

Chapter 34

LAND DEVELOPMENT CODE*

* **Editors Note:** Ord. No. 7500, § 2, adopted Aug. 19, 1991, repealed Ch. 34, in its entirety, which pertained to zoning and derived from:

Ord. No.	Section	Date
7264	1	11- 5-84
7285	1	8-19-85
7289	1	8-19-85
7300	1--3	1- 6-86
7301	1--5	12-16-85
7302	1, 2	12-16-85
7303	1	12-16-85
7304	1--4	12-16-85
7305	1	12-16-85
7306	1	12-16-85
7307	1	12-16-85

Ord. No.	Section	Date
7308	1	12-16-85
7310	1--4, 6--9	12-16-85
7311	1, 2	12-16-85
7327	1, 2	9-15-86
7350	1	6-15-87
7367	1	11- 2-87
7380	1--4	6- 6-88
7382	1--3	8-15-88
7397	1	1- 9-89
7449	1	3-19-90
7498	1	7-23-91

Section 1 of said Ord. No. 7500, enacted provisions pertaining to the land development code which are codified herein as a new Ch. 34. See the Code Comparative Table for a detailed analysis of inclusion.

Cross References: Beaches and bulkheads, Ch. 6; buildings and building regulations, Ch. 7; streets, sidewalks and public places, Ch. 28.

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ARTICLE I.

GENERAL PROVISIONS

Sec. 34-1. General.

- (a) