Ord. No. 79-01, 1-2-1979)

Sec. 32-386. Site plan approval.

(a) *Required.* Appropriate plans showing the location and character of proposed landscaped areas shall be submitted to the director for site plan approval.

(b) *Scale.* Site plans shall be drawn to a scale of not less than one inch equals 30 feet and shall include all dimensions and distances. A different scale may be permitted by the director for good cause shown.

(c) *Contents.* The site plan shall be prepared with careful regard to the location of parking facilities in relation to adjoining neighborhood development and shall be designed to have the least adverse effects on such properties. The site plan submitted shall show the location and design of:

(1) Accessways to all public rights-of-way.

(2) The location, height and dimensions of all buildings and structures.

(3) The location and dimension of all parking spaces and driveways, including all directional markings, traffic control devices and signs.

(4) Walls, fences, landscaped areas, berms, changes of grades and planting materials, including the type and names of the materials proposed to be planted.

(5) All landscape and swale improvements in the right-of-way.

(6) A planting plan with the following information:

a. Latin and common name of species.

b. Height of species at time of planting.

c. Minimum size of the tree at time of planting—diameter at four feet above ground level.

d. When hedges are designated, center-to-center distance between individual plants.

(7) Site development statistics, as required.

(8) Such other information as may be required to meet the requirements of this chapter and other applicable codes and ordinances.

(Code 1980, app. A, art. IX, § 5; Ord. No. 79-01, 1-2-1979)

Secs. 32-387—32-410. Reserved.

DIVISION 9. MOBILE HOMES, RESIDENTIAL DEVELOPMENT*

Sec. 32-411. Regulated.

(a) *Requirements.* Mobile home parks and dwelling units, when specifically permitted as conditional uses within a zoning use district, shall be subject to the site development standards of this section in lieu of those set forth within the specific district.

(b) *Site development standards.*

(1) Maximum density shall be 12 dwelling units per net acre in the RD-12 zoning district.

(2) Minimum park site area shall be five acres.

(3) Minimum individual lot area shall be 2,500 square feet.

(4) Minimum individual lot width shall be 30 feet.

(5) Minimum yard setback shall be as follows:

Yard		*Setback (Feet)*
a.	Front	20
b.	Side	5
c.	Rear	10
d.	Between units	10

*__Cross reference—__Mobile homes and mobile home parks, ch. 17.

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Yard	*Setback (Feet)*
e. Park perimeter. . . .	25

(6) Maximum height shall be 15 feet.

(7) Minimum pervious area shall be 30 percent.

(8) Minimum common open space shall be ten percent of park site in one concentrated, easily accessible area.

(c) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. V, § 13)

Secs. 32-412—32-430. Reserved.

DIVISION 10. TEMPORARY STRUCTURES AND USES

Sec. 32-431. Permitted.

In any zoning district, a developer shall be permitted temporary structures, such as trailers, in connection with the sale or development of an active construction site subject to the following restrictions:

(1) Construction structures shall only be permitted for the duration of a construction phase, beginning with the date a building permit is issued and continuing not longer than the date a certificate of occupancy is issued for the development, but not to exceed a period of two years.

(2) The city manager may exempt such structures from the setback requirements of the applicable zoning district provided it is placed in a manner as to provide unobstructed cross visibility at right-of-way intersection or accessways required by section 32-384(i) and to reduce any adverse impacts on abutting properties.

(3) Sales trailers shall only be permitted for multi-family residential projects with 25 or more units.

(4) The use of sales trailers shall cease at the time the certificate of occupancy is issued for the project or when the first component or building is completed, whichever is earlier, but not to exceed a period of two years.

(5) A designated parking area with at least five parking spaces as approved by the city manager shall be provided in connection with the use of a sales trailer.

(Code 1980, app. A, art. V, § 4(1))

Sec. 32-432. Model dwellings.

In any residential district, a developer may operate a dwelling as a model and may establish a sales office in a model. All model dwelling units and sales offices shall meet all district requirements and be subject to the following additional restrictions:

(1) Model dwelling units shall not be used for purposes other than the sale of dwelling units in the project.

(2) At least five off-street parking spaces shall be provided on the same lot as the model dwelling unit or on contiguous lots and shall be maintained as long as the model dwelling unit is used as such.

(Code 1980, app. A, art. V, § 4(2))

Secs. 32-433—32-450. Reserved.

DIVISION 11. OFF-STREET PARKING AND LOADING*

Sec. 32-451. Purpose and intent.

It is the purpose and intent of this division to establish minimum requirements for off-street

*__Cross reference—__Traffic and motor vehicles, and boats, ch. 28.

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parking and loading facilities allocated for both public and private usage and providing minimum design requirements for such facilities. The ever-increasing number of vehicles generated from and attracted to residential, business, industrial and public activities mandate that adequate parking and loading facilities, which permit safe and efficient vehicle and pedestrian movement, be provided in order to protect the health, safety, and welfare of the residents of the city.
(Code 1980, app. A, art. XI, § 1)

Sec. 32-452. Off-street parking requirements.

(a) *General requirements.*

(1) Every use or structure instituted, constructed, erected or structurally altered shall provide off-street parking facilities for the use of occupants, employees, visitors or patrons. The provision of off-street parking spaces in conjunction with all land or building uses shall be completed prior to the issuance of a certificate of occupancy, and such parking facilities shall be maintained as long as the use is continued.

(2) No owner or operator of any structure or use shall discontinue, dispense with, or cause a discontinuance or reduction in required vehicular parking facilities required by the applicable code provisions existing at the time of construction, use or occupancy without establishing alternate parking facilities which meet the requirements of this division. A substitution of remote spaces for existing on-site spaces shall not be permitted.

(3) Parking facilities shall be maintained in a good state of repair and operation, based on commonly accepted engineering and construction standards, and the intent of this division. The owner, lessee and person in control of the property shall be jointly and severally responsible for compliance. The facilities required to be maintained shall include, without being limited to, paved or other hard-surfaced space or driveway areas, pavement markings, traffic control devices, wheel stops, illumination (as specified in section 32-453(e)), walls, fences or landscape areas.

(4) Except as otherwise provided in every district zoned B-O, B-L, B-G, B-I and I-L, all required off-street parking shall be unreserved and unrestricted. Where a building or premises contains two or more separate permitted commercial uses, and joint parking is provided for those uses, the reservation or assignment of any required off-street parking spaces for use by or for a specific commercial establishment located within that building or premises is not permitted. This provision shall not prohibit designation of handicapped or emergency parking, nor prohibit the reservation of certain spaces for usage by certain of those commercial establishments on a limited time period basis, where the director approves based on his finding that frequent vehicle turnover at those locations is a business necessity and will not impair the ability of the entire parking facility to provide service to all the permitted uses served by the joint parking.

(b) *Joint and shared usage.*

(1) *Joint usage.* Two or more structures or uses may collectively provide their required off-street parking, provided that the total number of parking spaces provided shall not be less than the sum of the requirements for the several individual uses if computed separately.

(2) *Shared usage.* Required parking spaces may be permitted by the director to be utilized for meeting the parking requirements of two separate permitted uses when it is clearly established by the applicant that these two uses will primarily utilize these spaces at different times of the day, week, month or year, such as a church sharing spaces with a retail store. Recordable covenants, with correct legal descriptions, shall be submitted by the owners of the property and the businesses, in form acceptable to the city

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attorney; and these covenants shall be recorded by the city at the applicant's expense, and shall run with the land. These covenants shall provide that the use, or portion of a use, that requires the shared parking in order to obtain the necessary permits or licenses shall cease and terminate upon any change in their respective schedules of operation that results in conflicting or overlapping usage of the parking facilities; and no nonresidential use may be made of that portion of the property until the required parking facilities are available and provided. The covenant shall also provide that the city may collect attorney fees if litigation is necessary.

(c) *Restrictions.* The storage, sale or repair of merchandise or vehicles of the display of signs or advertising devices on vehicles, structures or land is not permitted in off-street parking areas. This provision shall not prohibit persons from parking vehicles in such areas that contain information, such as company name, certificate of competency number, etc., that are required by any applicable laws, ordinances or regulations if such information is provided only to the extent and in the manner required by such laws, ordinances or regulations.

(d) *Location of parking.*

(1) Required parking for all residential uses shall be located on the same parcel of property that it is intended to serve.

(2) Required parking for all new nonresidential uses shall be located on the same parcel of property that it is intended to serve.

(3) Existing nonresidential uses which need to add spaces to accommodate current requirements or proposed expansion may provide for such additional parking on a remote separate parcel zoned for parking as provided in article III. No remote parking facilities, however, shall be located more than 450 feet by legal pedestrian route from the use or structure they are intended to serve and shall be accessible to the use being served without the necessity of a user of that facility crossing an arterial street, railroad track, or waterway. Such distance shall be measured from the nearest actual remote parking space to the nearest entrance of the structure of the use being served. All lots used for remote parking purposes shall be joined with the lot on which the principal use is located by a lease arrangement of not less than ten years or unity of title declaration, either of which shall be approved by the city attorney. Those parties having any right, title or interest in and to the property being served by the remote parking shall execute and place on the public record of the county, at their expense, a covenant, approved by the city commission, that the nonresidential use, or portion of it, that requires the remote parking in order to obtain the necessary permits or licenses shall cease and terminate upon the loss and elimination of the remote parking, that no nonresidential use may be made of the portion of the property requiring remote parking until the required parking facilities are available and provided. This covenant shall run with the land and be binding on the heirs, successors, assigns and lessees, and shall contain a provision that the city may collect attorney's fee if litigation is necessary to enforce this covenant. If any legally existing use, as of the effective date of this division, is changed to a use requiring additional parking spaces, remote parking provisions shall not apply.

(e) *Driveway usage.* On-site driveways for single-family detached, townhouses where parking spaces directly abut the units and two-family dwellings in residential districts shall be considered as off-street parking spaces provided sufficient space is available on such driveways to meet the requirements of this division.

(f) *Nonconformance.*

(1) All property with existing developments on the effective date of this division which is not in compliance with the provisions of this division shall be required to conform to this division and secure from the ap-

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propriate city department a certificate certifying compliance with the requirements of this division. Places of worship and related accessory uses with nonconforming parking existing on December 1, 1998, shall not be required to conform to this division except when structural additions greater than 30 percent of the entire floor area are made.

(2) In order to comply with the requirement that all property with existing development on the effective date of this division comply with the full requirements of this division within the established deadline, a property owner shall be required to construct, operate and maintain sufficient parking spaces, loading areas and other facilities in compliance with the standards of this division, subject to the following limitations:

a. Construction of a parking garage or upper level or abovegrade open air parking garage shall not be required.

b. A property owner is only required to utilize land area that is part of the same premises to be served and is not required to utilize adjoining or acquire noncontiguous property. For purposes of this division, the same premises shall mean the parcel of land occupied by the use being served and the accessory buildings or uses customarily incident to it, including, without being limited to, open space areas and areas used for nonconforming parking areas, such as unpaved lots.

c. Except for new construction, reconstruction or structural additions, property owners shall not be in violation of this division for failure to provide the additional parking spaces required by this division if, in the opinion of the chief building official, based on commonly accepted architectural and engineering standards applicable to construction of off-street parking areas, he has constructed, in compliance with this division, as many additional parking spaces, loading areas and other facilities as the physical capacity of the premises will allow. The measurement of the parking and loading capacity area shall not include areas occupied by or blocked from access by a wall or roof structure.

(Code 1980, app. A, art. XI, § 2; Ord. No. 1998-24, § 4, 12-1-1998)

Sec. 32-453. Design requirements.

(a) *Hard surface and drainage.* All required, constructed or used off-street parking facilities, including parking spaces and accessways, shall be paved with a minimum of six inches' shellrock or limestone base and a one-inch hotplant mix asphaltic, concrete, or other durable, hard-surfaced weatherproof materials, such as tile, coral, rock or brick, as approved by the director and properly drained so that no nuisance will be caused to adjacent or nearby properties. All parking area construction and improvements shall comply with design standards as established by all applicable laws, ordinances and regulations.

(b) *Traffic control.* Traffic control signs and other pavement markings shall be used as necessary to ensure safe and efficient circulation within off-street parking areas. All traffic control measures shall be approved by the director.

(c) *Space dimensions.* All off-street parking spaces shall have a minimum depth of 19 feet and minimum width of nine feet, except off-street parking spaces for the handicapped shall have a minimum width of 12 feet. Except for single-family residences and two-family dwellings, all spaces shall be marked by solid stripes at least four inches in width along each side of the space, excepting those sides which permit vehicle entry or abut curbs. Where two strips are used, they shall be parallel to the left and right boundaries of the space at a distance of eight inches from the boundaries as depicted on the following illustration:

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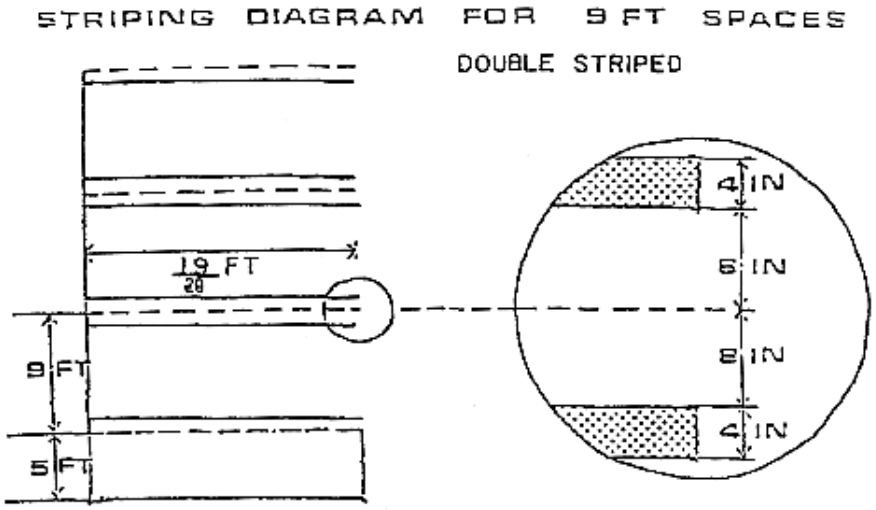

(d) *Wheel stops.* Wheel stops or curbs shall be placed two feet from the front of each parking space except in the parallel spaces, single-family residences, two-family dwellings, and on property zoned CR-A. Wheel stops shall be at least six feet in width and be of a design and material approved by the director and be painted with high visibility paint having a reflectance of 49 percent to 66 percent. Wheel stops demonstrated to the director not to constitute a hazard to pedestrians shall be exempted from the painting requirements of this subsection.

(e) *Illumination.*

(1) All off-street parking facilities, except those which serve single-family detached or two-family residential dwellings, and townhouse spaces that directly abut the units they serve, which will be used later than 30 minutes after sundown, shall be illuminated according to the standards contained in this subsection.

(2) For the purpose of this subsection, open parking facilities shall include the surface of open parking lots and accessways to such lots and parking area and other nonenclosed areas at grade level for which the parking facilities are a requirement. Enclosed parking facilities shall include multilevel parking garages and covered grade level parking facilities.

(3) Intensity of illumination is as follows:

a. Open parking facilities shall provide an average illumination intensity of one footcandle equal to one lumen per square foot, and shall be well distributed on the pavement areas; however, at no point shall illumination be less than one-fourth footcandle.

b. Enclosed parking facilities shall provide an average illumination intensity of 50 footcandles at the entrance, ten footcandles in traffic lanes, and five footcandles in vehicle storage areas.

c. The minimum standard of lighting for any existing parking facility shall be as established by the IES Lighting Handbook in effect on January 2, 1979. New parking facilities, and any that are replaced, reconstructed, upgraded or otherwise the subject of a building permit shall comply with the then-current edition of the IES Lighting Handbook.

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(4) All site development plans shall include a parking facility lighting plan. That plan shall be certified by a registered architect or registered engineer as providing illumination in accordance with the applicable minimum standards set forth in this subsection. Subsequent construction must comply with that lighting plan. If there exists a question concerning whether the work was done in accordance with specifications, the director may require as a prerequisite to the issuance of a certificate of occupancy that the architect or engineer who prepared the plans certify that all work was done in accordance with specifications.

(5) a. All required illumination shall be controlled by automatic devices.

b. For business uses with open or enclosed parking facilities, the required illumination shall be provided at least 30 minutes after the closing time of any establishment served by the parking facility.

c. Any parking facility that serves a residential use must maintain the minimum levels of illumination established by this subsection through the use of natural or artificial light 24 hours per day.

(6) All lighting shall be shaded or screened and positioned in such a manner as to minimize offensiveness to any neighboring property.

(7) All property owners and lessees shall be responsible for the replacement or repair of any light that becomes nonfunctional and reduces the illumination below the required standard. A city inspector or law enforcement officer shall transmit written notice of any such malfunction, which must be corrected within 15 working days of that notice.

(f) *Landscaping.* All off-street parking areas shall be designed to include landscaping elements as required in this chapter.

(g) *Minimum space setbacks.* As shown on the graphic examples in subsection (h) of this section, a minimum setback of ten feet shall be required between a public right-of-way line, exclusive of alleys, and the rear or side of the nearest parking space for all angles.

(h) *Minimum space and aisle design standards.* Minimum space and aisle dimensions shall be determined by the angle of spaces as depicted on the following illustrations:

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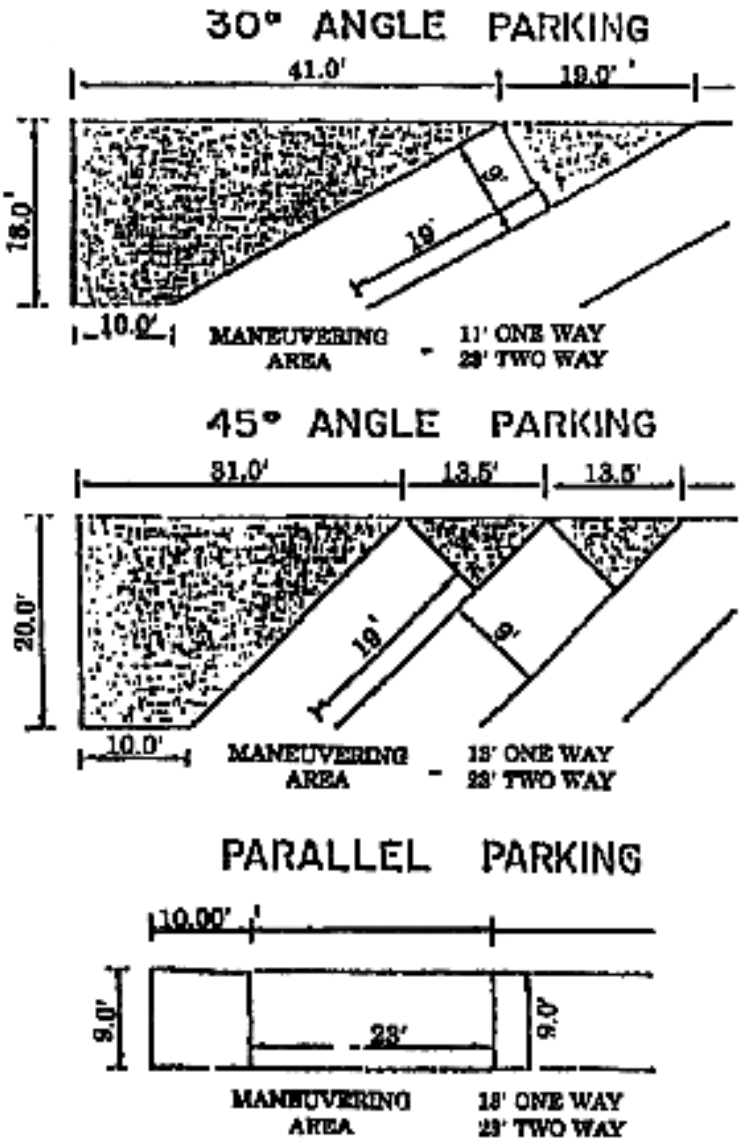

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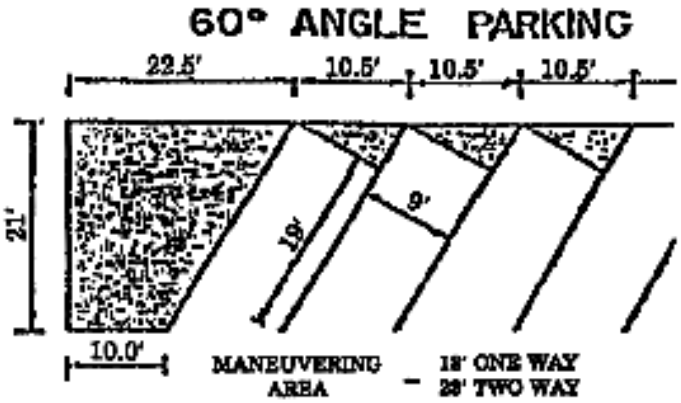

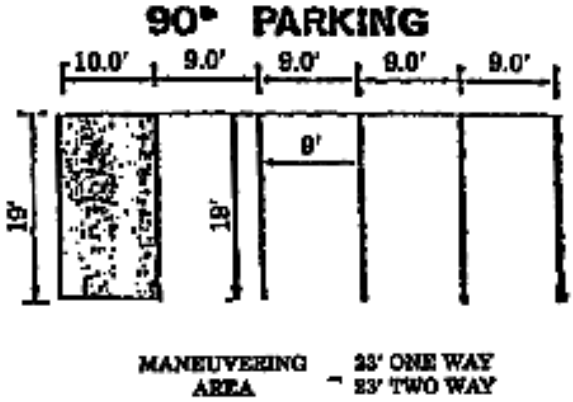

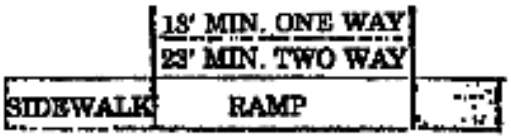

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(i) *Access and accessways.*

(1) Access to all off-street parking spaces shall be by means of paved concrete or asphalt access driveways located entirely upon the property. The director may approve the use of alternate hard-surfaced materials, such as tile, coral, rock or brick.

(2) All off-street parking areas, except for single-family and two-family dwellings, shall be designed so that no vehicle is required to back into a public right-of-way, exclusive of alleys, to obtain egress.

(3) Accessways leading to off-street parking spaces and driveways shall not be less than the following widths:

	Nonindustrial Districts (Feet)	*Industrial Districts (Feet)*
a. One-way	13	15
b. Two-way	23	28

(4) Single or double loaded parking corridors in excess of four abutting parking spaces shall be designed to permit vehicle entry and exit in one continuous forward motion without using a vacant space to turn around. This shall be accomplished by either a direct connection to an adjacent corridor or by the inclusion of a cul-de-sac at the end of such corridor.

(5) All establishments with drive-through facilities shall provide sufficient area for four stacking spaces having a length of at least 80 feet for every drive-through window. Drive-through lanes shall be designed so as to be totally separated from required off-street parking spaces and aisles.

(Code 1980, app. A, art. XI, § 3)

Sec. 32-454. Site plan review.

At the time of the application for a development permit for any use for which off-street parking spaces are required, a site plan for each parking facility shall be submitted. Whenever site plan review is required for off-street parking areas in conjunction with a specific use, that review shall satisfy the requirements of this section. Site plans shall include the following:

(1) Each off-street parking facility shall be individually designed with reference to surrounding street patterns, adjacent properties, and other neighborhood improvements. Consideration shall also be given to the number of cars to be accommodated, hours of operation, and kinds of uses served.

(2) All site plans shall show the location and design of:

a. Entrances and exits to all public rights-of-way.

b. The location and size of all on-site buildings and structures.

c. Location and dimensions of parking spaces and aisles, directional markings, traffic control devices and signs.

d. Walls, fences, landscaped areas, berms, changes of grade and planting materials, including the type and names of landscape materials.

e. Drainage calculations.

f. Square footage of the building, number of parking spaces required and number provided, amount of landscaping required and amount of landscaping provided.

g. Location and dimensions of off-street required loading space.

h. Any other related information that may be reasonably required by the director.

(3) When parking facilities are located within an enclosed structure or on the roofs of buildings, the site plan shall also include interior circulation patterns, slope of ramps, and location of interior structural columns.

(4) Any proposed site plan requiring 20 or more parking spaces that provides off-street parking in excess of 25 percent of the required minimum spaces shall be approved by the city commission. The city

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commission may condition such approval on the provision of additional landscaping over and above existing landscaping requirement.

(Code 1980, app. A, art. XI, § 4)

Sec. 32-455. Minimum parking space requirements.

(a) *Generally.* All uses shall be subject to the minimum space requirements of this section unless additional spaces are required as a condition of securing a conditional use. All fractional space requirements shall be rounded off to the next highest number.

(b) *Residential uses.*

(1) Single-family detached and two-family residences: two spaces for every dwelling unit.

(2) Townhouses: two spaces for every dwelling unit, plus townhouse developments of ten units or more have to provide one-half space per unit for guest parking. Guest parking shall be collectively provided, identified, and centrally located and continuously maintained as guest parking.

(3) Multi-family: 1.25 spaces for every efficiency unit, 1.5 spaces for every one-bedroom unit, 1.75 spaces for every two-bedroom unit, 0.25 space for each additional bedroom in excess of two, plus an additional ten percent of the total number of required spaces for guest parking, which shall be so posted and collectively located in a convenient area.

(4) Mobile homes: two spaces for every mobile home unit or space.

(c) *Nonresidential uses.*

(1) *New development.* New development shall provide parking in accordance with the standards set forth in the administrative parking standards document maintained in the growth management department. The city manager may approve reduction from these standards up to ten percent of the required number of spaces.

(2) *Existing development.* Staff shall determine the required parking for changes in use, redevelopment or expansion of existing uses, which would require additional parking under this division. The following criteria shall be used:

a. Hours of operation;

b. Characteristics of use;

c. Availability of shared parking;

d. Availability of public transportation; and

e. Other professionally accepted criteria.

Staff will also utilize the administrative parking standards document as a guide in determining required parking. The ten percent flexibility standard referenced in subsection (c)(1) of this section may also be applied.

(d) *Reserved.*

(e) *Supplemental requirements.*

(1) Off-street parking requirements for those uses not enumerated that are closely related and similar to the uses listed shall be determined by the director in accordance with the requirements for the related listed use. Requirements for all other uses not enumerated shall be set by the city commission.

(2) In stadiums, sports arenas, churches and other places of public assembly in which occupants utilize benches, pews or other similar seating arrangements, each 18 lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking requirements.

(3) When a business, firm or other person licensed to do business with the public, located on property developed prior to January 2, 1983, or the owner of such property proposes to install one or more parking spaces for the handicapped but such installation would necessarily reduce the total number of spaces below the applicable minimum requirement, the director may waive such requirement pro-

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vided that such waiver does not endanger vehicle or pedestrian movement, and the resulting deficiency in spaces is the minimum necessary to provide the new spaces.

(Code 1980, app. A, art. XI, § 5)

Sec. 32-456. Off-street loading requirements.

(a) *General regulations.*

(1) At the time of the erection of any principal or accessory use or at the time any principal or accessory use is altered, enlarged or increased in capacity by adding floor area, there shall be space provided and maintained for the loading and unloading of materials, goods or supplies, and for delivery and shipping so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets, parking facilities and alleys by pedestrians and other vehicles.

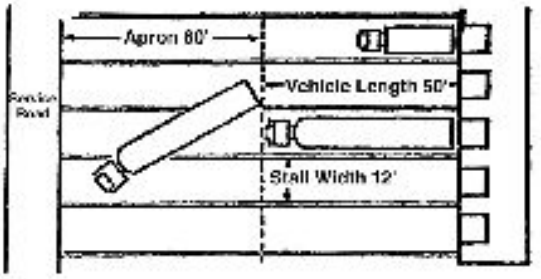
(2) No owner or operator of any structure or use shall discontinue, dispense with, or cause a discontinuance or reduction in required loading facilities required in this section and existing at the time of construction, use or occupancy without establishing alternate loading facilities which meet the requirements of this division.

(3) When any use or structure is modernized, altered or enlarged with a resultant increase in floor area, additional off-street loading spaces that may be required shall be provided; and a revised site plan shall be submitted for review and approval.

(b) *Space dimensions.*

(1) An off-street loading space shall include an area at least 12 feet wide by 50 feet long with 14½ feet vertical clearance. Each off-street loading space shall be easily accessible and arranged for convenient and safe ingress and egress by motor truck or trailer combination.

(2) When two or more loading spaces are provided, the director may require a 60-foot maneuvering apron, if necessary, as shown in the following illustration:



(c) *Joint usage.* Combined or joint off-street loading spaces for two or more uses may be collectively provided if off-street loading facilities are equal in size and capacity to the combined requirements of the several uses and are so located and arranged as to be usable by all.

(d) *Drainage and maintenance.* Proposed grading and drainage for off-street loading facilities shall be approved by the director. All loading areas shall be paved with a minimum of six inches' shellrock or limerock base and a one-inch hotplant mix asphaltic, concrete or other acceptable base and/or durable weatherproof surface pavement. Loading areas shall be maintained in a manner as to not create a hazard or nuisance.

(e) *Restrictions.* No areas supplied to meet required off-street parking facilities shall be utilized for or deemed to meet the requirements for off-street loading facilities.

(f) *Mixed uses.*

(1) Provision may be made for combined off-street loading spaces to serve a mixed-use multiple story building; however, the allowance of combined off-street loading spaces for mixed uses within a building shall apply only to buildings in excess of one story in height which are designed and constructed in such a manner as to allow interior access of all uses within the building to the combined loading spaces.

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(2) In a mixed-use single-story building, each use in excess of 6,000 gross square feet shall have adjacent to the use its required off-street loading space. The city manager may make reasonable requirements for the location of off-street loading areas when the director determines full adherence would impose an unreasonable hardship on the use of the property. A paved loading zone, 12 feet in width, parallel to the building, without a maneuvering apron, is required provided the design does not hinder the free movement of vehicles and pedestrians and avoids undue interference with public use of the streets, alleys or parking areas. This provision shall not be construed to require more off-street loading spaces than required in section 32-457, but only to require that each use in a mixed-use single-story building have direct access and be in close proximity to at least one off-street loading space.

(Code 1980, app. A, art. XI, § 6)

Sec. 32-457. Minimum loading space requirements.

Minimum loading space requirements are as follows:

	Use Category	*Gross Floor Area (Square Feet)*	*Spaces Required*
(1)	Retail, service, repair or wholesale operation	0—6,000	0
		6,001—10,000	1
		10,001—40,000	2
		Over 40,000	4
(2)	Vehicle and boat sales and rental operations	Up to 15,000	1
		Over 15,000	2
(3)	Industrial, manufacturing, research/development or warehouse use	Up to 15,000	1
		15,001—40,000	2
		Over 40,000	3

(Code 1980, app. A, art. XI, § 7)

Secs. 32-458—32-480. Reserved.

DIVISION 12. PUBLIC RIGHT-OF-WAY

Sec. 32-481. Frontage.

No building or structure may be constructed or installed on any parcel of property that does not front on a public right-of-way. Where proposed development fronts on an existing street which does not conform to the minimum right-of-way requirements of the county trafficways plan or the minimum city right-of-way standard of 50 feet, the necessary right-of-way dedication shall be provided at the time of development review. The width of the right-of-way frontage shall be determined by the minimum lot width requirements specified in the applicable zoning use district.

(Code 1980, app. A, art. V, § 8; Ord. No. 2004-28, § 1, 12-7-2004)

Secs. 32-482—32-500. Reserved.

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DIVISION 13. REPAIR OF VEHICLES IN RESIDENTIAL DISTRICTS

Sec. 32-501. Definitions.

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

Commercial vehicle means any vehicle designed or intended to be used or actually used, in commercial activities.

Major repair means internal engine repair (excluding a tune-up); general engine rebuilding or reconditioning; transmission repair; collision service, including body, frame or fender straightening or repair; overall painting; vehicle steam cleaning; or any other vehicle repair involving similar time, expense or expertise.

Minor repair means any vehicle repair other than a major repair.
(Code 1980, app. A, art. IV, § 16.01)

Cross reference—Definitions generally, § 1-2.

Sec. 32-502. Requirements.

(a) In any residential district, a vehicle may be repaired only if the:

(1) Vehicle has affixed to it a currently valid license tag;

(2) Vehicle is owned by a resident, or an immediate family member of a resident, of the property on which the repair is made;

(3) Vehicle is not a commercial vehicle;

(4) Repair is minor; and

(b) Repair of any vehicle in a residential district except as provided in this section is declared unlawful and subject to the punishment provided by section 1-8.

(c) In any residential district, the repair of vehicles shall be limited at any one time to one vehicle per dwelling.
(Code 1980, app. A, art. V, §§ 16.02, 16.03)

Secs. 32-503—32-520. Reserved.

DIVISION 14. RESIDENTIAL CARE FACILITIES

Sec. 32-521. Purpose.

(a) This division is intended to provide for the health, safety and welfare of residents of group home facilities, congregate housing, foster home facilities and life care facilities in the city and to promote the growth and improvement of such facilities in a manner compatible with surrounding areas.

(b) This division shall apply to any foster home, group home facility, life care facility or congregate housing which constitutes a new facility or to any modification of an existing lawful facility which increases the floor area or number of assigned residents within the facility. In the event of such increase of floor area or of the number of assigned residents, the entire facility shall comply with the provisions of this division.
(Code 1980, app. A, art. V, §§ 17.01, 17.02)

Sec. 32-522. Definitions.

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

Assigned resident means any person residing within a residential care facility other than with foster parents and their natural or adopted children and designated supervisory personnel.

Congregate housing means any residential development predominantly for persons age 59 or over or persons who are handicapped, whether operated for profit or not, which undertakes through its ownership or management to provide housing, food service and one or more personal services as defined in F.S. ch. 400 and regulations issued pursuant to that chapter. Personal services shall not be construed to mean the provision of medical services by the staff of a facility. It is specifically provided that this definition does not include or permit homes or halfway houses for criminal offenders; homes or centers for drug rehabilitation or treatment; day care centers; nursing homes; convalescent homes; or jails, prisons or detention facilities.

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Foster home means a dwelling unit licensed and monitored by the state department of children and family services to provide a family living environment, including supervision and care necessary to meet the physical, emotional and social life needs of up to five assigned residents. The number of assigned residents allowed shall be reduced by one for each resident not a state department of children and family services assigned resident in the dwelling other than the foster parents, and their children 18 years or older; however, the number of allowable assigned residents shall not be required to be less than three. It is specifically provided that this definition does not include or permit homes or halfway houses for criminal offenders; homes or centers for drug rehabilitation or treatment; day care centers; nursing homes; convalescent homes; or jails, prisons or detention facilities.

Group home means any building, section of a building, or distinct part of a building, residence, private home, or other place, whether operated for profit or not, which is licensed and/or monitored by the state department of children and family services to provide a family living environment, including supervision and care necessary to meet the physical, emotional and social life needs of four or more assigned residents not related to the owner or administrator by blood or marriage. A facility offering such services for fewer than four persons shall be within the meaning of this definition if it formally or informally advertises or solicits the public for residents or referrals and holds itself out to the public to be an establishment which regularly provides such services. It is specifically provided that this definition does not include or permit homes or halfway houses for criminal offenders; homes or centers for drug rehabilitation or treatment; day care centers; nursing homes; convalescent homes; or jails, prisons or detention facilities.

Life care facility means any residential development providing dwelling units with common dining, recreation and medical facilities for persons 59 years of age or over, including one or more of the following in compliance with state requirements:

(1) A fully licensed and staffed medical or nursing facility in full compliance with all requirements of this division which provides skilled care to residents requiring such services on a priority basis.

(2) A common kitchen and dining room facility offering no less than one common meal to all residents each day.

(3) Call button monitoring system for emergency calls directly to nurses on the premises.

(4) Medical history on file for each permanent resident.

(5) On-premises physical therapy.

(6) On-premises in-house sale and distribution of personal services and food items for residents of the facility.

(7) Library, educational and social and occupational facilities.

(8) Available transportation arrangements for in-house residents.

Residential care facility includes any congregate housing, foster home, group home, or life care facility.

(Code 1980, app. A, art. V, § 17.03)

Cross reference—Definitions generally, § 1-2.

Sec. 32-523. Categories of group home facilities.

(a) Group home facilities shall be categorized according to the maximum number of assigned residents (level I, II or III) and intensity of care provided (level A or B).

(b) Categories shall be as follows:

(1) Maximum assigned residents:

a. Level I—no more than eight assigned residents.

b. Level II—nine to 15 assigned residents.

c. Level III—16 or more assigned residents.

(2) Intensity of care:

a. Level A—(low intensity):

1. Direct 24-hour supervision not required at all times;

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2. Staff ratio of not more than one on-duty supervisor to eight assigned residents; or
3. Facility emphasis on personal care, shelter, sustenance and other support services.

b. Level B—(high intensity):
1. Direct, 24-hour supervision required at all times;
2. Staff ratio of more than one on-duty supervisor to eight assigned residents; or
3. Facility emphasis on treatment, care, rehabilitation and/or education.

(Code 1980, app. A, art. V, § 17.04)

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Sec. 32-524. Location of facilities.

Residential care facilities are permitted in the zoning districts described on the following chart provided that no new residential care facility may be located within a 1,000-foot distance from a lawfully existing residential care facility:

Type of Facility	*Single-Family Zone Group*[1]	*Two-Family Zone Group*[2]	*Multiple-Family Zone Group*[3]	*Business Office & Institutional Zone Groups*[4]	*Industrial Group*[5]
Congregate housing	NP	NP	CU	CU	NP
Foster homes	CU	CU	CU	NP	NP
Group home I-A	CU	CU	CU	NP	NP
Group home I-B	CU	CU	CU	NP	NP
Group home II-A	NP	CU	CU	P	NP
Group home II-B	NP	CU	CU	P	NP
Group home III-A	NP	NP	CU	P	NP
Group home III-B	NP	NP	CU	P	NP
Life care facility	NP	NP	CU	CU	NP

Legend

P — Permitted use
CU — Conditional use
NP — Not permitted

[1] Single-family zone group—All RS districts

[2] Two-family zone group—RD-12 district

[3] Multiple-family zone group—RM-18 and RM-25 districts

[4] Institutional, commercial and office zone group—All commercial districts, CR, B-O, B-L, B-G, B-H and B-I

[5] Industrial zone group—I-L district

(Code 1980, app. A, art. V, § 17.05)

Sec. 32-525. Development standards.

(a) Minimum site area, plot width, setbacks, and maximum height and coverage for residential care facilities shall be governed by the regulations of the zoning district within which the property is located.

(b) The maximum allowable density of a group home facility or foster home shall not exceed the density range prescribed on the land use element of the city's comprehensive plan using the following dwelling unit equivalents provided in this subsection and shall be subject to compliance with subsection (a) of this section:

(1) Each foster home is equivalent to one dwelling unit.

(2) A group home shall have a dwelling unit equivalency of one dwelling unit for each two sleeping rooms designated for assigned residents. There shall be no more than three assigned residents to a sleeping room; however, the growth management director may approve more than three residents to a room when he finds that such increase:

a. Is recommended by the state department of children and family services as consistent with the type of group home proposed.

b. Will not allow more than six assigned residents per each dwelling unit permitted by the applicable land use plan designation.

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(3) A life care facility or congregate housing shall have a dwelling unit equivalency of one dwelling unit for each two units within the facility; however, the allowable number of residential care facility units shall be reduced by one for each six beds approved within the accessory medical or nursing facility.

(4) Where a group home is proposed to be located in a nonresidential zone, assigned residents shall be limited to the number found by the city to be consistent with the proposed facility and the maintenance of a compatible relationship with existing and proposed land uses surrounding the property upon which the group home is proposed.

(c) No property used for a group home or foster home shall be located within 1,000 feet of another legally established facility. The 1,000-foot distance requirement shall be measured by following a straight line from the nearest portion of the property of the existing use.

(d) Off-street parking is required as follows:

(1) Congregate housing—One space for each three dwelling units plus one space for each five beds within any medical facility.

(2) Foster home—As required for single-family dwellings.

(3) Group home—Two spaces plus one space for every three assigned residents, with exception for developmentally disabled, one space for every three assigned residents.

(4) Life care facility—One space for each three dwelling units plus one space for each five beds within the medical facility.

(5) Up to 40 percent of required spaces for congregate housing, group home and life care facilities may be maintained in a natural state for overflow utilization. When in the opinion of the growth management department it is determined that actual practice indicates the need for such spaces in improved condition, they shall be immediately improved by the owner to full city standards.

(e) Floor area requirements are as follows:

(1) Foster home—No minimum except as required by the state department of children and family services.

(2) Group home:

a. Bedroom space—A minimum of 80 square feet of floor area per assigned resident. The minimum floor area per assigned resident may be reduced below 80 square feet but not less than 60 square feet per assigned resident when in the opinion of the growth management director:

1. The size of a bedroom within an existing otherwise conforming structure requires such reduction.

2. A commensurate increase in the living and recreation space of the facility is proposed.

b. Living and recreation space—A minimum of 25 square feet of floor area per assigned resident shall be exclusively for living and recreation area.

c. Dining space—A minimum of 15 square feet of floor area per assigned resident shall be provided for dining area.

(3) Life care facility—No minimum required floor area.

(4) Congregate housing—No minimum required floor area.

(f) Bathrooms are required as follows:

(1) Foster home—A minimum of one bathroom per facility.

(2) Group home—A minimum of one bathroom containing a sink, commode and shower or tub per each four assigned residents.

(3) Life care facility—A minimum of one bathroom per separate unit.

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(4) Congregate housing—A minimum of one bathroom per separate unit.

(g) Outdoor recreation space is required as follows:

(1) Foster home—No minimum.

(2) Group home—A minimum of 30 square feet of outdoor recreation space per each resident.

(h) All residential care facilities shall be designed in such a manner that all residents may have access from assigned bedroom areas to living and dining areas with protection from inclement weather.

(i) All group home facilities designed for aged or infirm residents or life care facilities shall be provided with emergency call systems and smoke detectors throughout.

(j) Each facility is responsible for complying with city, county and state regulations, including but not limited to state licensures, occupational licenses, zoning and building regulations, and other applicable safety codes.

(k) Every facility approved pursuant to this division shall be subject to inspection by the city to ensure compliance with the terms of the city's approval.
(Code 1980, app. A, art. V, § 17.06)

Secs. 32-526—32-550. Reserved.

DIVISION 15. SETBACK ENCROACHMENTS

Sec. 32-551. Basic requirement.

Every part of every required front, side and rear yard setback shall be open and unobstructed from the ground to the sky except as provided in this division.
(Code 1980, app. A, art. V, § 2(intro. ¶))

Sec. 32-552. Extensions into required setbacks.

(a) In residential districts, roof overhangs, cornices, eaves or gutters may project not over four feet into a required yard; provided that where the yard is less than five feet in width, such projection shall not exceed half the width of the yard.

(b) Sills and belt courses may project up to one foot into required setbacks.

(c) Accessory mechanical equipment such as air conditioning, pool filters/pump or water sprinkler units may project up to four feet into a required front, side or rear yard setback, provided a minimum of three feet of setback remains beyond the projection in RS or RD zones and a minimum of three feet of clear passage remains at all times. Window air conditioning units may project up to 18 inches into any required yard setback area.

(1) All ground-mounted mechanical equipment must be screened from the public view by landscaping, fence, or other buffering. All ground-mounted mechanical equipment installed before October 28, 2001, is considered nonconforming and exempt from the screening and buffering requirements of this subsection.

(2) All roof-mounted mechanical equipment must be screened from the public view so as not to be visible from street level. All roof mounted mechanical equipment installed before October 28, 2001, is considered nonconforming and exempt from the screening and buffering requirements of this subsection.

(d) Permanent or retractable awnings may project up to four feet into a required yard setback, however, in residential districts where the yard setback is less than ten feet the awning shall not exceed half the width of the yard setback.

(1) Awnings shall be a minimum of seven and one-half feet above grade along or adjacent to any pedestrian walkway or public right-of-way.

(2) All awnings shall be maintained in good condition, free from tears, holes, fading or peeling, inclusive of all supporting structures.

(3) Awnings shall not be illuminated.

(e) Carport and entrance structures in existence on May 1, 1985, which encroach into the required yard setback and were erected without a permit but which are otherwise lawful and safe by

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being in compliance with building code standards shall be considered nonconforming structures provided an application for such structure was not previously denied by the city or its staff.

(f) Tents erected in connection with a permitted temporary use under division 20 of the article may encroach into the applicable side and rear yard setbacks of the lot or tract upon which such tent is erected in a manner consistent with visual clearances and traffic safety but shall in no case be closer than two feet from any property line.
(Code 1980, app. A, art. V, § 2; Ord. No. 2001-14, § 1, 9-20-01; Ord. No. 2004-30, § 1, 12-7-2004)

Secs. 32-553—32-570. Reserved.

DIVISION 16. SIDEWALK CAFES*

Sec. 32-571. Purpose and intent.

The purpose of the regulations and standards in this division is to promote increased business and pedestrian traffic by providing safe and visually appealing opportunities for outdoor dining.
(Code 1980, § 25-61)

Sec. 32-572. Definitions.

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

Permittee means the recipient of a sidewalk cafe permit under the terms and provisions of this division.

Sidewalk means that portion of property lying adjacent to or within the public right-of-way, paved and used for pedestrian travel.

Sidewalk cafe means seating located on a public sidewalk which is associated with an adjacent restaurant or food establishment where food or beverages are delivered for consumption on the premises. It is characterized by movable tables and chairs and may be shaded by awnings or umbrellas if permits have been issued.
(Code 1980, § 25-62)

Cross reference—Definitions generally, § 1-2.

Sec. 32-573. Annual permit and application fee requirements.

(a) A permit for a sidewalk cafe shall be issued only to the operator of a validly licensed and operating restaurant who wishes to provide tables and chairs on the sidewalk adjacent to the restaurant.

(b) The nonrefundable application fee and annual permit fee for a sidewalk cafe shall be determined by the city commission and set forth by resolution.
(Code 1980, § 25-63)

Sec. 32-574. Permit application.

(a) Application forms for permits to operate sidewalk cafes are provided by the city clerk.

(b) Applications shall be accompanied by a nonrefundable application fee as set forth by resolution.
(Code 1980, § 25-64)

Sec. 32-575. Standards and criteria for application review.

The following standards and criteria shall be used in reviewing the application required in section 32-574:

(1) Sidewalk cafes shall be permitted only as an accessory use to a licensed restaurant or food establishment.

(2) Sidewalk cafes are restricted to the sidewalk area abutting the boundary lines of the property on which the restaurant to which the permit is issued is located.

(3) Tables and chairs shall not be closer than five feet of a bus stop, taxistand, fire hydrant, alley, street, pedestrian crosswalk or handicap ramp.

(4) Sidewalk cafes shall be located in such a manner that a minimum width of five feet is maintained at all times as an unob-

*Cross reference—Streets, sidewalks and other public ways, ch. 25.

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structed pedestrian path. The city manager may permit the sidewalk cafe to occupy additional space, up to a minimum of three feet clear path, where an established pedestrian path shall not be obstructed and where public safety shall not be adversely affected.

(5) No objects shall be permitted around the perimeter of an area occupied by tables and chairs which would have the effect of forming a physical or visual barrier discouraging the free use of the tables and chairs by the general public or which would have the effect of obstructing the pedestrian path.

(6) Tables, chairs, umbrellas and any other objects provided with the sidewalk cafe shall be of quality design, materials and workmanship, to ensure the safety and convenience of users, to be compatible with the uses in the immediate vicinity of the proposed sidewalk cafe and enhance the visual quality of the urban environment. Design, materials and colors shall be approved by the city manager prior to the issuance of the sidewalk cafe permit.

(7) Umbrellas and other decorative material shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. Signs are prohibited on any fixture other than umbrellas and menu boards. Signs on umbrellas are limited to a product name, logo or the establishment name. Lettering may not exceed six inches in height or three square feet in sign area.

(8) Only one menu board shall be permitted, with a maximum size that does not exceed four square feet. The menu board shall be placed in a location approved by the city manager and shall be shown on the permit. The menu board shall not be a sandwich sign.

(Code 1980, § 25-65)

Sec. 32-576. Liability and insurance.

(a) Prior to the issuance of a permit, the applicant shall furnish a signed statement indemnifying the city, its officers and employees for any damages to property or injury to persons which may be occasioned by any activity carried under the terms of the permit.

(b) The permittee shall furnish and maintain for the entire permit period, at its own expense, the following requirements:

(1) Commercial general liability insurance in the amount of not less than $500,000.00 for bodily injury and property damage, including death, which may arise from operations under the permit or in connection with the permit.

(2) The city, its officers and employees must be named as additional insureds on this policy; and an endorsement must be issued as part of the policy reflecting this requirement.

(3) The city must receive 45 days' written notice prior to any cancellation, nonrenewal or material change in the coverage provided.

(4) The permittee must provide and have approved by the city's risk manager an original certificate of the insurance as evidence that the requirements of this subsection have been met prior to commencing operations. Failure to comply with this section shall cause a suspension or revocation of this permit.

(c) The insurance requirements described in subsection (b) of this section shall be effective from October 1 until September 30 of the following calendar year.

(Code 1980, § 25-66)

Sec. 32-577. Conditions of permit.

In addition to the information required in the permit application form and the standards and criteria described in section 32-575, the permit shall contain the following conditions:

(1) Each permit shall be effective for one year from October 1 until September 30, subject to annual renewal.

(2) The permit issued shall be personal to the permittee only and shall not be transferable in any manner.

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(3) The permit may be temporarily suspended by the city manager when necessary to clear sidewalk areas for an event necessitating that the sidewalk be clear for a period of time.

(4) The city manager may require the temporary removal of sidewalk cafes when street, sidewalk or utility repairs necessitate such action.

(5) The city manager may cause the immediate removal or relocation of all or parts of the sidewalk cafe in emergency situations.

(6) The city and its officers and employees shall not be responsible for sidewalk cafe components relocated during emergencies.

(7) The permit shall be specifically limited to the area shown on the drawing attached to and made a part of the permit. The city shall have the right to remove without notice any tables, chairs or other objects not in the permit area.

(8) The permittee shall use such actions to ensure that its use of the sidewalk in no way interferes with sidewalk users or limits their free unobstructed passage.

(9) The sidewalk cafe shall be opened for use by the general public, and such use shall not be restricted to patrons of the permittee.

(10) Tables, chairs, umbrellas and other objects shall be removed from the sidewalk area when the business is closed. Storage of such items shall be inside the building or screened from view by a masonry wall with a minimum of six feet in height.

(11) Tables, chairs, umbrellas and any other objects provided with a sidewalk cafe shall be maintained in a clean and attractive appearance and shall be in good repair at all times.

(12) The sidewalk area covered by the permit and sidewalk and roadway immediately adjacent to it shall be maintained in a neat and orderly appearance at all times. The area shall be cleared of all debris at a minimum of once a day and again at the close of each business day.

(13) No advertising signs or business identification signs shall be permitted in the public right-of-way, with the exception of umbrellas or the menu board, as permitted by section 32-575(7), (8).

(14) No tables, chairs or other parts of sidewalk cafes shall be attached, chained or in any manner affixed to any fixture, curb or sidewalk. All components of the sidewalk cafe shall be movable.

(15) No additional outdoor seating authorized in this section shall be used for calculating seating requirements pertaining to location of, applications for, or issuance of a liquor license for any establishment; nor shall it be used as the basis for computing required seating for restaurants and dining rooms, or as grounds for claiming exemption from such requirements under the provisions of any city ordinance or state law.

(16) The permit covers only the public sidewalk. Tables and chairs maintained outdoors on private property will be governed by section 32-169 and other applicable regulations.

(17) The permittee shall notify the city manager in writing when operation of the sidewalk cafe begins. This notice shall be delivered to the city manager within 24 hours of such commencement.

(18) No food preparation or storage shall be allowed on the public sidewalk, whether or not such area is covered by this permit. Trash containers shall not be maintained on the sidewalk.

(19) Upon the issuance of a hurricane watch by the National Hurricane Center for an area encompassing the city, tables, chairs and other equipment located on the sidewalk shall be removed and placed indoors.

(Code 1980, § 25-67)

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Sec. 32-578. Denial, revocation or suspension of permit; removal and storage fees; emergencies.

(a) The approval of a sidewalk cafe permit is conditional at all times. A sidewalk cafe permit may be denied, revoked or suspended if it is found that:

(1) The permittee does not have insurance which is correct and effective in the minimum amount described in section 32-576.

(2) Changing conditions of pedestrian or vehicular traffic cause congestion necessitating removal of the sidewalk cafe. Such decision shall be based upon findings of the city manager that the minimum five-foot pedestrian path is insufficient under existing circumstances and represents a danger to the health, safety or general welfare of pedestrians or vehicular traffic.

(3) The permittee exceeds the approved square footage by placing any additional tables, chairs, etc., beyond the approved area.

(4) Any required business or health permit has been suspended, revoked or canceled.

(5) The permittee has failed to correct violations of this division, or conditions of his permit, within three days of receipt of the city manager's notice of violation, delivered in writing by certified mail, or delivered at his business address as disclosed in his permit application.

(6) If the permittee fails to remove any tables, chairs and other objects related to the sidewalk cafe within three days of receipt of the city manager's notice of denial, revocation or suspension, as specified in subsection (a)(5) of this section, the city manager may remove such objects. The permittee shall be responsible for the expenses incurred by the city for the removal and storage of such objects.

(b) Upon denial or revocation, the city manager shall give notice of such action to the applicant or the permittee in writing stating the action which has been taken and the reason for such action. If the action of the city manager is based on subsection (a)(1) or (2) of this section, the action shall be effective 24 hours after the date of mailing of notice to the permittee; otherwise, such notice shall become effective within ten days after the date of mailing of notice to the permittee unless appealed to the city commission.
(Code 1980, § 25-68)

Sec. 32-579. Appeals.

(a) An appeal of the city manager's action under this division shall be initiated within ten days of the effective date of the denial or revocation of permit by filing a written notice of appeal with the city manager.

(b) The city manager shall place the appeal on the next available regular city commission agenda. At the hearing, the city commission shall hear and determine the appeal; and the decision of the city commission shall be final and effective immediately.

(c) The filing of a notice of appeal by a permittee shall not stay an order by the city manager to remove a sidewalk cafe or parts of a sidewalk cafe. Street furniture and other objects related to the sidewalk cafe shall be removed immediately as set out in section 32-578, pending disposition of the appeal and final decision of the city commission.
(Code 1980, § 25-69)

Secs. 32-580—32-600. Reserved.

DIVISION 17. SIGNS

Sec. 32-601. Purpose and intent.

(a) It is the purpose of this division to:

(1) Promote the proper placement and maintenance of signs within the various zoning districts of the city;

(2) Promote traffic and pedestrian safety and aesthetics;

(3) Recognize the identification and communication needs or uses and establishments of various sizes;

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(4) Encourage creative and innovational design techniques; and

(5) Establish procedures that insist upon equal treatment of all parties involved by regulation of the posting, displaying, erection, use and maintenance of signs.

(6) Notwithstanding anything contained in this Code to the contrary, any sign erected pursuant to the provisions of this Code or otherwise lawfully existing with a commercial message may, at the option of the owner, contain a noncommercial message in lieu of a commercial message. The noncommercial message may occupy the entire sign face or any portion thereof. The sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the owner of the sign provided that the sign is not a prohibited sign or sign type and provided that the size, height, setback, and other dimensional criteria contained in this Code have been met.

(b) This division shall regulate all aspects of signage, except building design, official directional signs and traffic signs; message content of signs; design of signs; signs within buildings and not externally visible, window displays; point of purchase advertising displays, such as newspaper dispensers and candy machines; and historical site plaques.

(c) This division shall not apply to any sign placed, erected or maintained at any place in the city pursuant to or as permitted or required by any contract entered into by the city with any person. In the case of any sign contract entered into by the city, aside from lewd, indecent or obscene advertisements, no restriction on the content of advertisements shall be placed by the city. However, a sign owner who contracts with the city may in his sole discretion limit the type or content of advertising to be placed on his sign.
(Code 1980, app. A, art. XII, § 1; Ord. No. 2005-15, § 1, 10-3-2005)

Sec. 32-602. Short title.

This division may be known and shall be cited as the "Sign Code of the City of Hallandale Beach, Florida."
(Code 1980, app. A, art. XII, § 2)

Sec. 32-603. Definitions.

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

Advertising structure means a sign or structure erected or intended for advertising purposes, with or without advertisement display, situated upon or attached to real estate, upon which any poster, bill, printing, painting or device is fastened, affixed or displayed; however, this term shall not include a building.

Animated sign means a sign which depicts action or motion or which changes color. An animated sign differs from a flashing sign in that it uses movement to create a special effect or scene rather than merely as an attention-getting technique.

Awning sign means a sign painted, stitched, stamped or otherwise placed on a fabric awning denoting the name of the building, business name or logo and/or street number.

Balloon means a temporary special occasion sign of non-rigid fabric material, inflated with air or other means to a point of semi-rigidity for advertising purposes with or without sign copy.

Banner sign means a sign made of cloth, fabric, paper, nonrigid plastic or similar types of material.

Billboard means the same as "*Off-premises sign.*"

Construction sign means a temporary sign erected on the premises undergoing construction, by an architect, contractor, subcontractor or material supplier upon which property such supplier is furnishing labor or materials. Such sign shall not be erected prior to the issuance of a building

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permit and shall be removed prior to the issuance of a certificate of occupancy or if the permit becomes void.

Directional sign means:

(1) A sign erected by an official governmental agency to denote the name of any thoroughfare, to point out the route to any city, educational institution, public building, historic place or hospital place or hospital; to direct and regulate traffic and to denote any railroad crossing, bridge or other transportation facility for the convenience and safety of the general public.

(2) An on-premises sign giving directions to an establishment's vehicular use area, which may include only the name, address or logo of the establishment, the words "entrance," "exit" or "parking," and a directional arrow.

Director means the city manager or those to whom he has charged the interpretation, administration or enforcement of this division.

Double-faced sign means a sign with two faces.

Electrical sign means a sign or sign structure in which electric wiring, connections or fixtures are used.

Electronic message center means any sign which has the capability of changing message content through the use of an electronically controlled device.

Establishment means a place of business or industrial enterprise with its furnishings and staff.

Facade means the entire building front, including the parapet.

Flashing sign means any sign which contains a continually intermittent or sequential flashing light source, but not including those which use intermittent lighting changes for the purpose of changing message content, such as time, temperature and stock average units.

Flat sign means a wall sign erected parallel to and extending not more than 12 inches from the wall or facade of any building to which it is attached and supported throughout its entire length by the facade of the building and not extending above the roof of the building.

Freestanding sign means any sign supported by structures or supports that are placed on or anchored in the ground and that are independent from any building or other structure for support. The term also includes but is not limited to monument signs, pole signs and the like, and any portion of their structure.

Ground sign means the same as "*Freestanding sign.*"

Illuminated sign means any sign designed to emit artificial light or designed to reflect light from one or more sources of artificial light.

Information sign means a sign containing information such as office hours, credit card accepted, telephone numbers, open/closed, affiliation, etc.

Main street means an abutting public right-of-way which has the greatest vehicular design capacity or current traffic volume relative to all other abutting public rights-of-way.

Maintenance means the required maintenance of any permitted sign, which maintenance shall include lighting, painting, supporting material required, landscaping or such other matters.

Marquee means any hood, awning or canopy of permanent construction which projects from the wall face of a building.

Marquee sign means any sign attached to or supported by a marquee structure.

Monument sign means a freestanding sign supported by a continuous foundation or structural base flush with the ground under all or a minimum of 75 percent of the sign structure.

Multi-use property means a parcel of land with a structure or group of structures occupied by more than one establishment.

Mural means any mosaic, painting or graphic art technique applied, implanted or placed directly onto a wall and containing no copy, advertising symbols, lettering, trademarks or other

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illustrative depictions pertaining to the nature of the business or products and/or services offered for sale on the premises.

Mural advertising sign means any mosaic, painting or graphic art technique applied, implanted or placed directly onto a wall which contains copy, advertising symbols, lettering, illustrative depictions pertaining to the nature of the business or to the products and/or services offered on the premises.

Nameplate means a sign indicating the name, address, profession or occupation of an occupant or a group of occupants.

Occupant identification sign means a sign which pertains only to the use of a premises and may contain the name of the tenant, occupant or management of the use; and the address of the use.

Off-premises sign means any sign or structure which advertises a commercial use, establishment, product or service that is sold, produced, manufactured or furnished at a place other than on the property on which the sign is located.

Outdoor advertising sign means the same as "*Off-premises sign.*"

Painted wall sign means a flat sign painted on the outside wall or facade of any building.

Paper sign means a temporary sign installed in the interior of windows constructed of paper, vinyl or plastic sheets of a thickness of less than 1/32 of an inch.

Parapet means a false front or wall extending above the roofline. For the purposes of this division, a parapet shall not exceed a height of three feet above the roofline.

Pole sign means a sign erected upon a pole which is wholly independent of any building for support.

Political sign means any sign or sign structure used in connection with a local, state or national election and/or which promotes, advertises or identifies a political party, candidate or issue.

Projecting sign means a sign, other than a wall sign, which extends outward for more than 12 inches from the wall or facade of any building and is affixed to the wall, but does not extend beyond 4½ feet from the wall.

Real estate sign means a temporary sign erected by the owner or his agent advertising for sale, rent or lease the real estate upon which the sign is located.

Roof sign means any sign erected over or on the roof and dependent upon the roof or marquee of any building for support.

Roofline means the line formed where the topmost edge of a building wall meets the roof, at any point.

Sidewalk or sandwich sign means a movable sign not secured or permanently attached to the ground.

Sign means any identification, description, illustration or device which directs attention to a product, service, place, activity, person, institution or business, located on the exterior of the premises or visible from the exterior, or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exemption of noncommercial content flags.

Sign area means as defined in section 32-604(c).

Sign face means the part of a sign that is or may be used for advertising purposes.

Sign structure means a sign or structure erected or intended for advertising purposes, with or without advertisement display, situated upon or attached to real estate, upon which any poster, bill, printing, painting or device is fastened, affixed or displayed, but not including a building.

Single-use property means a parcel of land with a structure occupied by one establishment.

Snipe sign means any sign 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 such objects.

Special-event sign means a sign displayed for a limited time period for an event conducted by the

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applicant which is nationally or regionally recognized or is of a civic character. Such signs shall not include signs for political campaigns or elections.

Temporary sign means a sign which advertises for a limited period of time active construction projects; real estate for sale, rental or lease; business grand openings; or other special events.

Theater means a building or part of a building which contains an auditorium having a stage which may be equipped with curtains or permanent stage scenery or mechanical equipment adaptable to the showing of plays, operas, performances, spectacles and similar forms of entertainment, or such building or portion containing an auditorium having a platform, screen and mechanical equipment for the showing of motion pictures.

Vehicular sign means a sign affixed to a vehicle or trailer for the purpose of advertising. For the purposes of this division, such signs shall only be applicable when the vehicle or trailer is temporarily or permanently located on a parcel for the primary purpose of conveying a business message.

Wall sign means a sign erected parallel to and extending not more than 12 inches from the wall, facade, mansard or parapet of any building, including flat, painted wall, individual letter, or cabinet signs. Marquee signs shall conform to wall sign provisions and shall not extend over the roofline.

Window sign means any sign, picture, symbol or combination designed to communicate information about an activity, business, commodity, event, sale or service, that is painted or placed either upon the window panes or glass or inside a window, and is visible from the exterior of the window or glass.

(Code 1980, app. A, art. XII, § 3; Ord. No. 2005-1, § 1, 1-4-2005; Ord. No. 2005-15, § 1, 10-3-2005)

Cross reference—Definitions generally, § 1-2.

Sec. 32-604. General provisions.

(a) *Violation.* It shall be unlawful and deemed a violation of this division for any person to place, erect or maintain or cause to be placed, erected or maintained any sign, sign structure, advertising device or structural alteration except in conformance with the provisions of this division.

(b) *Permit required.* A permit shall be required prior to the erection, construction, installation or structural alteration of any sign within the city except as provided in subsection (g) of this section. Structural alteration shall not include changing removable copy type such as that usually located on theater marquees. All plans and layouts for a sign or sign structure shall be accompanied by an application which shall be filed with the director prior to the issuance of any permit. The application shall describe and set forth the following:

(1) The type of sign or sign structure.

(2) The street address of the property upon which the sign and sign structure is to be located and the proposed location of the sign on that property. In the absence of a street address, a method of location acceptable to the director shall be used.

(3) The square foot area per sign face and message content.

(4) The name and address of the person in control or possession of the real property upon which the sign or sign structure is to be located, and in the case of every sign located on vacant property, a statement signed by the owner or person in possession authorizing the placing and maintaining of such sign.

(5) A sketch, blueprint or similar presentation drawn to scale, showing all pertinent structural details and wind pressure requirements of the South Florida Building Code. The seal of a state registered engineer or architect shall be affixed to any sketch, blueprint or similar presentation drawn to scale, for any projecting sign, which, in the judgment of the chief building official, requires such a seal because of its size, weight, location, composition or complexity. Signs containing electrical circuitry shall meet the requirements of the National Electrical Code.

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(6) The square foot area of all existing signs on the property upon which the proposed sign is to be located.

(7) With respect to sign structures not attached to the building, a scaled drawing showing all required yard setbacks relating to the property on which the proposed sign is to be located.

(8) The name, address and telephone number of the applicant, and such other pertinent information as may be required by the director.

(c) *Computation of sign area.*

(1) The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

a. The height of a sign shall be computed as the distance from the base of the sign structure at normal grade to the top of the highest attached component of the sign structure. Normal grade shall be construed to be the established grade after construction, exclusive of any filling, berming, mounding, or excavating primarily for the purpose of locating or raising the height of the sign. In cases in which the normal grade cannot reasonably be determined from the previous part of this definition, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

b. If the sign is composed of four or more individual cabinets or modules, the entire area within and enclosed by the exterior perimeter of all cabinets or modules within a single, continuous geometric figure shall be determined as the area of the sign. This shall include all open areas within those cabinet or module perimeters and all space separating the cabinets or modules.

(2) The entire area within a single, continuous perimeter composed of squares, rectangles or other geometric figures which enclose the extreme limits of all sign elements affixed to a wall, including but not limited to cabinet structures, written copy, logos, symbols, illustrations, decorative embellishments and painted backgrounds framing the sign elements, shall be computed as the sign area.

(d) *Sign identification label.* All approved signs shall have affixed and conspicuously displayed in the lower right-hand area a permanent sign identification label which shall state:

(1) Date of permit issuance.

(2) Name of permittee.

(3) Name and address of sign company.

(4) Permit number.

(e) *Prohibited signs.* The following signs or types of signs are prohibited within the city:

(1) Off-premises signs, except as provided in section 32-607.

(2) Bus benches, bus shelters or waste receptacles displaying advertising matter, except as may be specifically permitted by the city commission.

(3) Roof signs.

(4) Sidewalk or sandwich signs.

(5) Portable signs.

(6) Snipe signs.

(7) Banners, pennants, flags, festoons of lights, decorations, and balloons, except as specifically permitted in section 32-607(d).

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(8) Signs attached to trees, utility poles, streetlights or the like.

(9) Flashing or animated signs and electronic message centers, except for time, temperature and stock average units, with changes alternating on not less than a five-second cycle.

(10) Illuminated signs in all single-family or duplex residential zoning districts or any nonshielded illuminated signs within 200 feet of those districts, except for hotels, motels and roominghouses. Permitted residential nameplates and street address signs may also be illuminated.

(11) Swinging, rotating and moving signs or devices designed to attract attention, including pennants, flags, propellers, discs and the like, whether or not that device has written message content, unless specifically permitted elsewhere in this division.

(12) Vehicular signs, except for those affixed to franchised buses, taxis or commercial vehicles operating during their normal course of business.

(13) Signs which copy or imitate official signs, or which purport to have official status.

(14) Signs projecting into or over any public street right-of-way, including the sidewalk, except as may be allowed by section 32-606(e)(3).

(15) Signs which obstruct or interfere with any door, fire exit, stairway, ladder or opening intended to provide light, air, ingress or egress for any building.

(16) Signs not properly maintained, showing neglect, abandonment, or in a dilapidated or hazardous condition so as to violate the purpose, intent and objectives of this division. The base of judgment for this subsection shall be the specifications as nearly as possible as set out in the South Florida Building Code.

(17) Any sign which constitutes a traffic hazard or a detriment to traffic safety by reason of its size, location, movement, content, coloring or method of illumination, or by obstructing or detracting from visibility of any official traffic control device by diverting or tending to divert the attention of drivers of moving vehicles from traffic movement on streets, roads, intersections or access facilities. No sign shall be erected so that it obstructs the vision of pedestrians. Flashing or revolving red, green, blue or amber lights shall be prohibited on any sign. Any sign which, by glare or method of illumination, constitutes a hazard to traffic shall be prohibited. No sign may use the term "stop," "look," "drive-in," "danger," or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.

(18) Reserved.

(19) Pole signs.

(20) Projecting signs.

(21) Any other sign not specifically permitted within this division.

(f) *Required fees.* Fees shall be required in order to accommodate the administration costs associated with sign permit reviews and site inspections for the installation, erection or placement of any sign. Such fee as established by the city's fee booklet shall accompany the permit application.

(g) *Signs not requiring sign permits or fees.* The following signs or types of signs shall not require sign permits or sign fees except as may be required by the Florida Building Code, but shall be in compliance with all other applicable provisions of this division.

(1) Real estate signs.

(2) Residential nameplates.

(3) Houses of worship and civic signs.

(4) Paper window signs.

(5) Political signs.

(6) Construction signs.

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(7) Public convenience signs which identify the location of restrooms, public telephones, exits or the like.

(8) Public utility signs which identify the location of underground lines, high-voltage areas or the like.

(9) Flags, for non-commercial purposes.

(10) Seasonal displays and decorations not advertising a product, service or establishment.

(h) *Issuance of a permit.* Upon compliance with the provisions of this division and receipt of a completed permit application, and provided that the signs or sign structures do not violate any of the terms, conditions or provisions of any other law or ordinance, the director shall promptly conduct an investigation of the application, the proposed sign, and the subject permit location. The director shall grant or deny a permit for a sign or structure within 30 days from the date a completed application was filed.

(i) *Special setback provisions.*

(1) Nothing stated in this section shall be construed to deprive the owner of land lying between the building setback line and the street right-of-way line from using his property for any purpose consistent with zoning regulations. Signs may be erected in setback areas, subject to the applicable provisions of this division and provided that the owners of premises whereon the signs are erected shall remove all signs at their own expense when the applicable street is widened under governmental street-widening programs.

(2) Freestanding signs existing at the time of the adoption of this division on properties abutting U.S. 1 from SE Second Street on the south to the northern city limits may be located within five feet of the public right-of-way line if the bottom edge of the sign is not less than nine feet from the ground, or within three feet of the public right-of-way line if the bottom edge of the sign is not less than 15 feet from the ground. All poles within this area shall be set back not less than five feet from any public right-of-way line.

(3) All sign setbacks shall be measured from the nearest point of the sign face or supporting structure, whichever is closest to the right-of-way or centerline.

(j) *License required.* It shall be unlawful for any person to engage in the business of signs or outdoor advertising or in the business of erecting, altering or maintaining signs or sign structures within the city unless that person has a valid certificate of competency issued by the city or county.

(k) *Maintenance of signs.*

(1) Signs or elements of signs which are burnt out, broken, inoperable, or not functioning as intended shall be repaired or removed. Peeling, fading or chipped paint shall be restored, and any structural damage shall be repaired.

(2) Any damage or deterioration to a sign or supporting element which, in the opinion of the city manager, is hazardous and/or harmful to the public health or safety shall be repaired or the sign or structure replaced. Without limiting this provision, signs shall be considered hazardous if they present an electrical or fire hazard; are unstable; or may injure passersby, motorists or property. If notification that a sign is hazardous and/or harmful is not acted upon within a reasonable time as set out in such notification, the city shall perform the necessary corrective action or removal and file a lien on the property for all costs associated with this action.

(l) *Exterior lighting.*

(1) The term "exterior lighting" as used in this section shall mean any variety of lighting forming an integral part of a building designed or used as an architectural embellishment. Such lighting shall not be considered to be a sign unless it identifies a business, establishment or activity by name, symbol, figure or letter-

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ing. Persons desiring to employ such lighting shall obtain the permit provided in this subsection.

(2) Exterior lighting employing strip neon lighting outlining or illuminating a building or portion of a building shall be permitted only in business and industrially zoned districts.

(3) All exterior lighting shall comply with the maximum permitted intensity and power source shielding standards set out and referred to in section 32-606(f) and shall be mounted and wired as required by the South Florida Building Code and the National Electrical Code.

(4) All bare tubing for exterior lighting employing strip neon shall be mounted no less than eight feet in height from the ground or surface adjacent to the wall or surface for which it is mounted to prevent access to the exposed lighting fixture.

(5) Exterior lighting shall not:

a. Flash, revolve, flutter or be animated;

b. Be in the form of festoons of lights except as may be specifically permitted in section 32-607(d);

c. Project into or over any public street right-of-way, including the sidewalk;

d. Obstruct or interfere with any door, fire exit, stairway, ladder or opening intended to provide light, air, ingress or egress;

e. Violate the purpose, intent and objectives of this chapter or of this division through improper maintenance, abandonment, neglect, or being in a dilapidated or hazardous condition, as determined by reference to the South Florida Building Code and the National Electrical Code;

f. Constitute a traffic hazard or a detriment to traffic safety by reason of its size, location, movement, content, coloring, glare or method of illumination, or by obstructing or detracting from the visibility of any official traffic control device by diverting or tending to divert the attention of drivers of moving vehicles from traffic movement on streets, roads, or intersections of access facilities; or

g. Obstruct the vision of pedestrians.

(6) It shall be unlawful to erect, construct, install or structurally alter exterior lighting without first obtaining a permit pursuant to this subsection. Illumination, including strip neon lighting identifying a business, establishment or activity by name, symbol, figure or lettering, shall be considered a sign; and the person responsible shall comply with all sign permit requirements and regulations and obtain a sign permit but shall not need to obtain the permit required by this subsection. The permit required under this subsection shall be considered by the city commission according to the following procedure:

a. Applicants shall be required to submit an application containing the names and addresses of the persons in control of possession of the real property upon which the building is to be outlined or illuminated is located, a sketch, blueprint or similar presentation drawn to scale showing the plan of the proposed installation, the maximum intensity of illumination produced by the lighting, nearness of any residential district, and the name, address and telephone number of the applicant. If the applicant is not the same person as the person in control of possession of the affected real property, the applicant shall provide appropriate proof of authority to proceed with the application as set forth in section 32-966(a)(3). The application shall be accompanied by an application fee as established by resolution.

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b. A properly completed application shall be considered by the city commission, which shall consider:

1. Whether the proposed exterior illumination complies with the maximum permitted intensity standards set out in this division.
2. Whether there are adequate setbacks and buffering to control adverse effects of light or any nuisances created by the exterior illumination.
3. Whether the proposed exterior illumination will have a substantial detrimental effect on property values in the neighborhood.
4. Whether the proposed exterior illumination would violate any of the standards set out in subsection (l)(5) of this section.

c. The city commission may consider other factors and require other conditions in granting or denying an application for permits under this subsection when considered necessary to further the intent of this division and the general welfare, including but not limited to limitations on the hours of operation of such exterior illumination.

(Code 1980, app. A, art. XII, § 4; Ord. No. 2005-1, § 1, 1-4-2005; Ord. No. 2005-15, § 1, 10-3-2005)

Sec. 32-605. Permitted signs.

(a) *Generally.* No sign of any kind shall be permitted, constructed, erected or maintained within the various zoning use districts of the city except as provided in this section.

(b) *Single-family, two-family districts.* The following signs are permitted in single-family and two-family residential districts, including without being limited to RS-5, RS-6, RS-7 and RD-12 districts:

(1) One nameplate per dwelling unit, which shall not exceed two square feet in sign area.

(2) One subdivision or neighborhood identification monument sign which shall not exceed four feet in height and 32 square feet in sign area and shall be located at the major entrance to a recognized subdivision or neighborhood. Application for such sign shall be made only by a developer or properly constituted homeowner's association, and it shall be the continuing responsibility of the developer or association to maintain that sign in conformity with the requirements of this division.

(3) One temporary non-illuminated real estate sign, which shall not exceed three square feet in sign area or four feet in height.

(4) One temporary non-illuminated construction sign, which shall not exceed 16 square feet in sign area.

(5) One wall sign, awning sign, or monument sign, on properties with a main street lot frontage of 100 feet or more, not to exceed four feet in height, identifying permitted principal nonresidential uses, multi-family residential uses or mobile home residential uses, which shall not exceed 20 square feet in sign area. Awning signs shall not exceed ten square feet in total sign area and shall conform to the requirements of section 32-606(g). Such signs identifying churches or synagogues may be illuminated if such illumination is not visible from any abutting residential use and is turned off no later than 9:00 p.m. each evening.

(6) One monument sign, on properties with a main street lot frontage of 100 feet or more, not to exceed four feet in height or six square feet in sign area identifying townhouse developments of ten units or more.

(c) *Multi-family districts.* The following signs are permitted in multi-family residential districts, including without being limited to RM-18 and RM-25 districts:

(1) One wall sign or one wall sign and one awning sign identifying a permitted multi-

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family residential use, which shall not exceed a sign area equal to one and one-half feet for each one linear foot of main street building frontage, up to a maximum of 100 square feet. Awning signs shall not exceed ten square feet in total sign area and shall conform to the requirements of section 32-606(g).

(2) One subdivision or neighborhood identification monument sign, which shall not exceed six feet in height and 32 square feet in sign area and shall be located at the major entrance to a recognized subdivision or neighborhood. Application for such sign shall be made only by a developer or properly constituted homeowner's association, and it shall be the continuing responsibility of the developer or association to maintain that sign in conformity with the requirements of this division.

(3) One monument sign, on properties with a main street lot frontage of 100 feet or more, identifying the permitted multi-family residential use, which shall not exceed 32 square feet in sign area or six feet in height.

(4) One temporary, non-illuminated real estate sign per street frontage, which shall not exceed ten feet in sign area.

(5) One temporary, non-illuminated construction sign, which shall not exceed 36 square feet in sign area.

(6) One non-illuminated wall, awning, or monument sign, on properties with a main street lot frontage of 100 feet or more, identifying a permitted principal nonresidential use, which shall not exceed 32 square feet in sign area or six feet in height. Awning signs shall not exceed ten square feet in total sign area and shall conform to the requirements of subsection 32-606(g). Such signs identifying churches or synagogues may be illuminated if such illumination is not visible from any abutting residential use and is turned off no later than 9:00 p.m. each evening.

(7) Two directional signs, which shall not exceed three square feet each in sign area.

(8) In the RM-25 multi-family residential district only, permitted accessory commercial establishments existing on August 21, 1979, and having direct customer access from outdoors shall be permitted:

a. One or two wall signs per establishment, which shall not exceed an aggregate sign area equal to two square feet for each one linear foot of store frontage, up to a maximum of 50 square feet. If any such sign is illuminated, it shall be turned off no later than 9:00 p.m. each evening.

b. Temporary paper signs within show windows, which shall not exceed 25 percent of such open window area.

c. Credit card signs, decals or emblems, which shall not exceed 24 square inches each or an aggregate area of 96 square inches per establishment.

(d) *All other zoning districts.* The following signs are permitted in all other zoning districts:

(1) a. Any establishment which has direct customer access from outdoors shall be permitted not more than two wall signs per wall face and one awning sign per establishment, which shall not exceed an aggregate sign area equal to two square feet for each one linear foot of store frontage, up to a maximum of 200 square feet.

b. Awning signs shall not exceed a sign area of more than 25 percent of the allowable total sign area; however, establishments not having a nonconforming pole sign are allowed up to 50 percent of total sign area. In those cases where an awning sign is used, the establishment may display not more than one wall sign on that wall face. All wall signs shall also be subject to the provisions of section

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32-606(c). Awning signs shall be subject to the provisions of section 32-606(g).

c. Window signs shall be included in the wall sign area allowed and be subject to wall sign restrictions if a nonconforming pole sign exists on the premises. The total area of a window sign shall not exceed a total aggregate area equal to 25 percent of the window glass on which it is located.

(2) a. Any establishment or group of establishments with a minimum of 4,000 square feet in gross floor area which has a main street lot frontage of 150 linear feet or more shall be permitted one monument sign not to exceed a sign area of 60 square feet. Such sign or sign structure shall not exceed a height of eight feet. Any establishment with a main street lot frontage of a minimum of 100 feet shall be allowed a monument sign of 32 square feet in sign area. Such sign or sign structure shall not exceed a height of six feet. All monument signs shall be subject to the provisions of section 32-606(d).

b. Freestanding signs, existing prior to the effective date of Ordinance No. 97-14 which do not meet the requirements of section 32-606(d) shall be considered nonconforming and subject to the provisions of sections 32-608(a) and 32-608(b) regarding nonconforming signs.

(3) One directional sign to a vehicular use area per access drive which shall not exceed three square feet in sign area.

(4) One temporary nonilluminated real estate sign per establishment, which shall not exceed 25 square feet in sign area.

(5) One temporary nonilluminated construction sign, which shall not exceed 36 square feet in sign area.

(6) Signs located on the inside or outside of windows which identify the business or activity conducted on the premises by name, symbol, figure, product type or lettering, as well as temporary paper signs not advertising the name of the establishment within windows; provided that neither type of sign, separately or in combination, shall exceed a total aggregate area equal to 25 percent of the window glass area on which, or behind which, it is located; and further provided that the sign area for window signs other than temporary paper signs shall be included in the wall sign area and subject to wall sign restrictions for the establishment utilizing such signs.

(7) Credit card signs, decals or emblems, which shall not exceed 24 square inches each or an aggregate area of 96 square inches per establishment. Service stations shall also be permitted one such sign per credit card company per street frontage, which shall not exceed three square feet each in sign area.

(8) One hanging sign per establishment, attached to the bottom of a permanent walkway cover or canopy, which shall not exceed nine square feet in sign area and not be less than 7½ feet above any pedestrian walkway.

(9) In addition to the signs permitted in subsection (d)(1)—(8) of this section, service stations shall be permitted:

a. One freestanding price sign per street frontage, which shall not exceed nine square feet in sign area or 18 feet in height.

b. One service designation sign per bay, which shall not exceed six square feet each in sign area.

c. Reserved.

d. Signs not permitted are as follows:

1. Tire, oil and other automotive displays placed outside of the building, except as otherwise permitted by section 32-168.

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2. Wooden (combustible) signs.

3. Signs other than gasoline price signs, attached to pumps and lightpoles, except that pumps and pump island setups may have standard name plaques and standard federal regulatory information, as required by law, not to exceed three square feet per sign face.

(10) In addition to the signs permitted in subsection (d)(1)—(8) of this section, each theater may have a sign which shall not exceed five square feet for each one linear foot of main street building frontage, up to a maximum of 200 square feet. This sign shall be of a changeable copy type and may contain only information relative to present or coming attractions.

(11) In addition to the signs permitted in subsection (d)(1)—(8) of this section, shopping centers having common area used for or allocated to pedestrian use, no part of which is used or leased for any private or commercial purpose, shall be permitted directories or guide maps in such area. These signs shall be approved by the director prior to being erected and shall not exceed 15 square feet each in sign area.

(12) In addition to the signs permitted in subsection (d)(1)—(8) of this section, shopping centers on parcels of land on Hallandale Beach Boulevard or U.S. 1 having more than three acres in area and having a main street lot frontage of 500 linear feet or more shall be permitted one additional monument sign per each right-of-way intersection; however, no such sign shall be closer than 200 feet to another monument sign. Such sign or sign structure shall not exceed six feet in height or 32 square feet in sign area. All such signs shall be subject to the provisions of section 32-606(d).

(13) In addition to the signs permitted in subsection (d)(1)—(8) of this section, any building of which more than 75 percent of the gross floor area is used for office space and which has three or more offices shall be permitted one building identification wall sign, which shall not exceed one square foot for every one linear foot of main street building frontage, up to a maximum of 200 square feet.

(14) In addition to the signs permitted in subsection (d)(1)—(8) of this section, each establishment shall be permitted one information sign per entrance, which shall not exceed two square feet in sign area.

(15) Neon may be used for a permitted sign or as an element of a sign permitted by this subsection.

(16) The city commission may grant a special waiver to exceed the maximum allowable signage area for murals which contain no copy advertising a specific business, product, or service offered for sale on the premises. Application for a special waiver under this subsection may be considered by the city commission according to the following procedure:

a. 1. Applicants shall be required to submit an application containing the names and addresses of persons in control or possession of the real property upon which the mural will be located and a drawing or rendering of the proposed design, location, dimensions, colors, and materials. If the applicant is not the same person as the person in control or possession of the affected real property, the applicant shall provide appropriate proof of authority to proceed with the application. The application shall be accompanied by an application fee as established by resolution. The application shall be filed with the city and transmitted to the city commission accompanied by a staff recommendation for approval or denial. Requests for special waivers un-

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der this subsection shall be advertised, posted and noticed in conformity with the requirements of section 32-967.

2. The intent of this exception is to improve the appearance of buildings in commercial districts through the use of highly visible and tasteful art that is appropriate to the area in which the mural will be located and will improve the appearance of the area.

b. Lettering, trademarks, logos, words or illustrative depictions pertaining to the business upon which the mural is located shall be considered a mural advertising sign which is excluded from filing an application for special waiver under this subsection.

(Code 1980, app. A, art. XII, § 5; Ord. No. 2005-15, § 1, 10-3-2005)

Sec. 32-606. General requirements.

(a) *Additional requirements.* In addition to the requirements set forth in section 32-605 for permitted signs by zoning districts, the requirements in this section shall also be complied with for specific types of signs.

(b) *All signs.* All signs shall be:

(1) Adequately constructed and securely anchored so as to withstand wind pressure and to fully comply with all the requirements of the South Florida Building Code. Signs containing electrical circuitry shall meet the requirements of the National Electrical Code and the South Florida Building Code.

(2) Used only for the identification or advertising of a tenant or occupant located on the premises or a product or service available on the premises, except as provided in section 32-607(a).

(c) *Wall signs.*

(1) Wall signs:

a. Identifying a use or establishment may be located on any wall face of the use or establishment they identify in an amount up to 100 percent of the permitted wall sign area; however, the permitted area of wall signs on any one wall face shall not exceed 30 percent of the area of the wall face upon which the wall signs are placed, and no more than two wall signs shall be placed on any one wall face of the establishment they identify.

b. Identifying a building as authorized in section 32-605(d)(13) may be located on any wall face of the building it identifies; however, the area of the building identification wall sign shall not exceed 30 percent of the area of the wall face upon which it is placed.

(2) The restrictions on area, number and placement generally applicable to wall signs shall not apply to cartoon figures or similar illustrations without text and without business logos placed on the walls of day care centers, provided that such cartoon figures or similar illustrations shall cover no more than 30 percent of the area of the wall surface upon which they are maintained.

(3) Wall signs shall not extend above a height of three feet above the roofline.

(d) *Freestanding signs.* Freestanding signs shall be:

(1) Set back no less than five feet from any property line provided the sign does not violate the following vision clearance requirements:

a. Twenty-five-foot triangle at the intersection of two public street rights-of-way.

b. Fifteen-foot triangle at the intersection of a public street right-of-way and an alleyway.

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c. Ten-foot triangle at the intersection of a public street right-of-way and a driveway.

Sight triangle shall be determined by measuring the specified distance along each right-of-way, alley or driveway and then connecting the ends of such lines with an imaginary line.

(2) Located in a landscaped area surrounding the base of the sign in accordance with a landscape plan approved by the city manager. The landscaped area required by this subsection shall count towards the landscaping requirements of article IV, division 8 of this chapter. The city manager may waive the landscaping requirements for existing development nonconforming to article IV, division 8 of this chapter for good cause, if it is determined that the site is unsuitable for locating the sign within a landscaped area or such requirement will adversely impact the development such as resulting in reduction of existing parking.

(3) Shall not project over any pedestrian walkway or over any vehicular driveway.

(e) *Freestanding signs.* Freestanding signs in residential zoned districts when permitted by subsections 32-605(b) and (c) of this article:

(1) Temporary signs and political signs which do not violate the vision clearance requirements of subsection 32-606(d)(1)a., and are not located between the sidewalk and roadway, are exempted from this restriction.

(2) Shall not project over any pedestrian walkway or over any vehicular driveway.

(3) Shall not be located over any public street right-of-way, including the sidewalk; except that a real estate, construction or political sign may be located within a right-of-way in a single-family zoning district if it is not placed between the sidewalk and roadway, or if there are no sidewalks, the sign is set back a minimum of ten feet from the road.

(f) *Illuminated signs.* Illuminated signs, including those located in show or display windows, and exterior lighting shall:

(1) Have their power source or connection shielded in UL-approved housing or other acceptable housing permitted by the National Electrical Code.

(2) Not exceed a maximum intensity of illumination for any type of light source of 20 footcandles when measured 20 feet from the source. Intensities of illumination shall be subject to review by the city electrical inspector, who may request a certified lighting engineer's report at the applicant's expense on the actual intensity of the illumination to determine compliance with the maximum permitted levels of intensity set out in this subsection.

(g) *Awning signs.*

(1) Awning signs shall be maintained in good condition, free from fading or any other condition which renders the signage unreadable, either partially or totally. Additionally, awnings shall be maintained in good condition, free from tears, holes, fading or peeling, inclusive of all supporting structures.

(2) Lettering or other sign copy shall not exceed eight inches in height; however, the city manager may permit logos in excess of eight inches.

(3) Sign copy shall be limited to the name of the owner, building, establishment, or plaza and the street number of the building to which the awning is attached.

(Code 1980, app. A, art. XII, § 6; Ord. No. 2005-15, § 1, 10-3-2005)

Sec. 32-607. Special-use signs.

(a) *Off-premises signs.* Off-premises signs may be permitted by the director, provided that the requested sign is either a pari-mutuel or noncontiguous parking lot sign and meets the following requirements:

(1) Pari-mutuel signs shall:

a. Only identify a licensed pari-mutuel establishment located within the city.

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b. Only be oriented toward and located not more than 200 feet from Interstate 95.

c. Not detract from the overall aesthetics of the community.

d. Be of a directional nature only.

e. Be limited to one such sign per establishment.

f. Not exceed 30 feet in height or 200 square feet in sign area.

(2) Parking lot signs shall:

a. Only be permitted for approved noncontiguous parking lots.

b. Be limited to one sign per lot, with a height limit of six feet and a size limit of ten square feet.

(b) *Political signs.* Political signs shall:

(1) Be limited to one sign per candidate or issue per business establishment, residential dwelling unit or vacant property.

(2) Be removed within 14 days after the election in which the candidate or issue was last on the ballot.

(3) Not be placed upon any tree, utility pole, streetlight, public property, public right-of-way, or abandoned vehicle or machinery, except as may be allowed by section 32-606(e)(3).

(4) Not be placed on vacant property unless the owner or his authorized agent shall have agreed, by execution of an appropriate form of agreement supplied by the city, to permit the placement of not more than one political sign per candidate or issue on the property and that any sign placed, except as so permitted, shall be subject to removal without notice by the director.

(5) Not exceed 16 square feet each in sign area.

(6) Be single-faced or double-faced on one sign structure.

(7) Not be A- or V-type sign or sign structure.

(8) Not be placed nearer to a designated polling place than the distance designated in F.S. § 102.031(3) as the minimum distance from a polling place where political solicitations will be allowed.

(9) Be subject to immediate removal, without notice, by the director for noncompliance with the provisions of this division.

(c) *City entry information signs.* City entry information signs:

(1) May be permitted by the director at or near the city limits on public or private property.

(2) Shall contain only the names or insignias of service clubs, fraternal organizations, churches or synagogues.

(3) Shall not exceed an aggregate sign area of 30 square feet, with no single organization having a sign greater than three square feet in sign area.

(d) *Special-occasion signs, banners, balloons, or decorations.* Special-occasion signs, banners, balloons, or decorations may:

(1) Be permitted by the director for a specified purpose and period of time.

(2) Only be displayed during and up to seven days prior to the recognized holiday, activity, event or grand opening to which they relate. For the purposes of this division, a grand opening shall not exceed 14 days' duration. For the purpose of this subsection, the only activities for which commercial enterprises may qualify for a special-occasion sign, banner or decoration permit shall be grand openings, licensed going out of business sales, established legal holidays, or changes in ownership or management. Noncommercial entities can only qualify for a legitimate, established activity or event directly related to their function or purpose as determined by the director.

(3) Be displayed up to 30 days prior to Christmas if such sign, banner or decoration relates directly to the holiday period.

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(4) Be permitted by the director for activities for which a temporary use permit has been issued pursuant to sections 32-701—32-707; provided that, except as set forth in subsection (d)(2) and (3) of this section, they may only be displayed during the specific period of time for which the permit was issued.

(5) Be displayed by a business having direct ground floor customer access from outdoors once every six months for a 14 consecutive day period for the purpose of business promotional advertisement; such displays shall not impede pedestrian and or vehicular traffic, obstruct required off-street parking or other businesses, not be located in the public right-of-way, and not be offensive or lewd, depending on city manager or designee approval.

(6) The city manager may approve special occasion signage for a period greater than 14 days and more than twice a year for special events or occasions as determined by the city manager.

(e) *Signs for special events.*

(1) In addition to signs otherwise permitted by this division, applicants may be permitted the following special-event signs:

a. Balloons no larger than 15 inches in diameter and in groups of no more than five balloons per cluster may be located at the site of the special event. Such clusters shall be placed and distributed so as to be consistent with visual clearance and traffic safety. Placement of such balloons shall occur no earlier than 24 hours prior to the event and shall be removed no later than 24 hours after the termination of such event.

b. One single-faced or double-faced freestanding sign of 32 square feet or less per roadway frontage of not less than 1,000 linear feet identifying the event and/or sponsor and located on the roadway frontage of the property where the special event will occur. Placement shall occur no earlier than ten days prior to the event, and the sign must be removed within 48 hours following the termination of the event. If a location on a particular property is not feasible, the city manager may authorize such sign to be placed on the abutting right-of-way in a manner consistent with visual clearance and traffic safety.

c. Freestanding signs no greater than 16 square feet in area identifying the special event, giving directional information and otherwise in compliance with visual clearance and traffic safety, may be permitted to be placed in the roadway median adjacent to the property where the event is taking place. Such signs shall be permitted only during such event.

d. Banner signs advertising a special event and containing information as to the name of the event, its date and sponsors of the event, if applicable, suspended over roadways in sizes approved by the city manager and having height clearances not less than 16½ feet above the crown of the road may be approved by the city manager if consistent with visual clearances and traffic safety. Such signs shall be approved by all regulatory agencies having jurisdiction, including the state department of transportation and the county traffic engineering division and shall be placed no earlier than 14 days prior to the special event and removed no later than 48 hours after the special event.

(2) A refundable cash bond or surety bond payable to the city conditioned upon timely removal of the signs permitted in this subsection in an amount equal to the anticipated cost of removal, but not less than $50.00 per sign applied for, shall be submitted prior to issuance of any permit under this subsection. Applicants shall also provide a certificate of insurance naming the city as an additional insured in an

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amount calculated to cover reasonably anticipated liability arising out of or in connection with the posting of such signs. A fee shall be charged for issuance of a special-event sign permit.

(f) *Temporary signs.* Businesses adversely impacted by road construction shall be permitted to erect one temporary portable sign and one banner to direct customers to their place of business. Portable signs:

(1) Shall not exceed an aggregate sign area of 16 square feet.

(2) May be single faced or double faced on sign structure.

(3) May be located off-premises if the temporary sign does not create a safety hazard nor obstruct vehicular or pedestrian traffic. Signs erected in violation of this subsection shall be subject to immediate removal, without notice.

(Code 1980, app. A, art. XII, § 7; Ord. No. 2003-03, § 1, 1-21-2003; Ord. No. 2005-1, § 1, 1-4-2005; Ord. No. 2005-15, § 1, 10-3-2005)

Sec. 32-608. Nonconforming signs.

(a) *Determination of nonconformity.*

(1) Every sign or sign structure lawfully in existence and conforming prior to the effective date of this division, which, by virtue of the limitations on the number, height, sign area, size, location, use, design or construction, or structural support contained in this division, does not conform with this division, shall be considered nonconforming and subject to removal as specified in subsection (b) of this section.

(2) Signs or sign structures that have never been lawfully permitted and never were a valid nonconforming use shall be subject to immediate removal. All signs or sign structures that were erected without a permit but conform to this division must obtain a permit immediately and a fine shall be paid in the form of a double permit fee.

(b) *Removal required.* All nonconforming signs or sign structures shall not be structurally altered or enlarged unless they are made to conform with all the requirements of this division except as provided as follows:

(1) All nonconforming projecting signs shall be removed when the presently advertised business ceases to operate.

(2) Existing nonconforming monument signs which have received a sign permit and otherwise comply with the provisions of subsection 32-606(d), except for setback, shall be allowed to remain.

(3) Nonconforming freestanding signs advertising establishments existing at the time of the passage of this section may remain, be repaired, replaced or altered provided that there is no increase in nonconformity to the previous sign. Any change of copy to advertise a new establishment at single-use properties is subject to the terms of subsection (4) below, and such sign at multi-use property must be removed or made conforming if a new conforming freestanding sign is erected on the property.

(4) Nonconforming freestanding signs for a single-use property shall be removed when the presently advertised business ceases to operate or shall be altered or replaced with a freestanding sign which reduces nonconformities. Such sign shall not exceed a height of 15 feet or the sign area specified by subsection 32-605(d)(2)a. for the establishment. Such sign shall have a pylon base flush with the ground under all or minimum of 50 percent of the width of the sign structure so as to cover the supporting poles of the sign. The sign shall be of materials and design per the city's design guidelines manual and acceptable to the city manager. Any person aggrieved by the decision of the city manager may appeal to the city commission by filing an administrative appeal within 15 days after the date of the decision complained of and provide the reasons for appeal.

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(5) Nonconforming freestanding signs in the RS-5, RS-6, RS-7, RD-12, RM-18, and RM-25 zoning districts may be maintained and repaired subject to the terms of subsections (c),(d) and (e) below provide however that such sign must be removed or made conforming if a new conforming freestanding sign is erected on the property. Replacement signs shall comply with the requirements of this division.

(c) *Natural damage.* Nonconforming signs and sign structures which, to the extent of 50 percent or more of their value, are destroyed by wind, deterioration or other damage shall be made to conform with all the requirements of this division or be completely removed.

(d) *Nonconforming signs in RM-25 district.* Directional signs or signs identifying a residential structure which were existing and legally permitted as of August 21, 1979, located on any lot, tract or parcel of land in the RM-25 use district within the city are exempt from the amortization provisions of subsection (b) of this section. Signs exempt under this subsection may be replaced during the life of the residential structure with which the exempt sign is associated, provided that such replacement sign is no greater in square feet than the sign it replaces and does not enlarge, increase, expand, extend or intensify the previous sign use. Signs having any commercial content or which are prohibited under subsection 32-604(e) are not exempted by this subsection.

(e) *Conforming, nonconforming signs prohibited on same premises.* No conforming sign or sign structure shall be erected on the same premises with an existing nonconforming sign until the nonconforming sign has been made to conform with all the requirements of this article. Existing nonconforming signs to this provision shall be made to conform within six months from the adoption of this section.
(Code 1980, app. A, art. XII, § 8; Ord. No. 2001-16, § 3, 9-18-01; Ord. No. 2005-15, § 1, 10-3-2005)

Sec. 32-609. Administration and enforcement.

(a) *By city manager.* The requirements of this division shall be administered and enforced by the city manager.

(b) *The city manager.* The city manager may administratively grant a variance of up to 20 percent pursuant to subsection 32-965(h), provided line of sight and other safety considerations are not compromised. An appeal by an applicant from the city manager's denial of a sign variance shall proceed under subsection 32-965(h)(5).

(c) *Vacant premises.* All sign copy shall be removed by the owner or lessee or person in control of the premises when the establishment which it advertises ceases to operate.

(d) *Produced on violations and appeals.*

(1) If the director shall find that any of the provisions of this division are being violated, he shall give written notice to the person responsible for such violation, or the owner of the premises on which the violation occurs, indicating the nature of the violation and ordering the action necessary to correct it. The director shall order discontinuance, alteration or removal or take any other action necessary to correct violations or ensure compliance with all the provisions of this division.

(2) Issuance of a permit shall not be construed to be an approval of any violation; and upon discovery of a violation, the director shall order its immediate correction and may stop or prevent the erection of any sign until the correction is completed.

(3) Any appeal from the decision of the director shall be made to the city commission within 30 days after rendition of a denial. All pertinent information, specific details, both graphic and written, shall be submitted with the appeal for the city commission's consideration or the appeal shall not be considered.

(e) *Interpretation of applications for permits.* In all applications for permits where a matter of interpretation arises, this division shall be strictly construed against the applicant.

(f) *Penalties.* A person violating any of the provisions of this division shall upon conviction be punished as provided by law. Each day such

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violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this subsection.

(g) *Variances.*

(1) A variance to the terms of this division may be granted by the city commission where, due to special conditions and circumstances which are peculiar to the land, structure or building involved, a literal enforcement of the provisions of this division will result in unnecessary and undue hardships.

(2) In order to authorize any variances under this subsection, it must be found that the:

a. Land, structure or building involved has been adversely affected by a change resulting from the actions of a public body or public utility, such as but not limited to road widening or one-way road coupling, or relocation of a utility pole; and

b. Change did not result from the actions of the applicant.

(3) Applications for variances under this subsection shall be filed with the director on prescribed forms and shall include a statement of the applicant's interest in the subject property. If the applicant is not the owner of record, the written consent of the owner shall be required.

(4) Applications for variances under this subsection shall be accompanied by sufficient data, such as a site plan or survey and a depiction of the sign and building, so that an evaluation of the facts and circumstances can be made.

(5) There shall be a filing fee for each application for a variance under this subsection. Such fee is on file in the city clerk's office.

(6) The application and a staff report shall be transmitted directly to the city commission.

(7) Such variance application shall be advertised, posted and noticed in conformity with the provisions of section 32-967 respecting variances.

(h) *When applications for sign variance not permitted.* Applications for sign variances will not be considered with respect to signs for which permits have been issued where such signs were not constructed in conformity with plans and specifications submitted for such permits or where such signs have been constructed without permits.

(Code 1980, app. A, art. XII, § 9; Ord. No. 2005-15, § 1, 10-3-2005)

Cross reference—Administration, ch. 2.

Secs. 32-610—32-630. Reserved.

DIVISION 18. SOLID WASTE DISPOSAL*

Sec. 32-631. Definitions.

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

Bulk items includes appliances, furniture, console televisions and other similar items.

Bulk waste and recycling container means a wheeled container of eight cubic yards or less made of watertight construction with a hinged top and constructed so that it can be emptied mechanically by specially equipped trucks.

City manager means the city manager or any person or department designated by him.

Construction and demolition debris means material generally considered to be not water soluble and nonhazardous in nature, including but not limited to steel, glass, brick, concrete or asphalt roofing material.

Equalization fee means an annual charge to any private hauler that has not delivered all solid waste collected by the hauler in the city, or the equivalent amount of waste that is calculated to be generated by the customers served and for

*__Cross reference—__Health and sanitation, ch. 13.

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which plant facilities have been provided, to the city's designated disposal facility. The fee is determined by the total tons delivered compared to the hauler's quota calculated by the city based on the number of containers serviced and the average tonnage to be generated monthly by the premises served, and the shortage, for any fiscal year, multiplied by the prevailing tipping fee rate at the designated disposal facility during that 12-month period.

Fee means a charge for services performed by the city or for the exercise of certain privileges, as established by resolution of the city commission and contained in the fee booklet maintained by the city clerk.

Garbage includes all kitchen and table refuse; offal; all general combustible waste, as paper and rags, pasteboard boxes; every accumulation of animal and vegetable matter that attends the preparation, decay, dealing in or storage of food or food products; and whole bottles, broken glass and empty tin, fruit or vegetable cans.

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

Refuse receptacle means any container used for storing garbage and/or trash constructed of metal or plastic, strong, not easily corrodible, rodentproof, watertight, with a tightfitting lid, provided with handles sufficient for safe and efficient handling and kept in a serviceable condition.

Trash includes all waste or refuse other than garbage, including but not limited to garden and lawn clippings and other waste, grass and other plant clippings, leaves, tree limbs and branches, palm fronds and similar matter.
(Code 1980, § 24-1)

Cross reference—Definitions generally, § 1-2.

Sec. 32-632. Removal required.

(a) All residents, occupants or owners of premises in the city shall be required to have accumulations of garbage and trash removed and disposed of as authorized in this division, and the city shall provide adequate equipment, personnel and facilities to serve the city. Each premises and/or the owner or occupant shall be subject to the fees provided by resolution or administrative order for the service or availability of service.

(b) This requirement may be waived pursuant to the provisions of section 32-645 or, by making application for a permit under section 32-639(i)(1), an application for waiver may be approved by the city manager upon a satisfactory showing that absolutely no garbage or trash is generated on the premises, or that city service is unavailable or impractical, or for other good and sufficient reasons. His decision may be appealed to the city commission.
(Code 1980, § 24-1.1)

Sec. 32-633. Refuse receptacles; general specifications.

(a) All persons in the city keeping or offering garbage for collection shall utilize watertight receptacles or containers of impervious material fitted with handles and provided with covers suitable to protect the contents from flies, insects, rats and other animals. All automated and many bulk waste containers are provided by the city.

(b) It shall be the duty of the person offering garbage for collection to keep receptacles in a clean and sanitary condition at all times.

(c) All persons keeping or offering garbage for collection shall provide adequate receptacles so that at all times when the receptacles are placed for collection there will be no overflow and no garbage offered which is not contained in the proper receptacle.

(d) It shall be the duty of both the owner and tenant jointly and severally to place all garbage, trash and litter in the garbage receptacles, bags or boxes so that no garbage, trash, litter or debris will be exposed.

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(e) All garbage or trash which is moist or wet or subject to organic decomposition must be wrapped in paper or placed in paper bags or plastic bags before being placed in the refuse receptacles.

(f) It shall be unlawful for any person to stack, pile or maintain organic or inorganic materials of any nature which are not intended to be utilized within a reasonable time, and where such materials become harborage and breeding places of vermin, rodents or other pests.
(Code 1980, § 24-2)

Sec. 32-634. Number of containers.

(a) All persons offering garbage for collection shall utilize receptacles in accordance with the following schedule:

	Number of Units	*Number of Containers*
(1)	1—4 residential	One automated container collected one time per week. Additional automated containers collected on the same collection day, and/or an additional collection day each week may be obtained by the customer at an additional cost.
(2)	Five or more residential and all nonresidential.	One or more bulk waste containers adequate to fully containerize all solid waste or trash generated by the units as approved by the city manager.

(b) Bulk waste containers shall, at the option of each user, be of an eight-cubic-yard or less capacity.

(c) If it is not feasible for a nonresidential or five or more unit residential facility to employ a bulk waste container by reason of lack of space, the city manager may authorize use of refuse receptacles if he determines that use of a bulk waste container is not feasible and the use of refuse receptacles will not impair collection of waste or pose a danger to the health, safety or welfare of the residents of the city.
(Code 1980, § 24-2.1)

Sec. 32-635. Placement and standards for waste and recycling containers.

(a) All receptacles shall be kept in a place easily accessible to garbage collectors but shall not be placed upon any street or sidewalk, alley or public place.

(b) Except for single-family dwellings and multiple-dwelling units of four units or less, bulk waste and recycling containers shall be kept within opaque enclosures of wood or masonry construction so as not to be visible from the street and from abutting properties.

(1) *Placement of enclosures.* Enclosures shall be located not less than ten feet from any street right-of-way (except service alleys), and shall be located as to facilitate safe

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vehicular movement and be convenient for users and accessible to servicing vehicles.

a. All enclosures shall be required to provide a minimum visibility clearance at street and driveway intersections as follows:

1. At street intersections, no enclosure shall be located within an area 25 feet along each intersection right-of-way, and then connecting the ends of the lines.

2. At intersections of driveways and streets, no enclosure shall be located within an area ten feet along each intersecting line and then connecting the ends of the lines.

b. The city manager shall have the discretion to permit the enclosure to be located in a setback area or a parking space required under this chapter when no other suitable location exists on the property.

(2) *Construction standards.* All exterior bulk waste and recycling container enclosures shall be constructed to comply with the following standards:

a. Determination for construction of wood or masonry enclosures shall be predicated on the current requirements of the South Florida Building Code, Broward Edition.

b. The enclosure walls and gates must be at least six inches above the height of the container, but in no case shall the enclosure be less than six feet in height.

c. The base of the enclosure shall be a hard-paved surface of asphalt or poured concrete with dimensions at least 24 inches larger on all sides than the container to be located upon the base. The minimum inside dimensions of any enclosure shall be no less than six feet by six feet. The base shall be equipped with a drain where a drain is required by the South Florida Building Code, Broward Edition, and designed in a manner so as to drain only the area of the enclosure base. The access drive to the enclosure shall be designed to bear the weight of a garbage truck and shall be so maintained. Concrete wheel stops or similar material shall be placed at the sides and rear of the enclosure six inches from the walls to prevent the container from striking the walls of the enclosure.

d. Both enclosure types shall be constructed with quality materials of sufficient strength and assembly to withstand the elements and normal daily use of rubbish disposal and pickups. Enclosures constructed of wood shall be assembled utilizing pressure-treated wood and sufficient vertical and lateral support bracing as approved by the building official at the time of permit application. When masonry construction is required or used, all exterior walls shall be stuccoed to present a finished appearance.

e. All enclosures shall be constructed with opaque gates of metal frame. Chainlink gates with slats shall not be permitted. The gates shall be attached to metal posts a minimum of three inches in diameter with a minimum of three hinges per post. Each gate shall have a wheel at the bottom to prevent it from sagging. The gates shall have drop pin/rods to hold them in place in both the open and closed position.

f. All enclosures constructed for use on residential property shall be constructed with a 30-inch opening on one side as a pedestrian access to the enclosure which shall enable a person to walk into the enclosure to deposit trash, and shall be located immediately adjacent to one of the

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opaque gates. The pedestrian opening shall be screened from view by a wood fence six feet in height, or by landscaping of equal minimum height so planted as to provide maximum opacity. A walkway of concrete or asphalt shall be provided for the pedestrian opening that is a minimum of 30 inches in width.

(3) *Appearance and maintenance standards.* All exterior bulk waste and recycling container enclosures shall be required to comply with the following standards:

a. All exterior and interior walls and gates of both wood and masonry enclosures shall be painted in a color which is compatible with the color of the building or buildings it serves. Patchwork painting shall be prohibited.

b. Signage of any type or graffiti shall not be permitted on the walls and gates of any enclosure.

c. All enclosures shall be maintained in good condition and appearance at all times. Peeling, fading or chipped paint shall be restored; and any structural damage shall be repaired.

d. Trash, garbage or recycling materials shall be kept in the container. At no time shall these materials be placed around the container or outside of the enclosure.

e. Enclosure gates shall be kept closed and secured, except when materials are being placed in the container or the container is serviced.

f. Multiple-family dwelling units and commercial establishments that can be automated by utilizing bulk waste automated containers shall be required to maintain a landscaped enclosure area, subject to the requirements of subsection (b)(1)a. of this section, adjacent to a driveway or roadway for collection by the city's automated truck.

(4) *Location of containers.*

a. For residential (1—4 units), the waste container (automated container only) shall not be placed near the street for collection service before 6:00 p.m. on the day preceding the day of pickup and shall be returned to the proper storage place at least 25 feet from the street right-of-way line by 9:00 p.m. on the day of pickup. The automated container shall not be placed within four feet of any permanent object or vehicle when placed by the street (or alley) for collection.

b. For commercial and multiple (five or more units) family containerized service:

1. All bulk waste or recycling containers shall be kept in a place easily accessible to garbage collectors but shall not be placed upon any street or sidewalk, alley or public place.

2. Bulk waste and recycling containers shall be kept within opaque enclosures of wood or masonry construction so as not to be visible from the street and from abutting properties.

(5) *Storage.* Receptacles for multiple-dwelling units may be stored in enclosed CBS rooms within principal structures.

a. Garbage storage rooms shall be large enough to accommodate the required number of bulk waste containers.

b. Garbage storage rooms shall be located not more than 25 feet from a site available to the garbage pickup unit. The 25 feet shall be of a hard-paved surface.

c. The owner of any property with a garbage storage room shall furnish a hold harmless agreement to relieve the city of any liability not arising as a result of negligence to the property or containers as a prerequisite to garbage collection service by the city.

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d. It shall be the duty of the owner or person in charge of the property to see that the containers are rolled out of the storage room for pickup and are properly cleaned and returned to the garbage storage room after collection. A charge as established by resolution shall be made for city staff, where requested, to roll out and return one container at a particular location; however, the owner or person in charge shall in any case remain responsible for cleaning the container. An additional charge as established by resolution shall be imposed for each additional container at the same location rolled out and returned by city staff.

(Code 1980, § 24-2.2)

Sec. 32-636. Amortization of nonconformity for bulk waste containers.

(a) All nonconforming containers or enclosures in existence on the effective date of this section shall conform with current requirements of this Code within the time period specified in this division. Existing enclosures which meet appearance and maintenance standards shall not be required to conform to construction and placement standards. If a nonconforming enclosure is destroyed or deteriorated by more than 50 percent of its value, the enclosure shall be required to meet all standards of this division.

(b) Within three months of issuance of a notice of violation, all bulk waste and recycling containers and their enclosures, nonconforming as to appearance and maintenance standards but otherwise in conformance with other standards in this division, shall comply with current requirements of this Code.

(c) Within six months of issuance of a notice of violation, existing nonconforming properties for which an enclosure is lacking or is inadequate with respect to present construction, placement, appearance and maintenance standards in this division shall comply with current Code requirements.

(d) The city manager is authorized to waive compliance by those persons who have made application and who have demonstrated the following:

(1) Special conditions exist peculiar to the land, structure or building involved.

(2) Such conditions do not arise from the actions of the applicant.

(3) That literal interpretation of the Code would work unnecessary hardship on the applicant.

(4) That the relief requested is the minimum necessary to permit use of the bulk waste container in question.

(e) Any person who applies for and is denied a waiver by the city manager shall be notified that he may appeal directly to the city commission for a review of the city manager's decision by filing a written request for such review with the city manager within ten days of rendition of city manager's denial.

(Code 1980, § 24-2.3)

Sec. 32-637. Safety and sanitation.

(a) *Determination of unsafe conditions.* All receptacles used for garbage collection and all containers, pads and access drives shall be maintained in a safe condition. The city shall determine the safe or unsafe condition of such containers, pads and access drives by reference to the following factors, among other relevant factors:

(1) Whether the receptacle or its lid is rusted through;

(2) Whether the bulk waste container has a sufficient number of freely rotating/pivoting wheels to enable the crew to move the container readily into position for mechanical pickup;

(3) Whether the receptacle is equipped with a properly operating lid with handles;

(4) Whether the bulk waste container can be safely picked up and dumped by the garbage collection truck;

(5) Whether the garbage cans can be safely picked up and dumped by city personnel;

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(6) Whether the lift bars on the bulk waste container are cracked at the point of attachment to the container body or are bent or lack ring stoppers at the ends;

(7) Whether, in the case of multiple-cubic-yard compacted type containers, the container is equipped with a cable hook in the center of the back of the container; and

(8) Whether the unit is located on a hard-paved surface available to the garbage collection truck and whether such site consists of hard-paved surface of a minimum size of six feet by six feet, allowing for the container to be maneuvered.

It shall be unlawful and a violation of this Code punishable as provided in section 1-8 to fail to maintain a receptacle, container, pad or access drive, in a safe condition or so as to meet each of the factors listed in this subsection.

(b) *Determination of unsanitary conditions.* All receptacles used for garbage collection shall be maintained in a sanitary condition. Persons owning, possessing or maintaining such receptacles shall clean and deodorize them on a weekly basis. Failure to maintain receptacles in a sanitary condition shall be a violation of this Code, punishable as provided in section 1-8.

(c) *Notice; correction of defect within five working days.* Upon determination that a container is unsafe, the city manager shall notify the owner or person in charge of the property on which the container is located of such defect by either posting the defective container or by serving a written copy of the notice of defect personally or by certified mail. The owner or person in charge of the defective container shall have five working days from the time of service to correct the defect specified in the notification.

(d) *Special collection charge upon failure to correct defect.* Upon the failure of the owner or person in charge of the defective container to effect appropriate repairs or to replace the container with a safe container within the time allowed, the city may make provision for collecting a special collection charge as set forth in section 32-640 for each special collection required until appropriate repairs or replacement is accomplished. This special collection charge shall be over and above the normal cost of collection with mechanical equipment for that type of container to the owner or person in charge of the defective container. The special collection charge shall be levied against both residential and commercial establishments that utilize mechanical collection furnished by the city. If the special collection charge is not paid by the owner, the city shall have the right to file a lien against the property on which the container is located bearing interest at the rate of 12 percent per annum for any collection charge due.

(e) *Special collection charge for overflowing container.* A special collection charge as set forth in section 32-640 over and above the normal cost of collection shall be charged for each collection made where it is necessary to collect or gather garbage or debris distributed or placed outside a bulk waste container or which has overflowed from a bulk waste container. If the special collection charge is not paid by the owner, the city shall have the right to file a lien against the property on which the container is located bearing interest at the rate of 12 percent per annum for any collection charge due.
(Code 1980, § 24-3)

Sec. 32-638. Trash collection.

(a) All persons keeping or offering trash for collection shall choose from the following city-offered services:

(1) One time per year collection of yard waste (only) of up to 32 cubic yards at no additional cost to the property owner/occupant.

(2) The owner/occupant may deliver nonhazardous waste to the city's operated drop-off facility for disposal at no additional cost, with no limit on number of trips per year in a noncommercial sized or marked vehicle (only pickups, small trailers, vans, cars and station wagons allowed).

(3) Hazardous waste for disposal must be taken to the facilities designated by the city for acceptance of such waste.

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(4) The owner/occupant may call the city's sanitation HOT line and request special trash collection services for nonhazardous type debris. Debris for special collection by the city shall not be placed on the right-of-way for collection more than 48 hours before scheduled collection. The owner/occupant of any residence or business entity shall pay such fee as established in the city's fee booklet.

(b) No bulk item shall be left for collection unless the city is first contacted for a special pickup. Bulk items shall be placed on the unpaved public right-of-way or in a location that is easily accessible to collectors. No bulk item shall be placed on the right-of-way for a period longer than 48 hours prior to a collection. A fee shall be paid by the person or business requesting such pickup.

(c) The city manager may establish an automated yard waste collection program. The days, hours and frequency of automated yard waste collection shall be at the discretion of the city manager. The city manager shall establish and adjust such fees for the automated yard waste collection program, and such fees shall be calculated to recover the costs associated with such program, including but not limited to labor, equipment, material and overhead, and shall become effective upon publication in a policy memorandum setting forth the fees.
(Code 1980, § 24-4)

Sec. 32-639. Garbage, construction and demolition debris, recycling, bulk items, and trash collection by city; private haulers; permit required.

(a) *Generally.*

(1) All garbage which is produced in the city shall be collected, conveyed and disposed of by the city except as provided in this section. No person shall collect or convey over any of the streets or alleys in the city any garbage produced in the city, without a garbage hauling permit or disposal permit, as applicable, issued pursuant to this division. The issuance of such hauling permit shall be based solely on the factors set forth in subsections (e) and (f) of this section and in the case both of hauling permits and disposal permits on the inability or refusal of the city to provide service as the circumstances may require. Renewal of existing hauling permits shall be based upon compliance with the factors set out in subsections (e) and (f) of this section. Persons who are presently served by the holder of a hauling permit may obtain a disposal permit notwithstanding the present ability of the city to serve that account.

(2) All construction and demolition debris, recycling, bulk items and trash which are produced in the city shall be collected, conveyed and disposed of by the city except as provided in this section. No person shall collect or convey over any of the streets or alleys in the city any construction and demolition debris, recycling, bulk items or trash produced in the city, without a hauling permit or disposal permit, as applicable, issued pursuant to this division. The issuance and annual renewal of such hauling permits shall be based solely on the factors set forth in subsections (e) and (f) of this section and in the case both of hauling permits and disposal permits on the inability or refusal of the city to provide service as the circumstances may require. Persons who are presently served by the holder of a hauling permit may obtain a disposal permit notwithstanding the present ability of the city to serve that account.

(3) There shall be separate and distinct hauling permits or disposal permits, as applicable, issued for garbage, construction and demolition debris, recycling, bulk items and/or trash, respectively, issued pursuant to this division.

(b) *Frequency of pickups.* Days, hours and frequency of garbage pickups are in the sole discretion of the city manager. Restaurants and other establishments serving food for immediate consumption on or off the premises shall have garbage collection at least four times per week or as

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otherwise authorized by the city manager. Other nonresidential customers shall have garage collection at least one time per week.

(c) *Prior placement.* No garbage, trash or bulk items to be collected by a private hauler shall be placed on the right-of-way for a period longer than 24 hours prior to collection. Construction and demolition (C&D) debris shall be placed in a rolloff container specially designated for this type of debris and located on private property.

(d) *Collection by private contractor.* No person shall collect, convey or dispose of any garbage, construction and demolition debris, recycling, bulk items or trash accumulated in the city without first having obtained the respective hauling permit from the city manager. A permit shall be issued only upon the criteria set forth.

(e) *Permit required.* Any person who wishes to obtain permits to collect, convey or dispose of any garbage, construction and demolition debris, recycling, bulk items and/or trash accumulated in the city must first make application to the city manager. The application shall include a cashier's check or certified check in the amount established for each such permit and the established application fee for the permits, respectively. Each applicant shall submit in writing a list of its qualifications for each hauling permit. Such list shall include the following:

(1) Evidence of adequate number of trucks to provide service, and backup level to properly service the number of customer accounts applied for.

(2) Certification of proper and adequate insurance coverage of not less than $1,000,000.00 public liability insurance.

(3) Evidence of sufficient maintenance ability to meet the service needs of the number of trucks and equipment to be used by the permittee.

(4) Demonstration that a business office with a toll-free telephone number will be operated to provide adequate response to customer inquiries or complaints. The office address shall be provided.

(5) Agreement that hours of service will be limited to the hours of 7:00 a.m. to 8:00 p.m.

(6) Agreement that all pickup of food and other putrescents from commercial establishments shall be at least four times a week, regardless of the size of the container.

(7) Agreement that service will not be discontinued unless written notice is delivered to the address receiving the service ten days prior to the discontinuance of service, with a copy of the notice being sent at the same time to the city manager.

(8) Name, address and telephone number of the person to be contacted by city with reference to the operation of this section.

(9) Names and addresses of the owners of the company making the application. If the applicant is a corporation, this includes a list of all officers and directors. If the applicant is a partnership, this includes a list of all partners.

(10) The applicant shall provide a list of all felony convictions within the past ten years in federal court, or the court of any state for violation of antitrust, anticompetitive, racketeering or fraudulent practices laws with a brief description of the circumstances. This subsection also applies to all individuals listed in subsection (e)(9) of this section.

(11) The applicant shall list any and all cities and counties from which the applicant or the principals have involuntarily withdrawn service during the five-year period immediately preceding the date of the application. The applicant shall also list any and all franchises issued to the applicant which have been suspended or revoked for the five-year period immediately preceding the date of the application with a brief description of the reason for such withdrawal.

(12) The applicant shall agree to pay the city hauling permit fees for garbage, construc-

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tion and demolition debris, recycling, bulk items and/or trash based upon compliance set in subsection (f)(7).

(f) *Issuance of hauling permit.*

(1) In determining whether to issue garbage, construction and demolition debris, recycling, bulk items and/or trash hauling permits, the city manager shall consider the information provided by the applicant under subsection (e) of this section. The city manager shall determine, based on these criteria, whether the applicant has sufficient experience, ability, integrity and expertise to allow the applicant to successfully operate within the city in accord with all applicable laws and regulations. In analyzing the information provided in subsections (e)(10) and (11) of this section, the city manager shall consider the number and seriousness of the specific incidents listed.

(2) The minimum annual fee for a permit shall be payable on or before October 1 of each year. A hauling permit fee based on the percentage of revenues received by hauler for solid waste (consisting of garbage, construction and demolition debris, bulk items and/or trash) collection is due every quarter as reported to the city by the hauler in accordance with subsection (f)(5) of this section. Such amount shall be paid in accordance with subsection (7) within 30 days of the end of quarter. All permits shall expire each September 30. However, if a permit is granted for a period of less than six months, the minimum fee shall be half the established minimum annual permit fee in addition to the application fee. A renewal application and an application fee are required each year. Failure to timely provide information required under subsection (f)(5) of this section or to remit the hauling permit fee required under subsection (f)(2) shall be cause for revocation of any issued hauling permit and a violation of this Code punishable as provided in section 1-8 of this Code. Recycling hauling permits are exempt from this franchise fee.

(3) All changes in customer accounts, whether additions or deletions, shall be reported in writing to the city manager within five days of such change, including giving the name of such customer and the disposal permit number of such customer.

(4) [Designated disposal facility.]

a. The city manager is authorized to designate a disposal facility named in any interlocal or private waste disposal agreement entered into by the city, and to require holders of hauling permits to dispose garbage, construction and demolition debris, recycling, bulk items and/or trash at such location, unless the garbage, construction and demolition debris, recycling, bulk items and/or trash are refused at such location; and the hauler is required to provide city where it disposes of same, which shall be at an appropriately licensed facility. Failure by a private hauling permit holder to dispose of garbage, construction and demolition debris, recycling, bulk items and/or trash at such location shall be a violation of this Code, punishable as provided in section 1-8, and shall be cause for revocation of the violator's hauling permit.

b. Private haulers that do not deliver all garbage, construction and demolition debris, recycling, bulk items and/or trash collected in the city or the established respective quota of garbage, construction and demolition debris, recycling, bulk items and/or trash to the city's designated disposal facility are required to pay an equalization fee, if applicable, for any shortfall if the city is charged a shortfall fee by the facility. The fee may be reduced by a prorated percentage among haulers so that the equalization fees equal but do not exceed the city's shortfall charge.

c. The fee is due and payable within 30 days of invoice by the city. The fail-

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ure to pay the equalization fee, as calculated by the city, shall be cause for revocation of the private hauler's permit.

(5) It shall be a condition of issuance or renewal of any hauling permit that the holder of such hauling permit shall report to the city on a quarterly basis at or before a date fixed by the city manager, the revenue, collected from all accounts within the city, except that the franchise fee that may be billed to each customer will be excluded, provided the fee is clearly stated on the customer bill by such private hauler and the following information about individual customers served by the hauler within the city:

a. Location of service;

b. Number, size and type of containers provided;

c. Frequency and days of week service is provided;

d. Duration of contract;

e. Name and address of each account; and

f. Amount billed to customer.

This requirement shall also apply to persons currently holding a hauling permit, and it shall be deemed unlawful and a violation of this Code to fail to timely make the required report.

(6) All permitted private haulers conveying, transporting and disposing of newspapers, cardboard, paper, aluminum and similar materials suitable for recycling are required to conform to the requirements of subsections (f)(4) and (5) of this section. The exemptions provided for in section 32-647 do not relieve haulers from the requirements of subsection (f)(5) of this section.

(7) Hauling permit; hauling permit fee.

a. *Hauling permit requirement.* Any private hauler wishing to collect garbage, construction and demolition debris, recycling, bulk items and/or trash must obtain and maintain in effect respective hauling permits and occupational licenses from the city to conduct its business activity. The term of such hauling permits shall run concurrently with the city's fiscal year.

b. *Hauling permit fee.* Every holder of hauling permits pursuant to this section shall pay the application fee and hauling permit fee based on the percentage of revenues received by a hauler as set by the city commission and stipulated in the city's fee booklet. Recycling hauling permits are exempt from the hauling permit fee based on the percentage of revenues.

c. *Audit requirements.* The city reserves the right to conduct an audit of a private hauler's accounts when and if necessary by using an independent auditor. Every holder of hauling permits pursuant to this section agrees to an independent auditor hired by the city to verify the information and calculations that are provided by the hauling permit holder and used to establish the hauling permit fee.

(g) *Appeal to city commission upon denial of permit; retention of application fee.*

(1) Any person who applied for garbage, construction and demolition debris, recycling, bulk items and/or trash hauling permits and is refused such a permit may appeal directly to the city commission for a review of the decision of the city manager within 30 days.

(2) This appeal shall be forwarded in writing to the city manager for placement on the commission agenda.

(3) If a permit application is denied and no appeal is taken under subsection (g) of this section or if the city commission upholds the city manager's denial of a per-

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mit, the city manager shall refund the money submitted under subsection (e) of this section less the application fee.

(h) *Revocation of permit.* Should any person who holds garbage, construction and demolition debris, recycling, bulk items and/or trash hauling permits violate any of the provisions of this Code, or fail to do a required act of this Code, and should the city manager determine that a permittee is operating in a manner harmful to the health, safety or welfare of the citizens of the city, based upon the requirements of subsections (e) and (f) of this section, or in violation of such requirements, he may revoke the respective hauling permit after a hearing.

(1) Any revocation shall not be effective sooner than three days from the date of mailing and shall not be effective if the permittee requests a hearing within five days of that date.

(2) The permittee shall be given at least seven days' notice of the time, date and place of a hearing to be held by the city manager or his designee. The notice shall state the charges or violations to be heard and shall be held in accordance with due process of law.

(3) At the conclusion of the hearing, the city manager may affirm the revocation or specify such compliance as may be necessary for compliance with this Code or applicable law.

(4) The decision of the city manager may be appealed to the city commission by the permittee's filing of a written request for hearing within ten days of the decision with the city clerk.

(5) Upon hearing, the city commission may affirm, modify or reverse the decision of the city manager.

(i) *Disposal permits; garbage, recycling, bulk items, and trash.*

(1) The owner, tenant, occupant, or his agent, of the premises upon or from which such garbage, recycling, bulk items and/or trash are produced who desires to have such garbage, recycling, bulk items and/or trash collected, conveyed or disposed of by a hauling permit holder shall apply to the city manager for a respective garbage, recycling, bulk items and/or trash disposal permit upon forms to be supplied by the city manager and shall pay an annual fee. Such application shall specify the nature of the garbage, recycling, bulk items, and/or trash the applicant will dispose. The disposal permit provided in this subsection shall be nontransferable. It shall be unlawful for any person to offer garbage, recycling, bulk items and/or trash for collection, conveyance or disposal to any person other than the city unless the owner, tenant or occupant of the premises upon or from which such garbage, recycling, bulk items, and/or trash are produced has first obtained the disposal permit required in this subsection. It shall also be unlawful for any person other than the city to collect, convey or dispose of garbage, recycling, bulk items, and/or trash produced within the city unless the owner, tenant or occupant of the premises upon or from which such garbage, recycling, bulk items, and/or trash are produced has first obtained the respective disposal permit required in this subsection. It shall further be deemed a violation of this Code subjecting the holder of a hauling permit to its revocation if such holder services a customer who does not hold a currently valid respective disposal permit.

a. Persons served at the effective date of Ordinance No. 87-26 by a private hauler holding a valid hauling permit and occupational license shall obtain the disposal permit provided in this subsection within 90 days of such effective date. The city manager is authorized to promulgate rules and regulations reflecting proof of service by a private hauler at such effective date.

(j) *Disposal permit; construction and demolition debris.*

(1) The owner or his agent of the premises upon or from which such construction and

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demolition debris is produced who desires to have such debris collected, conveyed or disposed of by a hauling permit holder shall apply to and pay for a construction and demolition debris disposal permit (C & D Disposal Permit) upon a form to be supplied by the building department as part of the demolition and/or construction building permit process. Such application shall specify the nature of the debris the applicant will dispose. The C & D Disposal Permit provided in this subsection shall be nontransferable. It shall be unlawful for any person to offer construction and demolition debris, conveyance or disposal to any person other than the city unless the owner, tenant or occupant of the premises upon or from which such construction and demolition debris is produced has first obtained the C & D Disposal Permit required in this subsection. It shall also be unlawful for any person other than the city to collect, convey or dispose of construction and demolition debris produced within the city unless the owner, tenant or occupant of the premises upon or from which construction and demolition debris is produced has first obtained the C & D Disposal Permit required in this subsection. It shall further be deemed a violation of this Code subjecting the holder of a hauling permit to its revocation if such holder services a customer who does not hold a currently valid C & D Disposal Permit.

(Code 1980, § 24-5; Ord. No. 2006-25, § 1, 11-20-2006)

Editor's note—Ord. No. 2006-25, § 1, adopted November 20, 2006, changed the title of section 32-639 from "Garbage collection by city; private haulers; permit required" to read as herein set out.

Sec. 32-640. Fees for collection.

(a) *Nonresidential collection.*

(1) The monthly fees applicable to all nonresidential customers for garbage and trash collection and disposal shall be as established by resolution.

(2) The categories of fees labeled "each additional" in the fee booklet under "Fees for Collection," are year-round fees which shall apply only to residential facilities of five or more units with bulk waste containers in one location, as determined by the city manager and having significantly reduced occupancy on a seasonal basis which is determined to be so reduced by the city manager. Facilities not determined to have reduced occupancy shall pay the appropriate fees as established by resolution.

(b) *Residential collection.* The monthly fees applicable to regularly scheduled collections for all residential customers for garbage and trash collection and disposal or their availability shall be as follows:

(1) Single-family residences and buildings with four or less units shall be provided solid waste collection service for up to 100 gallons per week, per unit. Additional container collection on normal collection days or increased frequency may be obtained at the established additional fee. On special occasions selected by the city manager, additional household garbage contained in plastic bags and placed by the automated container shall be collected by city crews at no additional charge.

(2) Buildings with five or more units, fees will be based on the volume of containers and the frequency of collection in accordance with the fees for nonresidential service.

(3) Garbage and trash fees may be temporarily reduced to 50 percent of the monthly fee for that customer if the premises is vacant and the water service is disconnected. It shall be the responsibility of the person desiring the benefit of the reduction provided in this subsection to request the reduction. Changes made as a result of any such request shall be prospective only, and this subsection shall not be deemed to authorize refunds.

(c) *Special collection.*

(1) Customers requiring a special collection for garbage and/or trash over and above

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the regular collection may request such and, if approved by the city manager, the charge for such special collection shall be as follows:

a. A special trip charge, for collection on other than regular scheduled day, as set forth in the fee booklet (add to calculated rate found in subsection (c)(1)b. of this section).

b. A rate per container collection shall be calculated as a prorated amount of the established rate, for one collection of the specific container size collected. The formula for calculating this rate is as follows:

$$\frac{\text{Rate per container}}{\text{week}} = \frac{\text{Set rate per month} \times 12 \text{ months}}{\text{regular frequency per week}} \times 52$$

Note: Calculated rate shall be rounded up to next even $0.10.

(2) a. Whenever special pickups are necessary for residential or commercial locations for loose debris such as tree trimmings and miscellaneous trash not in containers, boxes or bundles and/or for bulk items, a charge will be imposed on the owner of the property, the tenant in possession or the person liable for water charges to the premises. For loose debris, the charge shall be as established by resolution.

b. In addition, where the pickup is the result of a code enforcement activity and a notice of violation has been issued, an administrative charge shall be levied, in addition to the established collection charge.

(d) *Collection of fees.* The amount of collection fee imposed in this section is declared to be a debt due to the city; and any person required under the terms of this chapter to have accumulations removed and disposed of by the city shall be liable to the city for the amount of collection fee due thereafter; and such fee shall, until paid, constitute a debt and shall be recoverable in any court of competent jurisdiction. In addition, the cost of collection and the amount of collection fee shall constitute a lien against the premises to the same extent and of the same character as a lien for special assessments, and with the same penalties and with the same rights of collection, foreclosure, sale or forfeiture as obtained by special assessment liens, and may be handled in the same manner by the city. If an action is filed, the city shall also be entitled to recover a reasonable attorney's fee.

(e) *Noncurbside collections.* In order to compensate for additional labor involved, an additional fee per unit per month for one to four units shall be charged for collecting garbage or trash required to be placed at or near the curb for collection if such garbage or trash is not so placed. Noncurbside collection shall be available only to persons who have requested it in advance.

(f) *Pass through of tipping fee.* The city manager is authorized without further action on the part of the city commission to adjust the fees established in this section in the amount of any adjustment in the tipping fee charged the city, to establish and circulate the proportionate effect of any such adjustment on each fee category in this section, and to charge such adjusted fee on determination by the city manager. This authorization, however, shall not empower the city manager to revise the fees established in this section except to pass through any adjustment in tipping fees.

(g) *Rental of containers.*

(1) The city manager is authorized to provide city-owned bulk waste containers at rental rates established by resolution.

(2) Notwithstanding the provisions of subsection (g)(1) of this section, there shall be a delivery fee for each dumpster rented for a period of four months or less.

(h) *Reserved.*

(i) *Special collection charges for damaged/deteriorated containers.* The fee booklet reflects appropriate fees for special collections made pursuant to section 32-637.

(j) *Charge for rolling out containers.* A charge shall be made for city staff to roll out and return one container from a garbage storage room. An

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additional charge shall be made for city staff to roll out and return each additional container from that room.

(k) *Drop-off facility fees.* The city manager is authorized without further action on the part of the city commission to establish and adjust fees for the deposit of yard waste or any nonhazardous or bulk trash items or, on special amnesty days to be designated for disposal of household hazardous waste materials at any collection point or drop-off facility designated by the city. Such fees shall be calculated to recover the operational costs of any such facility, including but not limited to labor, material and overhead, and shall become effective upon publication in a policy memorandum setting forth the fees.

(l) *Separation of trash.* It is provided that no later than 90 days after the city drop-off facility opens trash, including garden, grass, plant and lawn clippings, leaves, tree limbs and branches, palm fronds and similar matter shall not be set out for collection or collected as part of the regular garbage pickup, but shall be transmitted by the party producing such trash, or his agent, to the drop-off point; except that each customer may call for one free special collection of up to 32 cubic yards of yard waste, per year, per customer.

(m) *Deposit required.*

(1) A deposit, equal to two times the monthly fee for garbage and trash collection, will be required from all nonresidential customers who have not previously posted a meter deposit pursuant to section 30-4.

(2) Such deposits shall be and constitute guarantee to the city that all sums of money due by virtue of the furnishing of garbage and trash collection services to the nonresidential customer making such deposit are fully paid; and upon the payment of all such sums, the city shall, upon the discontinuance of garbage and trash collection services to that customer, refund and return to the customer making such deposit the amount of such deposit or the net amount of the deposit, after deducting such sums as may be due to the city.

(Code 1980, § 24-6)

Sec. 32-641. Hazardous waste.

(a) Hazardous waste shall not be left for collection by the city and shall be disposed of by the owners or users of such materials. Hazardous waste shall be removed in accordance with F.S. ch. 403, pt. IV. Failure to comply with this subsection shall result in a fine not exceeding $500.00. Furthermore, the city is authorized to take any action necessary to abate or substantially reduce any imminent hazard caused by hazardous waste. An imminent hazard exists if any hazardous waste creates an immediate and substantial danger to human health, safety or welfare to the environment.

(b) A household hazardous waste program (amnesty day) may be established periodically by the city manager in order to provide city sanitation customers with a proper means to dispose of such materials.

(c) Construction and demolition debris shall not be left for collection by the city and shall be disposed of by the owners or users of such materials. Failure to comply with this subsection shall result in a fine not exceeding $500.00.

(Code 1980, § 24-7)

Sec. 32-642. Separation of newspapers.

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

Newspaper means publications which are printed on the paper commonly referred to as newsprint and distributed daily, weekly or at other regular intervals, and which contain news or opinions, advertisements and other notices of public interest, but shall exclude magazines and publications not printed on newsprint.

(b) *Required.* After June 30, 1989, any person who is an owner, lessee or occupant of any residential dwelling located in the city shall separate newspaper from all other solid waste produced by such residential dwelling and shall place such newspaper for collection in containers provided by the city. In the case of multi-residential buildings, the building owner, condominium association or

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other person being responsible for maintenance of the building or trailer park shall effectuate this section by entering into an agreement for the disposition of such newspaper with the city, or its authorized agent, for collection of recyclable newspaper.

(c) *Placement of newspaper for collection.* Newspapers to be collected pursuant to this section shall be placed at the edge of the paved right-of-way directly in front of the property from which such used newspaper was generated or, alternatively, shall be placed in a location authorized by the city manager. The city manager is authorized, in his discretion, upon a showing of hardship, to permit containers employed exclusively for the collection of newspaper to be located in a required parking space and to waive enclosure or fencing requirements for any such container.

(d) *Containers for newspaper required.*

(1) Residential dwellings and trailer parks of whatever size are required to utilize a container for collection and disposition of newspaper, and their occupants are required to place and dispose of newspaper in such containers. The city shall provide a standardized container to residential dwellings having less than 20 units which the occupants shall use for disposal of newsprint. Trailer parks and residential dwellings containing more than 19 units but less than 90 units shall utilize either a heavy-duty plastic container of a type specified by the city manager or a bulk waste container exclusively used for collection of newspaper. In the case of residential dwellings of 90 or more units, a bulk waste container of size sufficient to contain two weeks' output of newspaper for such dwelling shall be utilized.

(2) In the case of persons who have paid a meter deposit which is on file in the city clerk's office, the city manager shall apply such deposit to water and sewer payments, as well as security for return of the container provided by the city. Such deposit shall not bear interest and shall remain with the city until the container is returned to the city in undamaged condition, allowing for normal wear and tear.

(e) *Provision of containers; purchase.* The city manager is directed to make available for use as newspaper collection containers plastic containers and bulk waste containers in sizes appropriate to hold at least one week's generation of recyclable newspaper. Persons using containers supplied by the city shall be responsible for any damage caused to the container and shall be billed for replacement or repair as applicable; however, standardized containers provided by the city to single-family or duplex residential dwellings which are stolen or damaged by persons other than those to whom the containers have been supplied will be replaced by the city without charge.

(f) *Scavenging prohibited.* It is declared unlawful and a violation of the Code, punishable as provided in section 1-8, for any person or organization except city personnel or its authorized agent to collect or otherwise remove any newspaper placed for collection except as provided by section 32-643. This provision, however, shall not prohibit profit or nonprofit organizations, having written consent of the city manager, from soliciting and collecting used newspapers for resource recovery and recycling; nor shall it prohibit maintenance by private organizations of stations for collection of newspaper where newspaper is transported to the stations by individual unit owners.

(g) *Intermingling prohibited.* It shall be unlawful and a violation of the Code, punishable as provided in section 1-8, to place, dump or intermingle any materials other than newspaper in any container designated for collection of recyclable newspaper.

(h) *Punishment.* It is declared to be unlawful and a violation of the Code, punishable as provided in section 1-8, to dispose of newspaper except as provided hereinabove.

(i) *Government regulated.* The provisions of this section may be implemented, suspended or modified, collectively or severally, by resolution when the public interest requires.
(Code 1980, § 24-7.1)

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Sec. 32-643. Persons authorized to collect newspapers for recycling.

The city may authorize, permit, regulate and control the collection and disposition of all newspaper within the city limits and may enter into contracts or award franchises for that purpose. Once any such contract or franchise has been awarded, it shall be unlawful for any person other than one under a contract or holding a franchise, or the authorized employees or servants of such a franchise or contract holder, to remove, collect, transport or dispose of any newspaper from any premises within the city; however, individual unit owners may transport newspaper for recycling to the authorized permanent collection station.
(Code 1980, § 24-7.2)

Sec. 32-644. Penalties.

Every natural person and every corporation, association or other entity obligated to perform or responsible for the performance of any duty created by this division or obligated by this division to refrain from doing any act or creating or permitting any condition to exist, or who shall fail or refuse, after reasonable notice, to correct any unsafe, unsanitary or unsightly condition, contrary to any provision of this division, shall be subject to prosecution and, if found guilty, to punishment as provided by section 1-8; however, this section shall not authorize such prosecution for or on account of the failure or refusal to pay any charge or fee owed to the city pursuant to this chapter.
(Code 1980, § 24-8)

Sec. 32-645. Impracticability of provision of service.

Notwithstanding anything to the contrary contained in this division, the city shall not be required to provide service to a particular customer if in the opinion of the city manager it is not safe or practicable for garbage to be collected by the equipment and facilities of the city.
(Code 1980, § 24-9)

Sec. 32-646. Ownership of garbage and trash collected by the city.

All garbage and trash collected by the city shall be deemed to be owned by it, and the city shall have sole authority over the disposition or sale of such materials.
(Code 1980, § 24-10)

Sec. 32-647. Exception for compacted and baled cardboard; exemption fee.

The city manager may exempt holders of disposal permits and hauling permits who bale and compact their cardboard for purposes of recycling from the requirement that their cardboard be collected and delivered to the city's designated disposal facility. Such fee may be established from time to time by resolution.
(Code 1980, § 24-11)

Sec. 32-648. Code enforcement board supplemental jurisdiction.

The code enforcement board shall have nonexclusive jurisdiction over violations of this division.
(Code 1980, § 24-12)

Secs. 32-649—32-670. Reserved.

DIVISION 19. SWIMMING POOLS

Sec. 32-671. Generally.

In all districts where swimming pools are allowed as a principal or accessory use, the requirements and regulations of this division shall be followed.
(Code 1980, app. A, art. V, § 6(intro. ¶))

Sec. 32-672. Principal use.

Any swimming pool owned and operated by a governmental agency or operated as a commercial enterprise existing singularly or in combination with other commercial recreation uses on the same parcel of property shall be considered as a principal use subject to the district regulations of the applicable zoning district.
(Code 1980, app. A, art. V, § 6.01)

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Sec. 32-673. Accessory use.

Any swimming pool operated by a fraternal, social or civic organization, by a residential homeowners' association, or by the resident of a single-family dwelling shall be considered as an accessory use and shall exist in conjunction with the principal use on the same lot, subject to the setback regulations stated in this division and in the district regulations.
(Code 1980, app. A, art. V, § 6.02)

Sec. 32-674. Setbacks; accessory use.

A swimming pool and appurtenance screen enclosure, of which 90 percent shall be screen material, shall be permitted in any rear yard, provided that it is located not less than ten feet from any rear yard or side lot line, or 12 feet from the face of any seawall.
(Code 1980, app. A, art. V, § 6.03)

Sec. 32-675. Fencing and screening.

All swimming pools shall be enclosed by a wall, fence or other structure constructed or installed so as to obstruct access by persons other than the owners or occupants of the premises on which that swimming pool is located. These obstructions around a principal use shall not be less than six feet in height and, when around an accessory use, not less than four feet in height.
(Code 1980, app. A, art. V, § 6.04)

Sec. 32-676. Access.

The primary access to a swimming pool when such pool is a principal use shall be from the interior of a building or structure serving as a clubhouse or shower facility. Exterior access to the principal use shall be the same as for an accessory use. Exterior access to a swimming pool as an accessory use must be through a self-closing and self-latching gate with latches placed at least four feet above the underlying ground and operable from the interior of the swimming area only.
(Code 1980, app. A, art. V, § 6.05)

Sec. 32-677. Drainage.

If a patio is provided adjacent to or surrounding the swimming pool, it shall be designed so as to be self-draining away from the pool, but not on adjacent property.
(Code 1980, app. A, art. V, § 6.06)

Sec. 32-678. Lighting.

Artificial lighting used to illuminate the premises shall be shielded and directed away from adjacent properties and streets, shining only on the subject site.
(Code 1980, app. A, art. V, § 6.07)

Secs. 32-679—32-700. Reserved.

DIVISION 20. TEMPORARY USES

Sec. 32-701. Generally.

Certain uses of land are temporary in character. They vary in type and degree, as well as in length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present serious questions involving potential incompatibility with existing and projected permitted or permissible uses. It is the intent of this division to classify temporary uses and to provide for permitting, administration and control of such uses according to the several classifications herein set out. Except as otherwise provided in this chapter, temporary uses shall be governed by this division.
(Code 1980, app. A, art. V, § 15.01)

Sec. 32-702. Permit required.

No person shall operate any of the following temporary uses within the city without first obtaining a temporary use permit:

(1) Seasonal sale conducted outdoors.

(2) Grand opening sale conducted outdoors.

(3) Going out of business sale conducted outdoors.

(4) Special automobile sale conducted at a site other than the seller's permanent business location.

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(5) Any other off-premises sale.

(6) Sidewalk sale, except where the proposed outdoor display is permitted by section 32-168.

(7) Privately promoted athletic event or concert which is open to the public and for admission to which a fee is charged. Both athletic events other than horse races or dog races, and concerts held at mass seating facilities such as Gulfstream Race Track or Hollywood Dog Track, shall require city manager approval with notice to the city commission.

(8) Outdoor religious event.

(9) Outdoor community event.

(10) Other similar uses of a temporary nature as determined by the city manager.

(Code 1980, app. A, art. V, § 15.02; Ord. No. 2003-19, § 1, 9-16-2003)

Sec. 32-703. Application.

Application for a temporary use permit shall be made to the city manager and shall contain the following information:

(1) A description of the proposed use.

(2) A legal description of the property on which the proposed use will take place, and a survey or site plan, or both, if deemed appropriate by the city manager.

(3) A statement signed by the owner of the property authorizing the proposed use on the property.

(4) Other reasonable information deemed by the city manager to be necessary for an adequate evaluation of the proposed use.

(Code 1980, app. A, art. V, § 15.03)

Sec. 32-704. Standards for approval.

Issuance of a temporary use permit shall be contingent upon the city manager's determination that:

(1) Surrounding and nearby properties are suitably protected from adverse conditions that may reasonably be expected to result from the proposed use.

(2) The proposed use is not likely to create hazardous vehicular or pedestrian traffic conditions, or result in traffic in excess of the capacity of streets serving it.

(3) Adequate off-street parking is available.

(4) Adequate utilities, drainage, refuse management, emergency services and access, traffic control, security, and other necessary facilities and services are available, and all necessary sanitary facilities have been approved by the proper authorities.

(5) All other applicable laws and regulations of the city and of any other regulatory body or agency have been complied with.

(6) In the case of a sidewalk sale, the applicant has conducted no prior sidewalk sales within the preceding 12 months, and the proposed sale will last no more than 72 hours.

(7) Seasonal sales may only be held in B-G business general district or a less restrictive district.

(Code 1980, app. A, art. V, § 15.04)

Sec. 32-705. Approval of permit.

Upon finding that the standards for approval are met, the city manager may issue a temporary use permit specifying such conditions as will protect the health, safety and welfare of the public and will protect adjoining properties, or he may submit the application to the city commission for approval or denial.

(Code 1980, app. A, art. V, § 15.05)

Sec. 32-706. Duration of permit.

Each temporary use permit shall be issued for a specific period of time not to exceed five days or, in the case of a seasonal sale such as Christmas trees and pumpkins, 30 days. A temporary use permit may be approved by the city manager for a period greater than five days, but not in excess of 30 days, upon finding that such increased duration will not adversely impact the city and that the conditions of section 32-704 have been met. The violation of any of the conditions of a temporary use permit shall be cause for the immediate

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revocation of the permit. It shall be unlawful for any person to continue a temporary use after the permit has expired or been revoked.
(Code 1980, app. A, art. V, § 15.06)

Sec. 32-707. Fees.

A filing fee, which is on file in the city clerk's office, and which may be waived by the city manager for nonprofit or religious organizations, shall accompany each application for a temporary use permit. Upon approval of an application but before the issuance of a permit, an additional fee shall be charged. If necessary, the additional fee for a temporary use shall be determined by the city manager.
(Code 1980, app. A, art. V, § 15.07)

Secs. 32-708—32-730. Reserved.

DIVISION 21. TOWNHOUSE, RESIDENTIAL DEVELOPMENT

Sec. 32-731. Regulated.

(a) *Site development standards.* Townhouse residential dwellings, when specifically permitted within a zoning district, shall be subject to the following site development standards in lieu of those set forth within the specific district:

(1) Maximum density is as follows:

a. In the RD-12 zoning district, 14 units per net acre.

b. In the RM-18 zoning district, 18 units per net acre.

(2) Minimum project site area shall be 10,000 square feet.

(3) Minimum individual unit width shall be 20 feet.

(4) Minimum yard setback is as follows:

	Yard	*Setback (Feet)*
a.	Front	25
b.	Rear	20
c.	Side:	
	1. End unit	15
	2. Between groupings	20

(5) Maximum height shall be two stories or 30 feet.

(6) Maximum grouping shall be eight attached units.

(7) Minimum pervious area shall be 40 percent.

(8) Minimum floor area is as follows:

a.	One bedroom, square feet per unit	850
b.	Two bedrooms, square feet per unit	1,000
c.	Three or more bedrooms, square feet per unit	1,150

(9) Townhouse development shall comply with the standards set forth in this subsection and with the following requirements:

a. A minimum of five feet of landscaped area shall be provided separating paved parking areas from buildings.

b. In townhouse groupings of five or fewer units, at least one unit in such grouping shall have a variation in setback of at least five feet from that of an adjoining unit. Such required setback shall comprise at least half of the unit width.

c. In townhouse groupings of six or more units, at least two units in such grouping shall have a variation in setback of at least five feet from that of an adjoining unit. Such required setback shall comprise at least half of each unit width.

(10) Accessory buildings and structures are regulated as follows:

a. No accessory buildings or structures shall be permitted on an individual townhouse unit site, with the exception of pools, spas, hot tubs, decks, screen enclosures, walls, fences, awnings, and mechanical equipment with its enclosure.

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b. Whenever the installation of accessory uses and structures such as swimming pools, hot tubs, spas, screen enclosures, decks, and the like within the site such as a lake or golf course would suggest that complete screening would not be required. Such determination shall be made as a result of the development review process for the site. Such wall shall be of masonry or other material having a life expectancy of not less than ten years, and the height of such wall shall be six feet. When landscaping is used in lieu of a wall to meet the requirements of this section, such landscaping shall have a minimum height of six feet at time of planting.

c. Screened patios may be located within the required private rear yard area provided no more than 50 percent of the yard area is covered by impervious surfaces. Screen enclosure patio areas shall extend no closer than five feet to the unit's rear property line.

d. All patio, outdoor living areas on each townhouse site shall be screened by a wall or landscaping along the common rear yard of each unit affording complete screening; except in cases where a natural feature of the private rear yard areas of townhouse units is allowed, a masonry wall, six feet in height and having a minimum length of ten feet shall be installed along the common side property lines between the units, extending from the back of the units. Pools, hot tubs and spas shall be set back a minimum of ten feet from the private rear yard.

e. Buildings that are arranged front to front, front to back, or back to back shall have a minimum separation of 40 feet.

(b) *General regulations.* Applicable general regulations are as follows:

(1) Supplemental regulations, section 32-331 et seq.

(2) Development review procedures, section 32-781 et seq.

(3) Off-street parking and loading regulations, section 32-451 et seq.

(4) Landscaping provisions, section 32-381 et seq.

(5) Sign regulations, section 32-601 et seq.

(Code 1980, app. A, art. V, § 12; Ord. No. 1998-9, § 2, 4-21-1998; Ord. No. 1999-1, § 3, 1-19-1999)

Secs. 32-732—32-750. Reserved.

DIVISION 22. WAREHOUSES

Sec. 32-751. Utilization.

Any building or structure that was designated a warehouse in the plans submitted for the building permit, and was granted a certificate of occupancy based on meeting the applicable warehouse requirements, may only be utilized for cold and dry storage. No accessory uses of any kind are permitted; and any other business activity or uses of any kind conducted in those warehouses must first apply for the appropriate occupational license, meet any parking, building or regulations applicable to the change of use, and obtain all required permits and licenses. All owners or proprietors of warehouses that rent or lease subdivided warehouse space are required to inform their prospective tenants, in writing, of this requirement before renting or leasing space for those purposes; and any lease or rental agreement entered into in violation of this provision may be voidable at the option of the tenant.
(Code 1980, app. A, art. V, § 10)

Secs. 32-752—32-780. Reserved.

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ARTICLE V. DEVELOPMENT REVIEW PROCEDURES

Sec. 32-781. Purpose and intent.

The purpose and intent of development review is to encourage a more functional, efficient and compatible character of development, to promote logic, imagination, innovation and variety in project design, to preserve, protect and supplement the existing natural environment, to ensure that urban services delivery systems are not unduly overburdened by excessive or premature development, and to determine that all development occurs in full conformity to the county land use plan and, when adopted, the city comprehensive plan and elements of the plan.
(Code 1980, app. A, art. VII, § 1)

Sec. 32-782. Applicability.

(a) *Review procedures.* All applications for a development permit within the city shall be subject to development review procedures, including both site plan review and impact evaluation. Applications shall be classified as either of a minor or major nature for the purposes of determining procedural review and approval responsibilities. The following classifications are established:

(1) *Minor development.* Minor developments shall include those which contain less than ten residential dwelling units, or less than 4,000 square feet of nonresidential gross floor area and shall be subject only to staff review and approval.

(2) *Major development.* Major developments shall include those which contain ten residential dwelling units or more, or 4,000 square feet of nonresidential gross floor area or more and shall be subject to review by staff and the planning and zoning board, and review and approval by the city commission.

(3) *Division of proposed developments prohibited.* Applicants may not divide or phase developments to avoid being subject to major development classification. If an applicant obtains approval for a minor development, and, within two years from that approval, that applicant or his successor in interest, submits another application for a development permit on the same parcel of property that, together with the previously approved development, would qualify as a major development, then the entire project, including that portion previously approved, shall be subject to the requirements for major developments.

(b) *Development permits other than building permits.* The purpose of this subsection is to provide a process for conducting the required development review of applications for development permits that do not contain a complete, specific site development proposal. For example, applications for rezoning or plat approval frequently do not submit detailed site plans and specific site development information. However, the impact evaluation portion of the development review process must review a specific development proposal. Therefore, applications for development permits that do not include a complete, specific site development proposal shall, for impact evaluation purposes, be presumed to be the most intense development permitted under the applicable land development regulations. If different permitted uses in the applicable regulations have different impacts upon the services or facilities to be evaluated, the most intense impact on each separate service or facility shall be presumed. The applicable land development regulations may refer, where the context is appropriate, to either the current regulations or, as in a rezoning or variance, the regulations as proposed to be amended or varied. If the applicant submits a complete, specific site development proposal, meeting all submission requirements for both site plan approval and impact evaluation, as part of his application for a development permit, that application will be evaluated on the basis of that proposal. If the applicant for a rezoning, variance or plat approval submits a specific proposed use, but does not submit a complete site development proposal, impact evaluation of the rezoning shall focus on that proposed use. If he subsequently submits an application for building permits for a use other than, and, in any aspect, more intense than that submitted proposed use, he shall be

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subject to a new, complete impact evaluation process, as well as full site plan review. Further, if the requested development permit is granted based upon a complete, specific site development proposal, then a subsequent application for building permits shall not be subject to a new site plan and impact evaluation process and approval, subject to the following:

(1) The director may approve that subsequent application if he determines that:

a. There has not been any material and substantial change in the conditions existing at the time of the development permit approval;

b. The building permit application is in strict conformity with the complete, specific site development permit; and

c. The subsequent application for a building permit is made within one year from the date of final development permit approval.

(2) If the director's determination as to any of these conditions is negative, then a new, complete site plan review and impact evaluation process must be completed prior to issuance of any building permits, subject to the following:

a. If that determination is based upon a material or substantial change in conditions, then the new development review process shall consider only those changed conditions.

b. If that determination is based on a change in the site development proposal, then the new development review process shall consider only those items in the proposal that are changed.

(3) The costs and expenditures incurred by the applicant in accompanying his application for development permit with a complete, specific site development proposal, and in meeting all site plan review and impact evaluation requirements shall not, in any way, create for the applicant any expectation of or reliance on development approval. This is especially true with respect to rezoning or variance requests, which must be evaluated on factors such as conformity with the comprehensive plan, compatible land uses, and many other factors in addition to impact evaluation.

(4) If an applicant has had his rezoning, variance or plat application reviewed, in absence of a complete, specific site development proposal, and approved, on the basis of the presumption of the most intense development permitted under the applicable regulations, then, if the applicant submits a complete, specific site development proposal within one year from the date of approval, he shall be subject only to site plan review and not impact evaluation.

(5) If an applicant has had his rezoning, variance or plat application reviewed, in the absence of a complete, specific site development proposal, and approved, on the basis of his submission of a specific proposed use, then if the applicant submits a complete, specific site development proposal reflecting that proposed use within one year from the date of approval, he shall be subject only to site plan review and not impact evaluation. If he submits a complete, specific site development proposal for a different and, in any aspect, a more intense use, the application shall be subject to a new, complete site plan review and impact evaluation process.

(Code 1980, app. A, art. VII, § 2)

Sec. 32-783. Review procedures.

(a) *Staff review.*

(1) All applications for both minor and major developments, including required site plans and impact evaluation statements, shall be submitted by the applicant to the director, who shall review them to ascertain their compliance with all applicable laws, ordinances and regulations. The directors shall transmit copies of relevant materials to those other departments and agencies, as appropriate, in order to perform a

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complete review, including but not limited to the police, fire, parks, engineering, utilities and finance departments.

(2) The director shall notify all adjacent units of local government within a 1,000-foot radius of any proposed major development that such a review is underway and solicit their input and recommendations.

(b) *Staff action.* The director shall have 60 calendar days from the date an application is filed to render a final decision on a minor development. Any aggrieved applicant shall have 14 calendar days from the date of that administrative decision to appeal to the city commission, in which event the city commission may proceed as specified in subsection (e) of this section.

(c) *Board review.*

(1) Applications for major development shall be transmitted within 90 days from the date an application in final form with all supporting documents is filed with the director, to the planning and zoning board for its review and consideration. The director shall include with that transmittal a written report and recommendation; and that transmittal should include, without limitation, all pertinent documents submitted by the applicant, reports of the reviewing city departments, and any other applicable documentation or graphic.

(2) An applicant may amend or modify the submitted application but in such case the time period for transmittal shall run from the director's receipt of the application as amended or modified.

(d) *Board action.* The planning and zoning board shall recommend to the city commission, within 120 days from the receipt of the director's transmittal and recommendation, that the proposed development be approved, approved with modifications or conditions, or denied. Extensions may be granted by the city commission upon the written request of the board for good cause. The board shall summarize the reasons for its advisory recommendations in a written report which shall be transmitted to the city commission through the director.

(e) *City commission action.* The director, upon receipt of the written report of the board, shall transmit the application to the city commission and place the item on the next available regular agenda. That transmittal may include, without limitations, all pertinent documents submitted by the applicant, the director's report and recommendation, the board report and any other applicable documentation or graphic. The city clerk shall keep all this material as part of the public record of the city commission. If the city commission determines that a proposed major development, together with other developments in the impact area, which have certificates of occupancy or valid building permits currently in effect, or for which capacity has been reserved, would not cause or result in a violation of the standards established by this article, and is in full compliance with other applicable laws, ordinances or regulations, then the city commission shall approve the application for development permit. If the city commission determines that the proposed development, together with other developments in the impact area, which have certificates of occupancy or valid building permits currently in effect, or for which capacity has been reserved, would cause or result in a violation of the standards established by this article, then the city commission may:

(1) Deny the application;

(2) Phase the application to ensure compliance with these standards;

(3) Modify the application so that these standards are met; or

(4) Grant conditional approval or modification of the application, attaching whatever reasonable conditions or requirements the city commission deems necessary to ensure compliance with these standards or maximum mitigation of the adverse impacts of the development.

(f) *Development conditions.* These conditions may include, without limitation, requiring the applicant, at his cost and expense, to:

(1) Finance or dedicate land for public rights-of-way, easements, parks and open space, or school sites;

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(2) Finance or construct potable water, wastewater or drainage facilities; or

(3) Any other reasonable condition necessary to ensure compliance with these standards prior to the issuance of a certificate of occupancy, if the applicant agrees in writing in a recordable agreement binding upon his successors and assigns, that no certificate of occupancy will be issued until the requirements of this article are met. Otherwise, all conditions must be satisfied prior to issuance of the development permit. Attachment of these conditions shall be voluntary on the part of the applicant; and agreement by the applicant to provide any conditions will not, in any way, obligate the city to approve the subject application. Any conditional approval shall be based solely on the fact that the development application, as modified or conditioned, meets the standards of this article, and may not be based solely on the granting of certain conditions deemed favorable by the city unless the standards of this article are met.

(Code 1980, app. A, art. VII, § 3)

Sec. 32-784. General information.

(a) *Required information.* All applications shall include the information specified in this section which shall relate to the overall capability of the applicant to actually develop the site, if approved.

(b) *Ownership.* The applicant shall show that he has a property interest in the site, which shall consist of at least one of the following:

(1) A fee simple title;

(2) An option to acquire fee simple title within a specified period of time;

(3) A leasehold interest in excess of 20 years;

(4) A substantial interest in a joint venture agreement or real estate syndication which has or can obtain a fee simple title; or

(5) A marketable title subject to a certain condition which will not substantially restrict development within a reasonable time.

(c) *Mortgages, liens and judgments.* All mortgages, including purchase money mortgages, all easements restricting land use, all liens and all judgments which may affect the site shall be identified.

(d) *Experience.* The applicant may submit information pertaining to previous building and land development experience.

(e) *Financial capability.* The applicant shall provide evidence of his ability to acquire sufficient development funds by submitting either a letter of commitment from a recognized financial institution or a certified personal or corporate financial statement.

(f) *Burden of proof on applicant.* The applicant is required to establish to the satisfaction of, where appropriate, the staff, board or commission, that his proposed development is in strict compliance with all the standards and requirements of this article. The applicant may be required, at his expense, to furnish the appropriate reviewing agency with professional planning, engineering or other technical data, evaluations or reports demonstrating that compliance, also including, without being limited to, paying the reasonable costs of having the city's professional consultants evaluate that submitted material for compliance with this article.

(Code 1980, app. A, art. VII, § 4)

Sec. 32-785. Professional assistance.

All plans, exhibits and data required for major developments should be prepared by the applicant with qualified professional assistance from at least three of the following:

(1) A professional urban planner (A.I.P. member);

(2) A registered engineer or land surveyor;

(3) A licensed architect;

(4) A registered landscape architect; or

(5) Other qualified professionals as required to address specific issues relating to demographics, financing, economics and the like.

(Code 1980, app. A, art. VII, § 5)

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Sec. 32-786. Site plan review submission requirements.

(a) *Scope.* Site plan review shall relate primarily to an evaluation of internal design quality and the physical capacity of the site to accommodate the proposed development.

(b) *General information.* The number of required site plan copies to be submitted by the applicant shall be administratively determined by the director. Each application shall be accompanied by proof that the appropriate filing fee as required in section 32-792 has been paid. In order to ensure uniformity in the presentation of site plans, all submittals shall:

(1) Be prepared at a scale not smaller than one inch equals 50 feet;

(2) Be submitted on sheets 24 by 36 inches unless the director determines that another sheet size would be more appropriate;

(3) Show the project name, name and address of the owner, designer and developer, north arrow, date, and scale of drawing (numerical and graphic); and

(4) Reserve a blank space, three inches wide and five inches high for the use of the reviewing authority.

(c) *Certified property survey.* A certified property boundary survey, prepared by a registered land surveyor, shall be submitted, including an accurate legal description of the property and a computation of the total acreage to the nearest tenth of an acre. The survey shall have been prepared within one year prior to filing.

(d) *Existing site characteristics map.* An existing site characteristics map shall show the following:

(1) Existing physiography, including soils, topography, watercourses, and identification of the 100-year floodplain.

(2) Existing tree survey, including their location, type, height, trunk diameter at four feet above existing ground level and a written statement from a qualified botanist, landscape architect, forester or ecologist explaining their value, their tolerance to the proposed development, and what measures are to be taken to minimize any negative impacts of the development as it relates to vegetation.

(3) Existing structures, including their location, current usage, size and condition.

(4) Existing zoning of the site and all property within 25 feet which is either adjacent to the site or separate from the site by a public right-of-way.

(5) Existing water and wastewater utility lines at the point of site intersection, including their condition, size, current peak hour utilization, capacity and peak hour pressure.

(6) Existing streets, including their condition, right-of-way width, current usage and design capacity.

(e) *Proposed site development plan.* A proposed site development plan shall show the following:

(1) Proposed finished grading by spot elevations and in particular at locations along lot lines.

(2) Provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.

(3) Provisions for the adequate drainage and disposition of natural water and stormwater in accordance with the adopted design standards of the city, indicating the location, size, type and grade of ditches, catchbasins and pipes and connections to existing drainage system and on-site stormwater retention.

(4) Proposed utility services, including but not limited to:

a. Water and wastewater lines and pipe sizes;

b. Telephone, electric and gas lines;

c. Solid waste receptacle locations and capacities; and

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d. Fire hydrant locations and pressure capabilities.

(5) Proposed structures, including their location, use, height, gross floor area and, where applicable, the density, number, size and type of residential dwelling units. The total amount and percentage of site area to be utilized for structural coverage shall be indicated.

(6) Proposed vehicular use areas, including off-street parking and loading spaces, driveways, on-site curb cuts, related off-site median cuts, and acceleration and deceleration lanes, including their location, size, width and type of surface and access routes for emergency vehicles. The total amount and percentage of site area to be utilized for vehicular use areas shall be indicated.

(7) Proposed fences, walls, screen planting and hedges, including their location, type, size and height.

(8) Proposed pedestrian ways and sidewalks, including their location, width and type of surfacing.

(9) Proposed open space and recreational areas, including the location, height, type and size of all trees, plants and other landscape materials. The total amount and percentage of site area to be utilized for both pervious and impervious open space and recreation areas shall also be indicated.

(10) Proposed signage, where applicable, including their location, dimensions, height and type.

(11) Proposed handicapped design features, including ramps, parking spaces, fountains and restrooms.

(f) *Other requirements.* Other requirements are as follows:

(1) A description of the number of anticipated future residents, users and employees of the proposed development.

(2) A description of the architectural harmony and compatibility of proposed buildings and other structures and the relationship of such structures to each other, adjacent development and the overall community, including such items as height, bulk, construction materials, and facade treatment. A description of maximum shadows to be cast by proposed structures shall also be included.

(3) A description of anticipated energy demands of the proposed development and what measures are to be taken to reduce energy consumption, both through project design and permanent operational techniques.

(4) A description of public mass transportation routes and schedules as related to the proposed development.

(5) A description of how the proposed development is in conformity with, where applicable, the county land use plan, the city's comprehensive plan or element of such plan, the city subdivision platting and zoning codes, and all other applicable laws, ordinances or regulations.

(6) Evidence that coordination has been accomplished, or will be accomplished prior to development, with other agencies which may have jurisdiction over the proposed development, including but not limited to:

a. Broward County Planning Council.

b. Broward County School Board.

c. Broward County Health Department.

d. South Florida Regional Planning Council.

e. South Florida Water Management District.

f. Florida Department of Environmental Protection.

g. Florida Department of Transportation.

h. U.S. Army Corps of Engineers.

i. U.S. Environmental Protection Agency.

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(g) *Modification of submission requirements.*

(1) With respect to minor development projects, the director shall have the discretion to waive or modify certain submission requirements which are not applicable to that project because of the size, scope, physical characteristics, or location of the project, or which are not justified in terms of cost of submission compared to cost of the project, and which are not essential to a determination of compliance with this article. The director may, by written regulation, specify certain types of projects and their submission requirements.

(2) a. With respect to major development projects, the planning and zoning board, based on the same criteria, shall have the discretion to waive or modify certain of the submission requirements. The applicant may request, prior to submission of its formal application, a preapplication conference with the board to determine which, if any, of the submission requirements are to be waived or modified. Otherwise, the applicant may submit an application omitting certain submission requirements, obtaining a decision of the board on such waivers or modifications as part of the standard board review procedure. If, however, the board does not approve the requested waivers or modifications, the board may require the information to be submitted to both the director and the board for their review; and any additional time required shall be added to the established review time limitations.

b. The city commission, regardless of any waivers or modifications granted by the board, retains full and final authority to require that all submission requirements contained in the ordinance be fully complied with prior to city commission approval. Any additional time necessary to meet the city commission requirements shall be added to the established review time limitations.

(Code 1980, app. A, art. VII, § 6)

Sec. 32-787. Site plan review standards.

(a) *Utilization.* The standards specified in this section shall be utilized in the review and evaluation of required site plans.

(b) *Natural environment.* All proposed developments shall, to the maximum extent feasible, be designed in such a manner as to preserve, perpetuate and improve the existing natural character of the site. Existing trees and other landscape features shall, to the maximum feasible extent consistent with permitted development of the site, be preserved in their natural state and additional landscape features, to relate structural design to the site, and to conceal unattractive uses, all in full compliance with all applicable ordinances of the city.

(c) *Open space.*

(1) Passive open spaces (those areas not planned for intensive activity) shall be arranged as to enhance internal spatial relationships between proposed structures, to provide buffers between the development and adjacent less intensive uses, to facilitate pedestrian movements within the development, and to improve the overall visual quality of the site.

(2) Active open spaces (those areas containing activities such as playgrounds, tennis courts, swimming pools and other active recreational facilities) shall be located so as to permit easy access for all residents or users within a development, and to have a compatible relationship with other uses within the development. Private recreational facilities and activities within specific projects shall, wherever possible, complement, rather than duplicate nearby public recreational activities. Location of open space in sizeable plots instead of scattered pieces should be emphasized.

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(d) *Circulation and parking.* All circulation and parking facilities shall be designed and located in such a manner as to comply with the following:

(1) A clearly defined internal vehicular circulation system shall be provided which allows free movement within the proposed development while discouraging excessive speeds. Pavement widths and access points to peripheral streets shall be provided which adequately serve the proposed development and which are compatible and functional with transportation systems outside the development.

(2) Whenever possible, units should be located on streets which are designed to discourage nonlocal through traffic.

(3) Off-street parking areas shall be provided which adequately accommodate maximum vehicle storage demands and shall be located and designed in such a manner as to not create incompatible visual relationships.

(4) Safe and efficient access to all areas of a proposed development shall be provided for emergency and service vehicles.

(5) Ease of parking shall be the criterion for evaluation of parking layouts. Ingress to, movement throughout, and egress from the parking facilities should be simple, trouble free and safe, without any prior knowledge of the layout by the driver.

(6) Parking should be placed in locations convenient for pedestrian access to the buildings. The mixture of pedestrian circulation with vehicular access and circulation should be minimized.

(7) Parking facilities for disabled and handicapped vehicle operators should be located convenient to major building entrances or activity centers and should be directly related to sidewalks or pathways which do not inhibit subsequent user movement to ultimate surface destinations.

(e) *Access control.*

(1) All proposed developments shall have an adequate degree of control of access to and from the streets abutting the development to minimize traffic conflicts and accident potential and maximize the capacity and safety characteristics of those streets.

(2) All access locations shall have adequate sight distance available for the safe execution of entrance and exit maneuvers.

(3) Location of access near structures, intersections or other points that tend to produce traffic conflict shall be minimized.

(4) The use of a frontage road or other auxiliary path is recommended on minor arterials or higher classifications where the need for direct driveway access is frequent.

(5) Access points shall be designed to minimize the number and type of traffic maneuvers necessary to enter or exit.

(6) Use of public street as an integral part of the internal circulation pattern shall be minimized.

(7) The number of driveway access points shall be the minimum necessary to provide adequate service to the development.

(8) Acceleration, storage and deceleration lanes may be required for arterials.

(9) At its intersection with the property line, no part of any accessway shall be nearer than 100 feet to the intersection of any two street right-of-way lines unless unusual circumstances demonstrate the need for a shorter distance.

(10) The location and number of accessways shall be arranged so that they will reduce traffic hazards as much as possible.

(f) *Public transportation.* All proposed development shall, wherever appropriate and feasible, be designed in such a manner as to promote the use of available public transportation by the resi-

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dents, users and employees of the development. Measures such as the following should be employed by the applicant, wherever appropriate:

(1) Dedication of additional right-of-way for bus bays at approved transit stops;

(2) Installation of on-site or off-site sheltered seating facilities for the convenience of waiting transit users; and

(3) Display of conveniently located on-premises route schedules and time tables.

(g) *Community services.*

(1) All proposed development shall be designed and located in such a manner as to ensure the adequate provision of necessary community services.

(2) An efficient internal solid waste collection system, including the provision of an adequate number of local receptacles in locations which afford maximum use and collection convenience, shall be provided.

(3) A well-designed internal fire protection system, including the provisions of an adequate number of properly located fire hydrants and an efficient access arrangement for emergency fire vehicles, shall be provided to ensure the safety of all persons within the project.

(4) Unsightly elements, such as solid waste collection facilities, meters and compressors should, where feasible, be adequately screened from view by a wall, fence or hedge or other appropriate means.

(h) *Drainage.*

(1) All proposed development shall be in compliance with the applicable flood control ordinances of the city. Adequate areas of permeable soil and vegetation shall be provided to allow replenishing of the groundwater table by rainfall to the maximum extent feasible. The method of dealing with stormwater drainage shall, to the maximum feasible extent, minimize the harmful impact of development on the environment by preserving and utilizing the inherent natural capabilities of the site to absorb water effectively with minor modifications to land configuration. Careful site planning shall be utilized to maximize the areas of the site that retain and absorb water, and the stormwater produced by five-year storm conditions shall be collected and retained and recharged on the site of all development.

(2) Large open areas of highly permeable soils shall be set aside as detention areas, catchment areas, vegetated swales and filter beds to ameliorate the force of excess runoff and recharge the aquifer. Vegetated swales which follow the natural contour and are an effective means of directing water flow shall be utilized. The drainage system shall:

a. Maximize recharge.

b. Minimize runoff.

c. Minimize erosion and siltation.

d. Minimize vegetation removal.

e. Minimize maintenance and drainage system costs.

f. Maintain or improve water quality standards.

g. Provide for the gradual and dispersed drainage of excess surface runoff so that runoff from within the boundaries of the proposed development will approximate natural rates, volumes and directions of flow from that parcel.

h. Not result in any surface runoff across or onto any public beach areas.

(3) Drainage shall be adequate to protect rooms in new structures designed for occupancy from the 100-year flood based upon the information provided by the Federal Insurance Administration or other competent source. Exceptions to elevation standards may be made only to the degree that it would be impossible to comply with an elevation criteria without creating a greater probability of flooding existing structures designed for occupancy on adjacent lots.

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(i) *Buildings and other structures.* All buildings and structures proposed within a development shall be oriented and designed in such a manner as to enhance, rather than detract from, the overall quality of the environment. The following guidelines shall be followed in the review and evaluations of all buildings and structures:

(1) Proposed buildings and structures shall be related harmoniously to the terrain, other buildings, and the surrounding neighborhood, and shall not create through their location, scale, style, color or texture incompatible physical or visual relationships.

(2) Maximum privacy shall be incorporated into the design of individual residential units and related outdoor living areas.

(3) Shadows cast by proposed structures shall be discouraged from precluding the reasonable use of recreational facilities or the future installation and maximum effectiveness of solar energy devices on structures within and adjacent to the proposed development.

(4) All proposed signage and advertising devices shall be designed to appear as an integrated part of any development and shall not cause by their location, size or design any physically unsafe or visually incompatible relationships.

(j) *Energy conservation.* All proposed development shall be designed in such a manner as to promote maximum efficiency in the use of energy resources. The following should be taken into consideration by the applicant wherever feasible:

(1) Energy-saving site planning considerations, such as solar and prevailing wind relationships and the use of vegetation;

(2) Energy-saving structural considerations, such as window sun screens, automatic thermostats, and extra insulation; and

(3) The partial or full use of alternate energy sources.

(Code 1980, app. A, art. VII, § 7)

Sec. 32-788. Impact evaluation submission requirements.

(a) *Scope.* Impact evaluation shall relate primarily to the overall effect or impact of a proposed development on its surrounding neighborhood and the overall community. A uniform impact data matrix, to be provided by the director, may be utilized by the applicant in determining certain impacts and submitted in conjunction with the impact evaluation statements required in this section. This matrix should be constantly revised to represent the current professional planning and engineering measurements of the specified impacts reflecting local characteristics. The applicant may submit different or modified calculations or measurements of these impacts applicable to his project, provided they are supported and documented by competent and substantial professional planning and engineering judgments and opinions. All of the following areas of impact concern shall be addressed by the applicant as accurately and completely as possible, utilizing qualified professional assistance as recommended in section 32-785.

(b) *Groundwater quality.* A description of existing on-site groundwater quality and the impact of the proposed development on groundwater quality and what measures will be employed to minimize or reduce any adverse effects, including but not limited to:

(1) Sedimentation and siltation from any excavation, dredge and/or fill operations;

(2) Erosion; and

(3) Surface runoff;

is required.

(c) *Wastewater.*

(1) A description of the amount, type, and physical and chemical composition of wastewater to be generated by the proposed development and how connections to municipal systems are to be accomplished, including the practicality of such connections and the capability of the system to accommodate the generation, is required.

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(2) All impacted wastewater collection, transmission and treatment facilities shall be identified and evaluated in order to determine their current capacity, peak hour utilization, level and treatment and any problems affecting treatment capacity.

(d) *Potable water.* A description of the amount of potable water to be consumed by the proposed development and how connections to municipal systems are to be accomplished, including the practicality of such connections and the capability of the system to accommodate the demand, is required.

(e) *Solid waste.* A description of the amount of solid waste to be generated by the proposed development and methods to be employed in collection, disposal, and resource recovery operations is required.

(f) *Other utilities.* A description of the impact of the proposed development on other utilities and evidence of the abilities of appropriate utility companies to accommodate the development, including electricity, telephone and gas services, is required.

(g) *Traffic.* A description of vehicular traffic to be generated by the proposed development and its impact on both an average daily and peak hour basis as related to both current roadway usage, projected roadway usage, and design capacities at:

(1) Vehicular access points to the site; and

(2) Street intersections within a 1,000-foot radius of the site;

is required. Measures that will be taken by the developer to reduce any adverse traffic impact generated by the development on or off the site shall be indicated, including such improvements as additional rights-of-way dedications, improved traffic signalization, and acceleration or deceleration lanes.

(h) *Public safety.* A description of the impact of the proposed development on existing police, fire and rescue services, including personnel requirements, distance to stations, response times, and equipment needs and what measures are proposed to alleviate any demands and problems to be created by the development is required.

(i) *School facilities.* A description of the impact of the proposed development on school facilities, including both preschool and school-age population generated, distance to and current enrollment levels and capacities of existing schools which would serve the development, and what measures are proposed to alleviate any problems to be created by the development is required.

(j) *Parks and open space.* A description of the impact of the proposed development on parks and open space, including the number, type, size, capacity and current usage of, and distance to park, recreational and open space facilities currently available, and what measures are proposed to alleviate any problems to be created by the development, is required.

(k) *Community facilities.* A description of the impact of the proposed development on existing community facilities, such as libraries, cultural attractions and houses of worship, including the number, type, size, capacity and current usage of and distance to such facilities, and what measures are proposed to alleviate any problems to be created by the development, is required.

(l) *Historical aspects.* A description of any known historical or archeological sites existing on the site, their importance and what measures will be employed to protect them both during and after construction is required.

(m) *Scenic vistas.* A description of the impact of the proposed development on existing scenic vistas from or through the site and what measures are to be taken to ensure the preservation of such vistas is required.

(n) *Low- and moderate-priced housing.* A description of the proposed development's contribution, if any, to the city's inventory of low- and moderate-priced housing units (sale or rental), and what measures are to be taken to ensure the permanency of such housing is required.
(Code 1980, app. A, art. VII, § 8)

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Sec. 32-789. Impact evaluation standards.

(a) *General provisions.*

(1) The basis of decision in determining matters such as, without limitation, the needs of existing and proposed development, the design and functional capacity of facilities, such as water and wastewater collection, transmission, storage, treatment, and distribution and disposal facilities, traffic and drainage, and other matters within the scope of the development review process requiring professional engineering judgments and opinions, shall be based, where applicable, on commonly accepted current professional engineering standards and practices and references works, treatises and manuals, such as works sanctioned, produced or accepted by the U.S. Environmental Protection Agency, the Florida departments of health and environmental protection, the American Society of Civil Engineers, the American Water Works Association, the U.S. and Florida Departments of Transportation, the American Association of State Highway and Transportation Officials, or similar professional, scientific, technical or governmental organizations.

(2) All factual determinations required to be made by the city commission, with respect to a specific application, shall be based upon substantial competent evidence, documentation or testimony, including expert professional planning or engineering advice, either presented to the commission at a public meeting or submitted through documents that become part of the public record, and upon the evaluation of that evidence through the accumulated knowledge, information and experience of the members of the commission.

(3) The city commission, in making its findings and determinations on regional transportation network capacity and acceptable levels of service, shall also consider:

a. Existing transportation studies.

b. When applicable, the annual regional transportation report adopted by the county commission.

c. When applicable, the adopted traffic circulation element of the city's comprehensive plan.

(b) *Wastewater.*

(1) Wastewater collection and transmission facilities, including, without limitation, the sanitary sewer lines, laterals, mains, lift stations and trunk lines, shall have sufficient capacity to provide for the reasonably projectable collection and transmission needs of the proposed development and for other developments in the impact area which have certificates of occupancy, or for which valid building permits are currently in effect, or for which collection and transmission capacity has been reserved.

(2) The wastewater treatment and disposal facility shall have reserved and available sufficient capacity, in accordance with its operating permit, sufficient capacity to provide for the wastewater treatment and disposal needs of the proposed development and for other developments in the impact area which have certificates of occupancy, or for which valid building permits are currently in effect, or for which wastewater treatment and disposal capacity has been reserved, in conformity with all applicable federal, state, and local laws and regulations.

(c) *Potable water.*

(1) The existing water treatment plant shall have sufficient rated capacity to provide for the potable water needs of the development proposed by the application and for other developments in the impact area which have certificates of occupancy for which valid building permits are currently in effect, or for which potable water treatment capacity has been reserved.

(2) The capacity of that water treatment plant shall be capable of being utilized by the city, with respect to the availability of

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sufficient quantities of groundwater, and the city's water use permit granted by the South Florida Water Management District.

(3) The city water supply system, including the works and auxiliaries for the collection, treatment, storage and distribution of water, shall be adequate to provide sufficient potable water, at the minimum pressures and in the minimum quantities specified in the current edition of the South Florida Building Code, Broward Edition, to the proposed development, for normal peak use and fire protection requirements, and to serve other developments in the impact area which have been granted certificates of occupancy, or for which valid building permits are currently in effect, or for which potable water supplies have been reserved.

(d) *Solid waste.* There shall be solid waste collection, transfer and disposal facilities and equipment sufficient to provide for the needs of the development proposed by the application and for other developments in the impact area which have certificates of occupancy or for which valid building, permits are currently in effect or for which solid waste collection, transfer or disposal capacity has been reserved. The disposal site shall have the appropriate county and federal permits allowing it to accept and process the solid waste generated by these needs.

(e) *Parks and recreation facilities.* There shall be parks and recreation facilities sufficient to provide for the needs of the development proposed by the application and for other developments in the impact area which have certificates of occupancy or for which valid building permits are currently in effect, as outlined in the county land use plan, chapter G., "Park and Commercial Recreation," or when effective, the applicable portion or element of the city's adopted comprehensive plan.

(f) *Police protection.* There shall be police protection services sufficient to provide for the needs of the development proposed by the application and for other developments in the impact area which have certificates of occupancy or for which valid building permits are currently in effect or for which police protection services have been reserved.

(g) *Fire protection.* There shall be fire protection services sufficient to provide for the needs of the development proposed by the application and for other developments in the impact area which have certificates of occupancy or for which valid building permits are currently in effect or for which fire protection services have been reserved. The existing fire insurance rating of the city shall not be adversely affected.

(h) *School facilities.* There shall be school facilities sufficient to provide for the needs of the development proposed by the application and for other developments in the impact area which have certificates of occupancy or for which valid building permits are currently in effect or for which school capacity has been reserved.

(i) *Regional transportation facilities.* There shall be sufficient capacity within the regional transportation network to serve the proposed development and for other developments in the impact area which have certificates of occupancy or for which valid building permits are currently in effect, at an acceptable level of service. For the purposes of this section, the acceptable level of service shall be determined by the city commission until the county commission establishes the level of service for regional transportation network. The level of service once established by the county commission shall not prevent the city commission from establishing a required higher level of service for those portions of the regional transportation network located within the city, but the level of service once established by the county commission shall be the minimum standard. Local streets and roads must provide safe and adequate access between buildings within the proposed development and the regional transportation network prior to certificates of occupancy.

(Code 1980, app. A, art. VII, § 9)

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Sec. 32-790. Expiration of approvals.

(a) All minor development, major development and conditional use approvals (hereinafter collectively referred to as "site plan") shall expire unless:

(1) A complete application for a building permit for the above-ground principal use as shown on the approved site plan has been submitted within 18 months following the date of approval of the site plan, and the city manager can grant up to two six-month extensions; and

(2) A building permit for such above-ground principal use is issued within 24 months following the date of approval of the site plan, and the city manager can grant one six-month extension.

(3) Such building permit remains valid and in effect until a certificate of occupancy, or other equivalent approval, or as negotiated per a development agreement, is granted for such principal use.

(b) An approved site plan that includes more than one principal use, shall expire unless:

(1) A complete application and building permit and a certificate of occupancy is issued for one of the above-ground principal structures as provided in subsection (a);

(2) A complete application for a building permit for any subsequent above-ground principal use shown on the approved site plan has been submitted within 18 months following the date of issuance of a certificate of occupancy for the principal use most recently completed; and

(3) A building permit for such above-ground principal use is issued within 24 months following the date of issuance of a certificate of occupancy for the principal use most recently completed;

(4) Such building permit remains valid and in effect until a certificate of occupancy or other equivalent approval is granted for such principal use; and

(5) A complete application is submitted and building permits are issued for each subsequent principal use in accordance with subsection (a) of this section until a certificate of occupancy of its equivalent is issued for all of the principal uses on the approved site plan.

(6) Notwithstanding the provisions of this subsection (b), a site plan that includes more than one principal use shall expire if certificates of occupancy for all principal uses have not been issued within seven years of site plan approval or as negotiated by a development agreement.

(c) If a building permit for construction of an above-ground principal use as provided herein expires, the site plan shall expire and prior to issuance of any additional building permits, the applicant shall be required to submit a new application for and receive approval of a new site plan for such above-ground principal use.

(d) If a site plan expires, the allocation of any commercial flex, residential flex, reserve units or other dwelling units granted for any use that has not received a certificate of occupancy or equivalent certification shall expire at the time the site plan expires.

(e) A six-month extension of time for site plan expiration may be granted by the city manager provided all applicable building, zoning and engineering regulations remain the same and good cause for the delay has been shown by the applicant. Good cause may include, but shall not be limited to, delay caused by governmental action or inaction or other factors totally beyond the control of the applicant. An extension shall only be granted where an applicant has requested an extension in writing during the effective period of the development permit.

(Code 1980, app. A, art. VII, § 10; Ord. No. 2008-02, § 1, 3-5-2008)

Editor's note—Ord. No. 2008-02, § 1, adopted March 5, 2008, changed the title of section 32-790 from "Time limits and revisions" to "Expiration of approvals."

Sec. 32-791. Agreement bonds and guarantees.

Prior to the final approval of a proposed development and the issuance of a development permit, there shall be executed by the owner or

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applicant an agreement to construct such required on-site or off-site physical improvements as are located within public rights-of-way or easements, or as are connected to any public facility, in form and substance as approved by the city attorney. Such agreement shall be accompanied by a cash agreement, bond with surety or condition acceptable to the city in the amount of 110 percent of the estimated cost of the required physical improvements. The determination of the adequacy of all required cash agreements, bonds or conditions shall be the duty of the city attorney, with the advice of the director and city engineer.
(Code 1980, app. A, art. VII, § 11)

Sec. 32-792. Required fees.

A fee shall be required with each application for development review and shall be paid prior to any review. Fees shall be determined by the size and type of development initially proposed by the applicant, and such fees shall be used to offset full-time staff administrative costs incurred in the review and evaluation of submitted site plans and impact evaluation statements. This fee expressly does not cover the costs of professional consultants that, pursuant to section 32-784(f), may have to be borne by the applicant. Fees shall be paid at the time of application. No review shall be made of any proposed development until such fee has been paid to the city. Such fees are on file in the city clerk's office.
(Code 1980, app. A, art. VII, § 12)

Sec. 32-793. Accuracy of submittals.

All information submitted by the applicant pursuant to the requirements of this article shall represent what the applicant understands to be the most reliable, accurate and up-to-date information available. Any findings of intentionally submitted invalid or distorted information shall be grounds for denial of the total application.
(Code 1980, app. A, art. VII, § 14)

Secs. 32-794—32-820. Reserved.

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ARTICLE VI. CONSISTENCY AND CONCURRENCY DETERMINATIONS

DIVISION 1. GENERALLY

Sec. 32-821. Purpose.

It is the purpose of this article to describe the requirements and procedures for determination of consistency of proposed development projects with the city comprehensive plan, including meeting the concurrency requirements of the plan.
(Code 1980, § 4.00.01)

Sec. 32-822. Presumption of general consistency.

Subject to the special provisions of this section relating to concurrency, and excepting aspects of the development addressed by the comprehensive plan but not covered by this article, a development proposal shall be presumed to be consistent with the city comprehensive plan, with respect to concurrency, if the proposal is found to meet all the requirements of this article in accordance with F.S. § 163.3202(2).
(Code 1980, § 4.00.02)

Sec. 32-823. No presumption in favor of concurrency.

Notwithstanding the presumption created in section 32-822, all development applications for development orders shall demonstrate that specified public facilities will be available at prescribed levels of service, concurrent with the impact of the development on those facilities. Determination of compliance with the concurrency requirement shall be through procedures described in section 32-855.
(Code 1980, § 4.00.03)

Sec. 32-824. Definitions.

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

Affected public facilities means wastewater, potable water, transportation (including traffic), drainage, solid waste, and recreation facilities.

Concurrency means a condition where specified facilities and services have, or will have, the necessary capacity to meet the adopted level of service standard at the time of authorizing occupancy of a building or development project or phase.

Constrained facility means a road segment which is not planned for a capacity improvement in the adopted 2010 Highway Network Plan.

Development order means the authorization of a development project; the authorization which must be granted prior to issuance of a development permit as defined for purposes of this article. For purposes of this article, major and minor development approval and final plat approval are development orders. (See section 32-852(b) for phased development requirement.)

Development permit means that official city document which authorizes the commencement of construction or land alteration without need for further application and approval. For the purposes of this article, a development permit is a building permit.

Planned improvement facility means a road segment for which a capacity improvement is planned in the adopted 2010 Highway Network Plan.

Vested right means a right which has so completely and definitely accrued to a person as the result of a lawful approval of a development order, prior to December 1, 1989, that it should be recognized as such by the city and protected.
(Code 1980, § 4.00.05)

Cross reference—Definitions generally, § 1-2.

Sec. 32-825. Appeals.

(a) *Generally.* Except as specifically provided in this article, appeals from the decisions of the city manager, making determinations under this section, shall be taken to the city commission. The appeal shall be requested in writing within 20 calendar days of the rendition of the decision of the city manager. The written request for the appeal shall state fully the reasons for the appeal. The appellant shall be given written notice of the date, time and place of the city commission's

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considering of the appeal. A fee shall be paid to the city to process an appeal. Such fee is on file in the city clerk's office.

(b) *Hearing.*

(1) *Burden of proof.* The appellant shall present all relevant information to the city commission. The appellant shall have the burden of affirmatively demonstrating that the decision of the city manager was in error. The city manager may present argument and information in opposition.

(2) *Decision.* The city commission shall base its decision on the requirements of this article and accepted engineering principles. It shall make its decision by an affirmative vote of the majority of the commission. A decision shall be rendered within 60 calendar days of the close of the hearing.

(c) *Judicial relief.* Judicial relief shall be by filing a petition for writ of certiorari in the circuit court, within 30 calendar days of the date of rendition of the city commission decision.
(Code 1980, § 4.00.04)

Secs. 32-826—32-850. Reserved.

DIVISION 2. CONCURRENCY MANAGEMENT SYSTEM

Sec. 32-851. Generally.

The following method of ensuring concurrency shall be known as the concurrency management system (CMS). The CMS is based upon the city comprehensive plan, especially the capital improvements element and adopted level of service standards. The system is designed to ensure that the issuance of a development order will not result in a degradation of the adopted levels of service for specified public facilities and services. The CMS also includes a monitoring system for determination of the availability of adequate capacity of public facilities and services to meet the adopted level of service standards.
(Code 1980, § 4.01.01)

Sec. 32-852. Adopted levels of service shall not be degraded.

(a) *General rule.* All applications for development orders shall demonstrate that the proposed development does not degrade adopted levels of service in the city.

(b) *Exception.* Notwithstanding the provisions of subsection (a) of this section, the prescribed levels of service may be degraded during the actual construction of new facilities if prior to occupancy of the new facilities or any portion or phase, the prescribed levels of service will be met. For phased developments, the maximum period of time for degraded level of service shall be two years unless extended by the city commission.
(Code 1980, § 4.01.02)

Sec. 32-853. Determination of available capacity.

(a) *Method.* For purposes of this article, the available capacity of a facility shall be determined by:

(1) Adding together:

a. The total capacity of existing facilities operating at the required level of service; and

b. The total capacity of new facilities, if any, that will become available on or before the date of occupancy of the development. The capacity of new facilities may be counted only if one or more of the following is shown:

1. Construction of the new facilities is under way at the time of issuance of the final development order.

2. The new facilities are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time of issuance of the final development order.

3. The new facilities are guaranteed in an enforceable development agreement. An enforceable development agreement may include but is not limited

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to development agreements pursuant to F.S. § 163.3220 et seq., or an agreement or development order pursuant to F.S. ch. 380. Such facilities shall be consistent with the capital improvements element of the city comprehensive plan.

(2) Subtracting from that number the sum of:

a. The demand for the service or facility created by existing development as documented in the city comprehensive plan; and

b. The demand for the service or facility created by the anticipated completion of other approved developments, redevelopment, or other development activity.

(b) *Action upon failure to show available capacity.* Where available capacity cannot be shown, the following methods may be used to maintain adopted levels of service:

(1) The project owner or developer may provide the necessary improvements to maintain level of service. In such case, the application shall include appropriate plans for improvements, documentation that such improvements are designed to provide the capacity necessary to achieve or maintain the level of service, and recordable instruments guaranteeing the construction consistent with calculations of capacity. All improvements necessary to achieve or maintain adopted levels of service shall be in place prior to issuance of a certificate of occupancy for the completed development or phase.

(2) The proposed project may be altered such that projected level of service is no less than the adopted level of service.

(Code 1980, § 4.01.03)

Sec. 32-854. Burden of showing compliance on developer.

(a) The burden of showing compliance with levels of service requirements shall be upon the developer. In order to be approvable, applications for development approval shall provide sufficient information showing compliance with these standards, as determined by the city. A concurrency evaluation application will be provided to the developer for completion. The application and associated forms will set forth the quantity and quality of written and graphic information necessary to show compliance with level of service requirements and shall at a minimum require:

(1) Name, address and telephone number of the property owner (signature of the owner must be notarized).

(2) Name, address and telephone number of the applicant if other than the property owner.

(3) Proof of ownership which shall consist of at least one of the following:

a. A fee simple title.

b. An option to acquire fee simple title within a specified period of time.

c. A leasehold interest in excess of 20 years.

d. A substantial interest in a joint venture agreement or real estate syndication which has or can obtain a fee simple title.

e. A marketable title subject to a certain condition which will not substantially restrict development within a reasonable time.

f. An executed copy of the warranty deed.

(4) A certified plat of survey, prepared within one year from date of application, which includes:

a. An accurate legal description of the subject property;

b. A computation of the total area of property in square feet and to the nearest tenth of an acre; and

c. Zoning of the property.

(5) Description of proposed project, to include:

a. Specific use or uses proposed or proposed for expansion.

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b. 1. For nonresidential uses, square footage of overall proposal and detailed breakdown of square footage for each individual use in a multiuse project.

2. For residential uses, number of dwelling units.

(6) County trips analysis paid for by the applicant, unless the development proposal is specifically exempted by this article, or if applicable, a traffic study as required by section 32-884. (Traffic studies required under this section shall be prepared by appropriate consultants retained by the city at the developer's expense.)

(7) On-site stormwater management plan prepared by a qualified professional engineer unless specifically exempted by section 32-855(b)(3).

(8) A detailed waste management plan which describes the method of collection and disposal.

(b) The concurrency evaluation shall be reviewed by the city manager and/or appropriate consultants retained by the city at the developer's expense for compliance with this article. Based on the review, a written finding of compliance or noncompliance shall be issued by the city manager. A finding of compliance shall expire and may be extended in the same manner as a development order, as described in section 32-855.

(c) Fees for concurrency evaluation are required. Such fees are on file in the city clerk's office.
(Code 1980, § 4.01.04)

Sec. 32-855. Determination of concurrency.

(a) *Generally.* Determination of concurrency occurs during major or minor development review prior to the approval of a development order, in accordance with the level of service standards adopted by the city. If the developer increases the intensity or density of a development proposal during any stage in the development approval process, a new concurrency evaluation will be required. If no building permit is issued, the development order shall expire one year after the date of approval. A six-month extension may be granted by the city manager based on a written request which includes the reasons for the extension request. The request must be received within 20 days of the development order expiration date.

(b) *Exceptions.*

(1) Development for which a plat has been approved by the county commission subsequent to March 20, 1979, shall not be required to substantiate maintenance of the adopted level of service standard for roads with respect to state- and county-maintained roads only. Substantiation of maintenance of the adopted level of service standard for roads with respect to locally maintained roads is required for all developments unless specifically exempted in this subsection.

(2) Individual single-family and duplex developments that access local roads will not be required to substantiate maintenance of the adopted level of service standard for roads.

(3) Residential developments having ten or less parking spaces and where not more than 20 percent of the swale area adjacent to the public right-of-way is paved with any type of impervious material shall not be required to substantiate maintenance of the adopted level of service standard for drainage.

(4) Developments for which a development order has been approved by the city prior to December 1, 1989, have a vested right to develop their property as approved and are therefore exempt from the provisions of this article. However, in the event of an amendment to an approved development order, after December 1, 1989, the requirements of this article shall apply to the extent that the development, as amended, creates greater impacts upon the specified public facilities than the development as previously approved. In addition, if the development order expires as described in subsection (a) of this section, the development's vested right shall be void.

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(5) Notwithstanding other provisions of this article, applications for development orders that will not have an impact on the affected public facilities, as determined by the city, are exempt from concurrency requirements.

(Code 1980, § 4.01.05)

Sec. 32-856. Annual report.

(a) *Contents.* The city shall prepare an annual report on the concurrency management system that includes:

(1) a. A summary of actual development activity, including a summary of certificates of occupancy, indicating quantity of development represented by type and square footage.

b. A summary of actual demolition activity indicating the quantity of removed development by type and square footage.

(2) A summary of building permit activity, indicating:

a. Those that expired without commencing construction;

b. Those that are active at the time of the report;

c. The quantity of development represented by the outstanding building permits;

d. Those that result from development orders issued prior to January 2, 1990; and

e. Those that result from development orders issued subsequent to January 2, 1990.

(3) A summary of development orders issued, indicating:

a. Those that expired without subsequent building permits;

b. Those that were completed during the reporting period;

c. Those that are valid at the time of the report but do not have associated building permits or construction activity; and

d. The phases and quantity of development represented by the outstanding development orders.

(4) An evaluation of each facility and service indicating:

a. The capacity available for each at the beginning of the reporting period and the end of the reporting period.

b. The portion of the available capacity held for valid development orders.

c. A comparison of the actual capacity to calculated capacity resulting from approved development orders.

d. A comparison of actual capacity and levels of service to adopted levels of service from the city comprehensive plan.

e. A forecast of the capacity for each based upon the most recently updated schedule of capital improvements in the city capital improvements element.

(b) *Use of annual report.* The CMS annual report shall constitute prima facie evidence of the capacity and levels of service of public facilities for the purpose of issuing development orders during the 12 months following completion of the annual report. The annual report shall be completed in a timely manner, following the 12th month subsequent to the effective date of this article, and each successive 12-month period thereafter. The annual report will be kept on file in the growth management department.

(Code 1980, § 4.01.06)

Secs. 32-857—32-880. Reserved.

DIVISION 3. LEVELS OF SERVICE

Sec. 32-881. Adopted.

Level of service standards adopted in this article are provided to implement the per capita level

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of service standards adopted in the city comprehensive plan. Generalized categories of land use and corresponding average values for facility demand are provided to allot available facility capacity to a particular development proposal. This process is intended to provide a measure with which to determine the impacts of a proposed development on the affected public facilities. Available capacities for potable water and wastewater facilities will be adjusted on an annual basis by the city based on actual usage figures from facility providers. For purposes of determining available capacity for wastewater treatment and potable water supply, the adequacy of sewer and water transmission lines shall be considered in addition to plant capacity.
(Code 1980, § 4.02.00)

Sec. 32-882. Potable water.

(a) The current potable water system available capacity is 8.5 mgd; the current use is 5.92 mgd; and the current available capacity, as of December 1, 1989, is 2.58 mgd.

(b) Development activity shall not be approved unless there is sufficient available capacity to sustain the following levels of service for potable water as established in the city comprehensive plan:

Facility Type	*Level of Service Standard*
(1) Residential:	
a. Gpd per single-family unit	350
b. Gpd per multi-family unit	200
(2) Commercial/office, gpd per s.f. of gross floor area (GFA)	0.15
(3) Light industrial/warehouse, gpd per s.f. of GFA	0.1
(4) Other, gpd per s.f. of GFA	0.20

(c) All new development shall connect to the public water supply in accordance with city engineering specifications and requirements.
(Code 1980, § 4.02.01)

Sec. 32-883. Wastewater.

(a) The current wastewater system available capacity is 8.0 mgd; the current use is 5.47 mgd; and the current available capacity, as of December 1, 1989, is 2.53 mgd.

(b) Development activities shall not be approved unless there is sufficient available capacity to sustain the following levels of service for wastewater as established in the city comprehensive plan:

Facility Type	*Level of Service Standard*
(1) Residential:	
a. Gpd per single-family unit	315
b. Gpd per multi-family unit	180
(2) Commercial/office, gpd per s.f. of gross floor area (GFA)	0.135
(3) Light industrial/warehouse, gpd per s.f. of GFA	0.09
(4) Other, gpd per s.f. of GFA	0.18

(c) All new development shall connect to the public wastewater service in accordance with city engineering specifications and requirements.
(Code 1980, § 4.02.02)

Sec. 32-884. Transportation system.

(a) *Level of service (LOS).* Development activities shall not be approved unless there is sufficient available capacity to sustain the following level of service (LOS) for transportation systems as established in the city comprehensive plan:

(1) The minimum peak hour level of service standard for all transportation facilities is D.

(2) Road segments currently operating at LOS A, B or C may degrade to LOS D. Road segments operating at LOS D will not be permitted to degrade to LOS E or F,

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except during construction of new facilities as provided for in this section or as follows:

a. For the purpose of issuing development orders, the LOS for road segments operating below level of service D in the TRIPS model, as identified in the county administrative code, that are constrained facilities is "110% Maintain."

b. For the purpose of issuing development orders, the LOS for road segments operating below level of service D in the TRIPS model, as identified in the county administrative code, that are planned improvement facilities is "110% Maintain" and requires a finding by the city manager and/or a traffic consultant retained by the city at the developer's expense, that approval of the development would not prevent the planned improvement from achieving level of service D.

c. For the purpose of issuing development orders or permits, the LOS for all road segments included within a special transportation area shall be consistent with the LOS established by the plan amendment designating the special transportation area. (Requires city comprehensive plan amendment.)

(b) *Determination of project impact.* The impact of proposed development activity on available capacity shall be determined as follows:

(1) The area of impact of the development (a traffic shed) shall be determined by the city or traffic consultant retained by the city at the developer's expense. The traffic shed shall be that area where the primary impact of traffic to and from the site occurs.

(2) The projected level of service for roads within the traffic shed shall be calculated based upon estimated trips to be generated by the project using the county TRIPS model as a basis. If the county TRIPS model is unable to generate level of service figures for a particular road segment within the traffic shed, for any reason, the city manager may require submission of a traffic study prepared by a traffic consultant retained by the city at the developer's expense.

(3) The projected and adopted level of service shall be compared to determine whether the proposed project will degrade the adopted level of service.

(4) All necessary rights-of-way shall be reserved by dedication, or easement if acceptable to the city, prior to approval of the final development order.

(5) All roadway improvements shall be constructed in compliance with city engineering specifications and requirements.

(Code 1980, § 4.02.03)

Sec. 32-885. Drainage system.

Development activities shall not be approved unless there is sufficient available capacity to sustain the following level of service for the drainage system as established in the city comprehensive plan. For all development, five-year; one-hour storm event (the site must have the capacity to retain on the site the stormwater generated by a five-year severity one-hour storm event (3.3 inches of water in one hour) by means of collection and groundwater recharge).

(Code 1980, § 4.02.04)

Sec. 32-886. Solid waste.

(a) Development activities shall not be approved unless there is sufficient available capacity to sustain the following levels of service for the solid waste as established in the city comprehensive plan. Since the city utilizes waste disposal facilities provided by others and therefore capacity cannot be reserved for particular developments, a determination of available capacity will be issued to the developer by the city manager.

Facility Type	*Level of Service Standard*

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(1) Residential, lbs. per unit per day 8.9

(2) Commercial/office, lbs. per 100 sq. ft. of gross floor area (GFA) per day 5

(3) Light industrial/warehouse, lbs. per 100 sq. ft. of GFA per day 2

(4) Other, lbs. per 100 sq. ft. of GFA per day. 8

(b) A detailed waste management plan must be provided which describes the means of collection and disposal.
(Code 1980, § 4.02.05)

Sec. 32-887. Recreation.

(a) The 1989 population estimate was 38,358; the current acreage is 166.7; the current committed acreage is 115; and the available excess acreage, as of December 1, 1989, is 51.

(b) Residential development activities shall not be approved unless there is sufficient available capacity to sustain the following level of service for the recreational facilities as established in the city comprehensive plan:

All park facilities level of service, per 1,000 population . . . . . 3 acres
(Code 1980, § 4.02.06)

Sec. 32-888. Public school concurrency.

(a) *School facilities.* There shall be school facilities sufficient to provide for the needs of the development proposed by the application and for other developments in the impact area which have certificates of occupancy or for which valid building permits are currently in effect or for which school capacity has been reserved.

(b) *Public school concurrency.* Pursuant to the Public School Facilities Element (PSFE) of the City of Hallandale Beach Comprehensive Plan and the Amended Interlocal Agreement (ILA), the city, in collaboration with the Broward County School Board, shall ensure public school facilities will be available for current and future students, consistent with available financial resources and adopted level of service standards, and such facilities will be available concurrent with the impact of proposed residential development.

(1) *Applications subject to a public school concurrency determination.* The city shall not approve an application for a residential plat, replat, plat note amendment, findings of adequacy, or any unincorporated area site plan (application) that generates one or more students or is not exempt or vested from the requirements of public school concurrency, until the school board has reported that the school concurrency requirement has been satisfied.

(2) *Exemptions and vested development.*

a. The following residential applications shall be exempt from the requirements of public school concurrency:

1. An application which generates less than one student at each level in the relevant concurrency service area. Such development shall be subject to the payment of school impact fees.

2. An application for age-restricted communities with no permanent residents under the age of 18. Exemption for an age-restricted community shall only be available subject to a recorded restrictive covenant prohibiting the residence of school-aged children in a manner consistent with federal, state, or local laws or regulations.

3. A development of regional impact (DRI) with a development order issued before the effective date of Senate Bill 360 or an application submitted before May 1, 2005.

4. As may otherwise be exempted by Florida Statutes, including but not limited to applications within municipalities which meet specific qualifying crite-

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ria outlined in the applicable statute and approved by the school board.

b. The following residential applications shall be vested from the requirements of public school concurrency:

1. Any application located within a previously-approved comprehensive plan amendment or rezoning which is subject to a mitigation agreement in accordance with the following:

i. The mitigation to address the impact of the new students anticipated from the development has been accepted by the school board consistent with School Board Policy 1161, entitled "Growth Management," as may be amended from time to time; and

ii. A declaration of restrictive covenants executed and recorded by the developer or the development is located within a boundary area that is subject to an executed and recorded tri-party agreement consistent with School Board Policy 1161, as may be amended from time to time; and

iii. The applicant shall provide a letter from the school board or other evidence acceptable to the city verifying [subsections] a. and b. above. Other evidence may include documentation as specified in the tri-party agreement.

2. Any application which is included within a residential plat or development agreement for which school impacts have been satisfied for the dwelling units included in the proposed application. This includes any unexpired application approved by the city between February 2, 1979, and the effective date of the PSFE and this section. In the transmittal of an application to the school board, the city shall include written information indicating that the units in the application are vested.

c. To be exempt or vested from the requirements of public school concurrency, an applicant seeking such a determination shall be required to submit documentation with the application which shall include written evidence sufficient to verify that the subject development meets the exemptions states herein and, as such, is exempt from the requirements of public school concurrency.

(3) *Level of service standards.* The level of service standard (LOS) shall be 110 percent of the permanent Florida Inventory of School Housing (FISH) capacity for each concurrency service area. The LOS shall be achieved and maintained within the period covered by the five-year schedule of capital improvements contained in the effective five-year adopted District Educational Facilities Plan (DEFP).

(4) *Concurrency service area (CSA).* The areas for implementation of public school concurrency in the city shall be known as concurrency service areas (CSAs), which shall be the approved school boundaries for elementary, middle and high schools, as annually adopted by the school board. For the purpose of public school concurrency, such CSAs shall be effective on the first day of the school year, and end on the last day before the beginning of the next school year.

(5) *Student generation rates.* The effective adopted student generation rate(s) contained herein shall be utilized to deter-

mine the potential student impact anticipated from the residential development proposed in submitted applications.

(6) *Review procedure.*

a. Public school impact application (PSIA). Any applicant submitting an application with a residential component that is not exempt or vested is subject to school concurrency and shall be required to submit a public school impact application (PSIA) for review by the school board. Evidence of acceptance of the PSIA and payment of the applicable PSIA fee to the school board shall be required prior to acceptance of the application by the city.

b. School capacity availability determination (SCAD) letter.

1. No residential application or amendments thereto shall be approved by the city, unless the residential development is exempt or vested from the requirements of public school concurrency, until a SCAD letter has been received from the school board confirming that capacity is available; or, if capacity is not available, the proportionate share mitigation has been accepted by the school board. The SCAD letter shall be sent to the applicant, the Broward County Development Management Division, and the city with jurisdiction over the subject development, no later than 45 days after acceptance of the PSIA by the school board.

2. The school board shall determine the potential student impact from proposed residential development on the applicable CSA by performing the review procedure specified in School Board Policy 1161, as amended.

3. If the school board determines that sufficient capacity is available at the adopted LOS to accommodate students anticipated from the development, the school board shall issue a SCAD letter indicating that adequate school facilities exist to accommodate the student impact and the proposed development satisfies public school concurrency requirements.

4. If the school board determines that sufficient permanent capacity is not available at the adopted LOS to accommodate students anticipated from the development, the SCAD letter shall state that the development has not satisfied public school concurrency requirements and the basis for such determination. The applicant shall have 30 days to propose proportionate share mitigation to the school board.

5. If the applicant proposes proportionate share mitigation within the 30-day deadline, upon the subsequent acceptance of the proposed mitigation by the school board, and upon the execution of a legally-binding document among the school board, the city, and the applicant, an amended SCAD letter shall state that adequate capacity anticipated from the accepted proportionate share mitigation will be available to accommodate the student impact anticipated from the proposed development and that the proposed development satisfies public school requirements. The total amount committed for any mitigation option shall not be less than the school impact fees due for the proposed units, as calculated

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based upon the adopted school impact fee schedule contained herein. The school impact fee due for the development shall be considered included in the total proportionate share mitigation amount due or paid. If the proportionate share mitigation is not accepted by the school board, the amended SCAD letter shall state the basis upon which the mitigation proposal(s) was rejected and why the development is not in compliance with public school concurrency requirements.

6. An applicant adversely impacted by a SCAD determination may appeal such determination by written request to the school board within the designated 30-day time period. A timely request for an appeal shall stay the requirement for an applicant to propose proportionate share mitigation until the appeal has been resolved.

7. If an applicant or approval expires, the SCAD letter will no longer be valid.

(7) *Expiration of concurrency/vesting.*

a. The public school concurrency approval for a residential application shall expire if development does not commence, as outlined in [subsection] b. below, within five years following the date of city commission approval.

b. If a residential application received approval, the development and anticipated students shall be considered vested for up to five years beginning from the date the developer received approval from the city. Vesting of a residential application beyond five years requires that one of the following conditions is met within the five-year period: (1) the issuance of a building permit for a principal building and first inspection approval; or (2) substantial completion of project water lines, sewer lines, and the rock base for internal roads. If the development was denied, the school board shall deduct students associated with the development from its database.

(Ord. No. 2008-08, § 1, 5-7-2008)

Editor's note—The subsections of § 32-888 have been renumbered for purposes of classification, at the editor's discretion, as set out herein.

Secs. 32-889—32-920. Reserved.

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ARTICLE VII. NONCONFORMITIES

Sec. 32-921. Purpose and intent.

(a) It is the purpose and intent of this article to permit, except as otherwise specifically provided, the continuation of those lots, structures, uses, characteristics of use or combinations which were lawful before the passage of this chapter, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments to this chapter. For purposes of this chapter, a nonconforming lot, structure, use or characteristic of use is defined as a lot, structure or use, or combination, that does not comply with the land development standards of the zoning district in which the lot, structure, use or characteristic of use or combination is located, but which was legally established and in existence before November 21, 1978.

(b) This article is designed to provide reasonable and equitable standards and guidelines for the control of:

(1) Nonconforming lots, structures, uses and characteristics of uses in the regulation of change of use;

(2) Change in kind or quality of use;

(3) Change in volume or intensity of use;

(4) Change in location of use;

(5) Change of ownership or tenancy of use;

(6) Accessory or incidental uses to nonconforming lots, structures, uses, or characteristics of uses;

(7) Enlargement of use;

(8) Replacement of use;

(9) Addition or expansion of facilities;

(10) New activities, products or services connected with the nonconforming lot, structure or use;

(11) The alteration of a nonconforming structure;

(12) Repair of a nonconforming structure;

(13) Restoration of a nonconforming structure; and

(14) Abandonment or discontinuance of a nonconforming structure or use;

or any combination.

(c) It is the further purpose and intent of this article to allow nonconforming lots, structures, uses and characteristics of use and combinations to continue, except as otherwise specifically provided, subject to specific conditions, in order not to interfere with the existing circumstances surrounding land development within the city prior to the effective date of this article more than is necessary for the proper exercise of police powers relating to the general public welfare of the citizens and residents of the city.
(Code 1980, app. A, art. III, § 4.01)

Sec. 32-922. Nonconforming classifications.

Within the zoning districts established by this chapter, or amendments that may be later adopted to this chapter, there may exist:

(1) Nonconforming lots.

(2) Nonconforming structures.

(3) Nonconforming uses.

(4) Nonconforming characteristics of use.

(5) Combinations of nonconforming lots, nonconforming structures, nonconforming uses and nonconforming characteristics of use.

These nonconforming classifications are declared by this article to be incompatible with present permitted uses and all or part of the property development standards regulating permitted uses in the zoning district in which the nonconforming classifications are located and, therefore, are the proper subject regulation as provided for in this article.
(Code 1980, app. A, art. III, § 4.02)

Sec. 32-923. Scope.

In order to avoid undue hardship on the citizens and residents of the city, nothing in this article shall be deemed to require any change in the plans, construction or designated use of any structure on which actual construction was lawfully done prior to November 21, 1978, and upon which actual building construction has been car-

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ried on diligently. For purposes of this section, the term "actual construction" is defined to include the placing of construction materials in permanent position and fastened in a permanent manner according to approved plans for the specific improvement. Where excavation or demolition or removal of an existing structure has been substantially begun, preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work has been and shall be carried on diligently pursuant to a valid building permit.
(Code 1980, app. A, art. III, § 4.03)

Sec. 32-924. Nonconforming lots of record.

(a) In any district in which single-family detached dwellings are permitted, a single-family detached dwelling and customary accessory buildings may be erected on a single lot, tract or parcel of land of record on November 21, 1978, notwithstanding limitations imposed by other provisions of this article. Such lot must be in separate ownership and not be of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, width, depth or density that are applicable in the zoning district in which the lot, parcel or tract, is located; however, required yard or area dimensions and requirements other than those property regulations applying to area, width or depth shall conform to the regulations for the zoning district in which such lot is located.

(b) If two or more lots, or combinations of lots, or portions of lots with continuous frontage and single ownership are of record on November 21, 1978, and if all or part of the lots do not meet the requirements established for lot area, width or depth, the lands involved shall be considered to be an undivided parcel for the purposes of this article; and no portion of such parcel shall be used or sold in a manner which diminishes the degree of compliance with lot width, area and depth requirements established by this article; nor shall any division of any parcel be allowed which creates a lot with area, width or depth, or all, less than the requirements stated in this section.

(1) When two or more adjoining and vacant lots or parcels with continuous frontage or area are under the same ownership on or after November 21, 1978, such lots shall be considered as one tract so as to create one or more lots or parcels which conform to the minimum frontage, area and density requirements of the district in which they are located, and as further provided for in this article.

(2) When an individual lot or parcel has an area smaller than the requirements of the district in which it is located, but was a lot or parcel of record, on November 21, 1978, the permitted uses of the zoning district will be allowed on such lot or parcel, providing all requirements, other than building site area, are maintained.

This subsection shall not apply where two or more lots or parcels adjoin in such a fashion that should they be considered as one lot or parcel, such single lot or parcel would meet all minimum requirements as to area and dimensions, provided that all the area so considered is in the same ownership.
(Code 1980, app. A, art. III, § 4.04)

Sec. 32-925. Nonconforming uses of land.

A nonconforming use may be continued if it lawfully existed on November 21, 1978, or at the time when the use was thereafter prohibited, subject to the following limitations and restrictions:

(1) *Change in location of use.* No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on November 21, 1978.

(2) *Change of ownership or tenancy.* All rights and obligations associated with a nonconforming use of land run with the land and are not personal to the present owner or tenant of the nonconforming use of land and are not affected by a change in ownership or tenancy, except if abandoned.

(3) *Accessory or incidental uses.* Uses accessory to a nonconforming use not in existence on November 21, 1978, are not permitted.

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(4) *Change to a more restrictive or equally restrictive category of use.*

a. A nonconforming use may be changed to a more restrictive category of nonconforming use if the resulting change reduces the degree of nonconformity with applicable site development standards and use regulations. For the purpose of this section, a more restrictive category shall be a use or site development standard contained within a more restrictive zoning district.

b. If no structural alterations are made, any nonconforming use of a structure, or of a structure and premises in combination, may be changed to another nonconforming use of a similar character, provided the director shall find that the resulting change does not increase the degree of nonconformity with applicable site development standards and use regulations and that the relation of the structure to surrounding properties is such that adverse effects on occupants and neighboring properties will not be greater than the existing nonconforming use. In permitting such change, the director may require appropriate conditions and safeguards in accordance with the intent and purpose of this chapter.

(5) *Expansion or extension.* No nonconforming use shall be enlarged, increased, expanded, extended or intensified beyond what existed at the time it became nonconforming.

(6) *Replacement of use.* If any existing nonconforming use as provided for in this article is destroyed by more than 50 percent of its assessed value at the time of destruction as determined by the official records of the county property appraiser by any means, including fire, flood, wind, explosion, act of God, or act of a public enemy, such use shall not be replaced. If such nonconforming use is destroyed to a level less than 50 percent of its total assessed value at the time of destruction as determined by the official records of the county property appraiser, it may be replaced; except that replacement can only occur in compliance with those building, plumbing, electrical, gas, fire, and other construction and safety related regulations in effect at the time of application for a permit to allow replacement. In no event shall the destroyed nonconforming use be replaced to a degree or level greater than the original use as to height, lot coverage, total floor area, bulk, or yard setback requirements.

(7) *Abandonment of use.* The abandonment of a nonconforming use for a period of 180 consecutive days shall render the nonconforming use status of the specific nonconforming use null and void. In the factual determination or whether a nonconforming use has been abandoned, the following factors shall be used, but are not limited to:

a. An intent to abandon the nonconforming use through removal of stock in trade or removal of operating equipment.

b. Some overt act or failure to act which carries with it a sufficient implication that the owner neither claims nor retains any interest in the abandoned property as it stood before the abandonment has occurred. The mere renewal and maintenance of an active occupational license, without more, shall not raise any presumption that the nonconforming use has not been abandoned.

(8) *Redevelopment area; abandonment and discontinuance of nonconforming uses.*

a. In areas of the city that have been properly designated as redevelopment areas pursuant to the definition contained in section 32-8 of this chapter, upon application by the owner of the property or by any other person interested in the prop-

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erty and having the owner's consent, the standards of subsection (7) of this section may be modified by the city commission in order to allow the rehabilitation of structures previously certified for residential dwelling use. The city commission may determine that a structure that meets the criteria of this article be deemed not to have been abandoned or its use discontinued, or the city commission may extend the 180-day period of abandonment or discontinuance of use provided in subsection (7) of this section, upon finding that the following criteria are satisfied:

1. The subject structure is a structure that was a legally existing permitted or nonconforming use prior to the adoption of city Ordinance No. 78-60 on November 21, 1978.

2. The structure was previously certified for human occupancy as a single-family or multiple-family residential dwelling; or, in the absence of adequate records, physical evidence and affidavits attesting to the fact that a structure was previously constructed and used for residential purposes may be used in lieu of certificate of occupancy documents.

3. The structure is presently in sufficiently sound condition that major structural supporting members do not require replacement in order to rehabilitate the structure and render it certifiable for human occupancy as a residential dwelling. In making the determination required by this section, the commission may request that the structure be examined by the appropriate building inspectors of the city in order to determine whether major structural changes will be necessary in order to rehabilitate the dwelling.

4. Such structure is otherwise suitable for rehabilitation for use for residential dwelling purposes.

If the criteria in this subsection are met by the structure in question and the city commission shall so determine, the structure may be deemed a legal nonconforming use which has not been abandoned; and it may be redeveloped to the category of the use specified on the last certificate of occupancy issued for the structure. In the absence of such certificate of occupancy, physical evidence and affidavits attesting to the category of use may be utilized in determining the allowable characteristics of the rehabilitated structure. Notwithstanding full compliance with every provision of this section, no structure to which this section may be applicable or which shall have been converted by the city commission to a legal nonconforming use pursuant to this section shall be subject to rehabilitation if such rehabilitated structure shall constitute a use of greater intensity or density of residential units than was permitted by the last certificate of occupancy for the structure in question, or shall otherwise result in a density of more than 25 units per acre, whichever is less. In the absence of a certificate of occupancy, the commission may utilize physical evidence and/or affidavits to determine the original intensity or density of use.

b. Any structure in a redevelopment area that may be rehabilitated for use as a residential dwelling, pursuant to subsection (8)a., shall comply with all current requirements of this chapter as to landscaping and parking; however, the city commission

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may, in its discretion, waive any or all such requirements upon application of the owner or other person interested in the property, submitted simultaneously with the application as provided in subsection (8)a. of this section.

c. Every application submitted in accordance with subsection (8)a., b. of this section shall include a statement of the applicant's interest in the property, and if the applicant is someone other than the owner, a statement showing the consent of the owner to such application, and a sketch plan of the site drawn to scale. Each application will be processed in accordance with the redevelopment area modification procedure established by section 32-175.

d. Providing a parcel has not been subdivided or otherwise reduced in size except for public right-of-way purposes, where application is made pursuant to subsection (8)a. of this section, the city commission may, if it finds the criteria of subsection (8)a. of this section are otherwise met, waive the density cap of 25 units per acre to allow a density in excess of 25 units per acre but not in excess of the number of residential units existing on the parcel of land.

(9) *Discontinuance of a nonconforming use.* No building or premises wherein or whereon a nonconforming use is discontinued for a period of at least 180 consecutive days shall again be devoted to any use prohibited by this Code of Ordinances.

(Code 1980, app. A, art. III, § 4.05)

Sec. 32-926. Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter, and it could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other property development standards or requirements concerning the structure, such structure, except as otherwise specifically provided, may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) *Alteration, extension, enlargement, or expansion of nonconforming structure.* Except for as provided in subsection a. below, no such alteration, extension, enlargement, or expansion of a nonconforming structure shall be permitted in a way which increases its noncompliance with present property development and use standards of the zoning district in which it is located; but any nonconforming structure or portion may be altered to decrease its noncompliance with present property development and use standards of the zoning district in which it is located. Nothing in this subsection shall prohibit the director from ordering the compliance with all applicable building construction and safety related codes.

a. *Setback exception.* In the case of nonconforming side yard or rear yard setbacks, existing single-family and two-family buildings may be authorized to expand provided the existing setback of the building is met.

(2) *Replacement, restoration and reconstruction of nonconforming structure.* If any existing nonconforming structure, as provided for in this section, is destroyed by any means, including fire, flood, wind, explosion, act of God, or act of a public enemy by less than 50 percent of its total appraised value according to the latest records of the county property appraiser, such structure shall be permitted to be replaced, restored or reconstructed according to the property development standards in effect at the time of its original construction; except that replacement, restoration and reconstruction can only occur in compliance with those building, plumbing, electrical, gas, fire and other construction and safety related regulations in effect at the time of application for a permit to allow replacement, resto-

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ration, or reconstruction. In no event shall the destroyed nonconforming structure be replaced to a degree or level greater than the original structure as to height, lot coverage, total floor area, yard setback requirements or other applicable property development regulations at the time of original construction.

(3) *Repairs and maintenance of nonconforming structures.* Routine repairs and maintenance of nonconforming structures on fixtures, wiring or plumbing or on the repair or replacement of walls shall be permitted.

(4) *Change in location of nonconforming structure.* Should any nonconforming structure be moved for any reason to any distance whatever from its original permitted location, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

(5) *Accessory or incidental structures.* Structures normally accessory to or incidental to a permitted structure or permitted use in the zoning district in which the nonconforming structure is located may be permitted as accessory structures to the nonconforming structure.

(6) *Abandonment of nonconforming structure.* The abandonment of a nonconforming structure for a period of 180 consecutive days shall render the nonconforming structure status of the specific nonconforming structure null and void.

(Code 1980, app. A, art. III, § 4.06; Ord. No. 2004-29, § 1, 12-7-2004)

Sec. 32-927. Nonconforming characteristics of use.

For purposes of this article, characteristics of use, such as off-street parking and loading and landscape requirements, shall be interpreted to be synonymous with and a part of the nonconforming classification of uses and structures legally permitted and existing at the time of the passage of this chapter or an amendment to this chapter, although such characteristics of use do not conform to the provisions of this chapter.

(Code 1980, app. A, art. III, § 4.07)

Sec. 32-928. Nonconforming lots, structures, use characteristics and uses in combination.

If, on the effective date of this chapter, a lot of record, structure, use or characteristic of use of land, in any combination, exists that would not be permitted under the terms of this chapter, but was lawful at the time of its original existence, that use may be continued unless otherwise deemed abandoned or terminated or required to be eliminated or brought into conformance by other applicable provisions of this chapter. Sections 32-925 and 32-926 shall apply to all nonconforming lots of record, structures, uses and characteristics of use, and combinations of any or all of them.

(Code 1980, app. A, art. III, § 4.08)

Sec. 32-929. Nonconforming outdoor uses.

All primary and accessory outdoor uses which are nonconforming shall be discontinued within one year of the final adoption of this chapter.

(Code 1980, app. A, art. III, § 4.09)

Sec. 32-930. Nonconforming classifications created by the issuance of variances prior to the effective date of this chapter.

(a) Nonconforming lots, structures, uses, characteristics of use and combinations that were legally in existence or under construction on the effective date of this chapter as a result of variances issued prior to the effective date of this chapter shall be considered nonconforming lots, structures, uses or characteristics of use under the terms of this chapter; and such variances shall be continued as though they had been granted under the terms of this chapter. Renewable variances granted prior to the effective date of this chapter shall be continued following the effective date of this chapter with no further requirement for renewal.

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(b) This section shall not apply to variances issued to allow the sale of alcoholic beverages with less than the restrictions imposed by chapter 5. Neither shall this section apply to variances from the terms of any parking ordinance other than those variances from the terms of article IV, division 11 of this chapter.

(c) Variances issued prior to the effective date of this chapter which allow the sale of alcoholic beverages with less than the minimum restrictions imposed by chapter 5, and which were issued as annually renewable variances, shall continue to be annually renewable under the terms of this article.
(Code 1980, app. A, art. III, § 4.10)

Secs. 32-931—32-960. Reserved.

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ARTICLE VIII. REZONINGS, CONDITIONAL USES AND VARIANCES

Sec. 32-961. Variance.

No approval shall be given for a proposed development containing features in conflict with any current city ordinance or regulation. Any such conflict must be resolved by following the procedures set forth for variances from regulatory controls or any other procedures established by the city commission for the granting of variances, and no development permit shall be issued until all necessary variances are so obtained.
(Code 1980, app. A, art. VII, § 13)

Sec. 32-962. Review standards.

In review of applications for land use amendments, rezonings, conditional uses and variances, the standards of this article shall be observed by the city commission, planning and zoning board and director in making any decisions or recommendations.
(Code 1980, app. A, art. VI, § 1(intro. ¶))

Sec. 32-963. Land use plan amendments and rezonings.

Decisions or recommendations relating to any change to the official zoning map or the land use element of the comprehensive plan shall address but is not limited to the effect of the proposed amendment as it relates to the following:

(1) The relationship of the proposed amendment to the purposes and objectives of the city's comprehensive land use plan, when adopted, with appropriate consideration as to whether or not the proposed changes will further the purpose of this chapter and other codes, regulations and actions designed to implement the plan.

(2) The proposed change would or would not be contrary to the established land use pattern.

(3) The proposed change would or would not create an isolated district unrelated to adjacent and nearby districts.

(4) The proposed change would or would not alter the population density pattern and thereby have an adverse impact upon public facilities such as schools, utilities and streets.

(5) Existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

(6) Changed or changing conditions make the passage of the proposed amendment necessary.

(7) Substantial reasons exist why the property cannot be used in accordance with the adopted land use plan and/or the existing zoning.

(8) Whether or not the change is out of scale with the needs of the neighborhood.

(Code 1980, app. A, art. VI, § 1.01)

Sec. 32-964. Conditional uses.

Applications for conditional uses shall be reviewed with consideration given to the following:

(1) That the use is compatible with the existing natural environment and other properties within the neighborhood.

(2) That the use will create no substantial detrimental effects on property values in the neighborhood.

(3) That there are adequate public facilities such as schools, roads, parks and utilities within the service areas involved.

(4) That there will be adequate provisions for the traffic movement, both vehicular and pedestrian, both internal to the use and in the area which will serve the use.

(5) That there will be adequate drainage systems to service the use with particular attention to the necessity for on-site retention systems to alleviate drainage and pollution problems.

(6) That there are adequate setbacks, buffering and general amenities in order to control any adverse effects of noise, light, dust and other nuisances.

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(7) That the land area is sufficient, appropriate and adequate for the use and for any reasonably anticipated expansion of the use.

(8) Any other conditions as may be stipulated and made a requirement in granting any application for a conditional use, when it is considered necessary to further the intent and general welfare, including, but not limited to:

a. Limitations on the hours of business operations.

b. Limitations on the number of occupants of any building at any one time.

(Code 1980, app. A, art. VI, § 1.02)

Sec. 32-965. Variances.

(a) A variance to the terms of this chapter that will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship may be granted by the city commission in compliance with the requirements of this chapter, unless the request is for a variance not exceeding 25 percent of the applicable dimensional requirement of this chapter or 20 percent for sign code requirements and the request complies with subsections(b)(2) and (5) of this section. In that event, the procedure of subsection (h) of this section applies.

(b) In order to authorize any variances to the terms of this chapter, it must be found that:

(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not generally applicable to other lands, structures or building in the same zoning district.

(2) The special conditions and circumstances do not result from the actions of the applicant.

(3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same district.

(4) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by the properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardships on the applicant.

(5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

(6) The grant of the variance will be in harmony with the general intent and purpose of this chapter.

(7) Such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

(c) Appropriate conditions and safeguards, in conformity with this chapter, may be prescribed as a condition of the granting of the variance and violation of such conditions shall be deemed a violation of this chapter.

(d) Under no circumstances shall a variance be granted for a use which is first permitted in a less restrictive district. No nonconforming use of neighboring land, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

(e) A variance granted under the provisions of this chapter shall automatically expire under the following conditions:

(1) If a permit has not been issued by the building official within six months from the date of granting of the variance (or date of any final court order granting or modifying the variance), in accordance with the specific plans for which that variance was granted.

(2) If a permit is issued within the required time period, if work has not been completed and a certificate of occupancy has not been issued under that permit.

(3) If a permit issued within the required time period shall expire or be revoked

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pursuant to the Florida Building Code, and if the time period for originally obtaining a permit has expired, the variance shall automatically expire.

(f) Extensions to expiring variances may be made by the city commission for a single one-year period, or portion of a year, upon receipt of written request from the applicant not less than 45 days before the expiration of the approved variance, stating the reasons for the extension request.

(g) Applications for variances will not be considered with respect to the following:

(1) Buildings and structures for which application has been made, either formal or informal, and been denied by the city, but the building or structure is later constructed.

(2) Where plans have been submitted and approved and permits issued and the building or improvement not built according to plan.

(3) Where plans have been submitted and approved and permits issued but additional work not shown on the approved plans has been done.

Fees shall be charged for applications for variances where buildings or structures were constructed without permits. Such fees are on file in the city clerk's office.

All applications for variance under this article shall specify the name of the contractor who performed the work and the value of the work performed.

With respect to applications involving property or uses within residential districts (RS, RD and RM districts) the fees shall cover all variances requested. Applications involving property or uses in other use districts shall pay an additional fee of half the applicable amount for each additional variance requested.

(h) Variances may be granted by the city manager under the provisions of this section if:

(1) The application complies with [the application requirements in] section 32-966(c).

(2) The application is for variance of minimum lot area, minimum lot width, minimum yard setbacks, maximum height, minimum landscaping requirements, off-street parking and loading, and signage.

(3) The city manager shall consider subsections (b)(2) and (5) of this section; development patterns of the area; particulars of the application; and good planning practice in granting or denying the variance.

(4) Upon a positive finding of the application by the city manager, all property owners within 150 feet of the property will receive a courtesy notice by first class mail stating the following:

a. Type and nature of administrative variance being considered;

b. The place and time the application may be reviewed; and

c. Notification that any protest by a noticed property owner will be required in writing within ten working days from the date of the courtesy notice.

(5) Upon a negative finding by the city manager, or a written protest from a property owner as identified in subsection (h)(4) of this section, the applicant may withdraw or elect to submit the variance request to the city commission.

(6) No additional variance fees will be required if the applicant elects to proceed in accordance with subsection (h)(5) of this section.

(Code 1980, app. A, art. VI, § 1.03; Ord. No. 2004-13, § 2, 6-1-2004; Ord. No. 2006-07, § 1, 3-7-2006)

Sec. 32-966. Applications.

(a) *Land use plan amendments, rezonings and text changes.* Applications for a change in the land use plan or zoning district boundaries shall include the following information:

(1) Address, location and legal description of the subject property.

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(2) Existing and proposed land use plan designation or zoning of the property.

(3) A statement of the applicant's interest in the property to be rezoned, including a certificate of duly licensed title or abstract company, or a licensed attorney showing that the applicant is the present title holder of record. (Warranty deeds, title insurance documents, tax receipts, and the like shall not be acceptable proof of ownership.)

a. If joint and several ownership, a written consent to the petition, by the owners of record.

b. If a contract purchase, statement of all parties to the contract and written consent of the seller/owner.

c. If an authorized agent, a copy of the agency agreement or written consent of the owner.

d. If a corporation or other business entity, the name of the officer or person responsible for the application and written proof that the representative has been delegated authority to represent the corporation or other business entity, or in lieu thereof, written proof that he is, in fact, an officer of the corporation.

e. If city-initiated, the application may be signed by the director and shall be exempt from the requirements of subsections (a)(3), (4) and (5) of this section.

f. With respect to rezonings, the city commission or the property owner may be the petitioner. With respect to land use plan amendments, the property owner, the local planning agency or the city commissioner may be the petitioner. With respect to text changes, the planning director or the city commissioner may be the petitioner.

(4) A certified plat of survey, prepared within one year from the date of application, which shall include:

a. An accurate legal description of the subject property; and

b. A computation of the total area of the property in square feet and to the nearest tenth of an acre.

(5) A statement of the reasons or justification for the requested land use plan amendment or rezoning, and how the request adheres to the review standards set forth in section 32-963.

(b) *Conditional uses.* Applications for a conditional use shall include the following information:

(1) Address, location and legal description of the subject property.

(2) Existing zoning of the property.

(3) A certified plat of survey prepared within one year from date of application, which shall include:

a. An accurate legal description of the subject property; and

b. A computation of the total area of the property in square feet and to the nearest tenth of an acre.

(4) A statement as to why the requested conditional use will not create any adverse effects upon surrounding properties, and how it adheres to the review standards set forth in section 32-964.

(c) *Variance.* Applications for a variance shall include the following information:

(1) Address, location and legal description of the subject property.

(2) Existing zoning of property.

(3) A statement as to the reasons for the requested variance.

(4) A certified plat of survey, prepared within one year from date of application, which shall include:

a. An accurate legal description of the subject property; and

b. A computation of the total area of the property in square feet and to the nearest tenth of an acre.

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(5) A statement as to how the requested variance adheres to the review standards set forth in section 32-965.

(6) A statement of the applicants' interest in the subject property. If the applicant is not the owner of record, the written consent of the owner shall be required.

(d) *Development review.* In addition to the applicable requirements of this article, all applications for development permits shall also adhere to the procedures and standards set forth in section 32-781 et seq. of this chapter.

(e) *Denials and withdrawals.*

(1) Upon the denial of an application for either a land use amendment, rezoning, conditional use or variance, a period of six months must run prior to the filing of a subsequent application relating to the subject property. Such limitation shall not apply to applications filed by the director or to applications which are more restrictive than the original application. However, applications may be denied without prejudice; and in such event, there shall be no prohibition of the filing of a subsequent application.

(2) An application may be withdrawn without prejudice by the applicant as a matter of right provided the request for withdrawal is in writing and filed with the director prior to a formal final decision. The applicant shall not be entitled to the return of any application fee.

(f) *Special provisions (land use plan amendment).* Before final city adoption of land use plan amendments, there must be either recertification of the city plan by the county planning council and/or an amendment to the county land use plan which requires approval by the county board of commissioners.

(g) *Authority to withhold permits; zoning in progress.*

(1) When a change in zoning district boundaries, land use regulations, a land use plan amendment or an amendment to this chapter is being considered by the city, no permit or license of any kind shall issue and no change of occupancy shall occur if such permit, license or occupancy would result in the nonconforming or unlawful use of the subject property should the proposed change be adopted.

(2) The restriction on such issuance or change of occupancy shall begin on the earlier of the date of:

a. Notification to affected property owners of the proposed change;

b. The first publication of notice of a public hearing of the proposed change; or

c. The first action by the city commission to initiate the proposed change;

and shall continue for six months; provided that such six-month period may be extended for an additional period of not more than six months by resolution of the city commission if additional time is required for study and deliberation due to the scope of the changes or arising out of procedural problems.

(3) If an affected property owner requests and is granted any extension of time, such extension shall not be included in computing the time periods specified in subsection (g)(2) of this section.

(Code 1980, app. A, art. VI, § 2)

Sec. 32-967. Notices.

(a) *Newspaper publication.* Notice of regularly scheduled meetings and all pending land use plan amendments, rezoning, conditional use and variance applications shall be advertised in a newspaper of general circulation within the city in accordance with statutory requirements, if any.

(b) *Posting.* The subject property should also be prominently posted with a sign which shall be placed so as to be visible from an adjacent dedicated street right-of-way and at least indicate the type of petition to be considered, the petition number, and where further information can be obtained.

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(c) *Courtesy letters.*

(1) In addition, all property owners within 300 feet of property which is the subject of a land use plan amendment or rezoning request and within 150 feet of property which is the subject of a variance or conditional use request should receive a courtesy notice by first class mail stating the following:

a. Date, time and place of hearing;

b. Type of petition to be considered; and

c. Place and times the petition may be reviewed.

(2) The names of the property owners shall be as listed in the most current edition of the county tax rolls. Failure of a property owner to receive such courtesy notice shall not void any decision reached on the subject matter.

(3) When a residential structure which contains a legally constituted homeowners' or condominium association is located within the distances in subsection (c)(1) of this section, a single notice transmitted to the current president or officer in charge shall satisfy the requirements for all property owners within the structure.

(d) *Large area land use plan amendments and rezonings.* With respect to rezoning applications on property consisting of five percent or more of the total land area of the city, the requirements of F.S. § 166.041 shall be applicable in lieu of subsections (b) and (c) of this section. With respect to land use plan amendments on property consisting of five percent or more of the total land area of the city, the requirements of F.S. § 163.3187 shall apply.
(Code 1980, app. A, art. VI, § 3)

Sec. 32-968. Filing fees.

(a) All applications shall be accompanied by an official filing fee, which shall be used to defray expenses for administration, notices and advertisements.

(b) The fees shall apply to all applications for land use plan amendments, rezonings, conditional uses and variances. Filing fees for development review approval are established by resolution and on file.
(Code 1980, app. A, art. VI, § 4)

Secs. 32-969—32-1000. Reserved.

ARTICLE IX. NOTICE REQUIREMENTS*

Sec. 32-1001. Intent.

This article is intended to set forth procedures to ensure the opportunity for affected property owners, and other interested parties, to participate in public deliberations and hearings pertaining to development-related activities covered by this Code. It is further intended that the procedures contained herein be consistent with, and meet or exceed, any relevant state requirements with regard to public notification. Should more stringent requirements apply to a proposed action, the requirements shall be in addition to those contained herein.
(Ord. No. 2008-19, § 1, 9-3-2008)

Sec. 32-1002. Types of public notices.

A. When referred to in the Zoning Code, the different types of public notices set out below shall be given the meaning and conform with the provisions as follows:

1. *Mail notice.*

a. Mail notice shall consist of mailing a notice of a public hearing to real property owners within the city as specified herein as each is listed in the latest ad valorem tax records of the county. Each owner of a condominium or cooperative unit whose address is known by reference to the

*__Editor's note—__Ord. No. 2008-19, § 1, adopted Sept. 3, 2008, set out provisions intended for use as Art. VIII, §§ 32-1001—32-1003. For purposes of classification, and at the editor's discretion, these provisions have been included as Art. IX, §§ 32-1001—32-1004. See also the Code Comparative Table.

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latest ad valorem tax records shall be sent notice as a real property owner.

b. In addition to the requirements provided in this section, the notice shall state the date, time and place of the meeting or public hearing, the title of the proposed ordinance or a description of the action to be considered and the place or places within the city where such proposed ordinance or information may be inspected by the public.

c. The notice shall advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance or action to be considered.

d. Unless otherwise provided by law, mail notice may be provided by bulk mail, first-class mail or other type of mail made available by the U.S. Postal Service.

e. A copy of the notice mailed shall be made available for public inspection during the regular business hours of the city clerk.

f. Mail notice shall be deemed given when a notice has been properly addressed, stamped and deposited in a U.S. Postal Service depository.

g. Failure to receive notice shall not be grounds to invalidate the hearing as this provision is a courtesy.

2. *Newspaper notice.*

a. Newspaper notice shall consist of publication in a newspaper of general paid circulation and of general interest and readership in the city, not one of limited subject matter.

b. Whenever possible, the advertisement shall appear in a newspaper that is published at least five days a week.

c. In addition to the requirements provided in this section, the notice shall state the date, time and place of the meeting or public hearing; the title or titles of the proposed ordinance or a description of the action to be considered and the place or places within the city where the proposed ordinance or information may be inspected by the public.

d. The notice shall advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance or action to be considered.

3. *Posted notice.* Sign notice shall be given by the applicant by posting a four-foot by four-foot sign stating the time, date, the type of petition being considered, the petition number, and where further information can be obtained on such matter on the property which is the subject of an application for major development, land use plan amendment or rezoning. All other applications outlined in this article shall be posted by the applicant with a sign provided by the city.

a. If more than one public hearing is held on a matter, the date, time and place shall be stated on the sign or changed as applicable.

b. The sign shall be posted at least ten days prior to the date of the public hearing.

c. The sign shall be visible and legible from adjacent rights-of-way, including waterways, but except alleys.

d. If the subject property is on more than one right-of-way as described in subsection 3.c., a sign shall be posted facing each right-of-way.

e. If the sign is destroyed or removed from the property, the applicant is responsible for obtaining another sign and posting the sign on the property.

f. The sign shall remain on the property until final disposition of the application. This shall include any deferral, rehearing, appeal, request for review or hearings by another

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body. The sign information shall be changed as provided in subsection 3.a.

g. The applicant shall, five days prior to the public hearing, execute and submit to the development services department photographs and an affidavit of proof of the posting of the public notice sign according to this section. If the applicant fails to submit the affidavit, the public hearing will be postponed until the next public hearing after the affidavit has been supplied.

h. Should the application be continued or deferred for greater than 60 days, the sign notice shall be removed and reestablished in accordance with this subsection.

4. *Agenda publication.* Agenda publication shall apply to publication of the agenda of the planning and zoning board at least five days before the meeting of the body that is considering development approvals and permits.

5. *Agenda posting.* Agenda posting shall mean posting of the agenda of all boards reviewing development permits at a public place on a wall at city hall identified for that purpose at least three days prior to the public hearing.

6. *Additional and optional notice.* The city commission may direct that additional notice be given as the city commission may deem as proper for the circumstances involved for a particular hearing.

(Ord. No. 2008-19, § 1, 9-3-2008)

Sec. 32-1003. Hearing notice requirements.

The following table generally identifies when and what type of public notice shall be required and the minimum number of days prior to each meeting/hearing said notice shall be made as additional requirements may be required per Florida Statutes:

Proposed Action	*Published Notice (Minimum number of days prior to each scheduled meeting/hearing)*	*Mailed Notice (Minimum number of days prior to the first scheduled meeting/hearing)*	*Posted Notice (Minimum number of days prior to the first scheduled meeting/hearing)*
Major development	10 days prior	10 days prior	10 days prior
Future Land Use Map (FLUM) amendment	10 days prior	10 days prior	10 days prior
Rezoning	10 days prior	10 days prior	10 days prior
Plat and plat note amendment	10 days prior	N/A	N/A
Vacations of right-of-way or easement	10 days prior	10 days prior	10 days prior
Comprehensive Plan text amendment	10 days prior	N/A	N/A
Zoning Code text amendment	10 days prior	N/A	N/A
Conditional use	10 days prior	10 days prior	10 days prior
Variance/redevelopment area modifications	10 days prior	10 days prior	10 days prior
Neighborhood compatibility meeting	10 days prior	10 days prior	10 days prior

(Ord. No. 2008-19, § 1, 9-3-2008)

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Sec. 32-1004. Notice procedures.

A. *Publication*. The requirements for public notice provided by publication shall be as follows:

1. Notice shall be published at least one time in a newspaper of general circulation published in the City of Hallandale Beach, or in Broward County, Florida, at least ten days prior to the date of any required public hearing and shall be the responsibility of the city.

2. The notice shall state the date, time, and place of the meeting; the title or titles of the proposed ordinances or a description of the substance of the matter being considered; and the place within the city where the proposed ordinances or other materials 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 matter.

3. A copy of the notice shall be available for public inspection at the city clerk's office during the regular business hours of the city.

4. Future Land Use Plan, zoning text amendments and rezoning greater than ten acres. Notice for ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category/use district, or ordinances initiated by the city that change the actual zoning map designation of a parcel or parcels of land involving ten contiguous acres or more, shall be published at least ten days prior to the planning and zoning board public hearing, again at least seven days prior to the first city commission public hearing and again at least five days prior to the second city commission adoption hearing. Public notice shall be provided as described in the following subsections.

   a. The required advertisements shall be no less than two columns wide by ten inches long in a standard size or tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the municipality, not one of limited subject matter, pursuant to F.S. ch. 50. Whenever possible, the advertisement shall appear in a newspaper that is published at least five days a week unless the only newspaper in the city is published less than five days a week.

   b. The advertisement shall be in substantially the following form:

      "Notice of (insert type of) Change

      The City of Hallandale Beach proposes to adopt the following ordinance: (title of ordinance) . . . .

      A public hearing on the ordinance will be held . . . (date and time) . . . at . . . (meeting place) . . . "

   c. Except for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area.

   d. In lieu of publishing the advertisement set out in this section, the city may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the persons of the time, place, and location of any public hearing on the proposed ordinance.

5. *Rezoning*. Ordinances initiated by any person other than the city that change the actual zoning map designation of a parcel of land or parcels of land shall be read by

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title, in full, at two separate city commission hearings, and shall be published at least ten days before the planning and zoning board public hearing, and again at least ten days before the city commission adoption hearing.

6. *Small-scale CLUP amendments.* Notice of small scale development amendments to the Comprehensive Land Use Plan, initiated by other than the city, shall be published at least ten days before the planning and zoning board public hearing, and again at least ten days before the city commission adoption hearing.

7. *CLUP text and map amendments, other than small-scale.* All Comprehensive Land Use Plan amendments, other than small-scale amendments, shall be published at least ten days before the planning and zoning board public hearing, and again at least seven days before the first city commission meeting, and again at least ten days before the city commission adoption hearing.

8. Failure to provide advertised notice as set forth in the foregoing notice requirements shall not affect any action or proceedings taken under this section, unless such notice is required by Florida Statutes.

B. *Posting of property.* The requirements for public notice provided by posting of property publication shall be as follows:

1. Sign notice shall be given by the applicant by posting a four-foot by four-foot sign stating the time, date, the type of petition being considered, the petition number, and where further information can be obtained on such matter on the property which is the subject of an application for major development, land use plan amendment or rezoning. All other applications outlined in this article shall be posted by the applicant with a sign provided by the city.

2. If more than one public hearing is held on a matter, the date, time and place shall be stated on the sign or changed as applicable.

3. The sign shall be posted at least ten days prior to the date of the public hearing.

4. The sign shall be visible and legible from adjacent rights-of-way, including waterways, but except alleys.

5. If the subject property is on more than one right-of-way as described in subsection B.4., a sign shall be posted facing each right-of-way.

6. If the sign is destroyed or removed from the property, the applicant is responsible for obtaining another sign and posting the sign on the property.

7. The sign shall remain on the property until final disposition of the application. This shall include any deferral, rehearing, appeal, and request for review or hearings by another body. The sign information shall be changed as provided in subsection B.2. Should the application be continued or deferred for greater than 60 days, the sign notice shall be removed and reestablished in accordance with this subsection.

8. The applicant shall, five days prior to the public hearing, execute and submit to the development services department photographs and an affidavit of proof of the posting of the public notice sign according to this section. If the applicant fails to submit the affidavit, the public hearing will be postponed until the next public hearing after the affidavit has been supplied.

9. The sign shall be erected in full view of the public on each street side of such property. Where large parcels of property are involved with street frontages extending over considerable distances, additional signs may be erected on the street frontage as may be deemed adequate by the development services director to inform the public.

10. If such sign is placed on a vacant lot or parcel of land, it shall be securely nailed or otherwise fastened securely to a stake or post which itself shall be fastened se-

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curely into the ground. Said sign shall not be located nearer than ten feet nor more than 15 feet from the street property line, provided, however, that where said property is improved by a building, the main part of which is less than ten feet from said street property line, the sign may be placed upon the front and/or side of the building, or upon a front and/or side door and/or window of the building. Whenever a building on improved property is located more than ten feet from the street property line, the sign shall be erected as provided for on vacant property.

11. Failure to post specific property shall not affect any action or proceeding taken hereunder.

C. *Mail notices.*

1. A courtesy notice of public hearings affecting specific properties containing general information as to the date, time, place of the hearing, property location and general nature of the application shall be mailed to all property owners whose addresses are known by reference to the latest ad valorem tax record, within a 1,000-foot radius. This notification requirement is measured in feet from the perimeter boundaries of the subject property.

   The development services director may require an additional area to receive a courtesy notice on any application. The development services director may also require courtesy notices on applications that are not typically required to be noticed if it is determined that such notification is desirable.

2. Courtesy notice shall be mailed by the applicant at least ten days prior to the date of the public hearing.

3. Rezoning less than ten acres. When a proposed ordinance is initiated by the city that changes the actual zoning map designation for a parcel or parcels of land less than ten acres, the city shall notify by mail each real property owner whose land the city will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for the public hearing on such ordinance. Such notice shall be given at least ten days prior to the date of the planning and zoning board public hearing, and again at least 30 days prior to the date of the city commission public hearing.

4. Small-scale CLUP amendments. Notice of small-scale development amendments to the Comprehensive Land Use Plan, initiated by the city, shall be mailed to each property owner of record in the current tax rolls. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for the public hearing on such ordinance. Such notice shall be given at least ten days prior to the date of the planning and zoning board public hearing, and again at least 30 days prior to the date of the city commission public hearing.

5. CLUP/zoning text amendments and rezoning greater than ten acres. Notice for ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category/use district, or ordinances initiated by the city that change the actual zoning map designation of a parcel or parcels of land involving ten contiguous acres or more, shall be mailed at least ten days prior to the planning and zoning board public hearing, again at least seven days prior to the first city commission public hearing and again at least five days prior to the second city commission adoption hearing.

6. Neighborhood compatibility meetings shall be noticed at least ten days prior to the meeting. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this Code for notice. For neighborhood compatibility

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meetings, the applicant shall also notify all property owners of record, including those within condominiums within a one-half-mile radius from the subject property. This notification requirement is measured from the perimeter boundaries of the subject property.

7. A copy of mailed notices shall be available for public inspection during the regular business hours of the city clerk.

8. Failure to mail or receive courtesy notice shall not affect any action or proceeding taken under these regulations.

9. The applicant shall be required to provide a mailing list and labels of the area within the radius prescribed above to the city with an affidavit affirming the mailing was sent in accordance with this article or bearing written verification by the U.S. Postal Service on the date of mailing. Such notice shall be placed in the mail at least ten days prior to the first scheduled public hearing.

(Ord. No. 2008-19, § 1, 9-3-2008)

CODE COMPARATIVE TABLE

1980 CODE

This table gives the location within this Code of those sections of the 1980 Code, as updated through December 16, 1997, which are included herein. Sections of the 1980 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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CODE COMPARATIVE TABLE

ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1980 Code, as updated through December 16, 1997, which are included herein. Ordinances adopted prior to such date were incorporated into the 1980 Code, as supplemented. This table contains some ordinances which precede December 16, 1997, but which were never included in the 1980 Code, as supplemented, for various reasons. Ordinances adopted since December 16, 1997, and not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

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2003-13	6-17-2003	1	Added	32-52—32-60
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2003-33	11-18-2003	1		24-3(c), (d)

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*__Note—__The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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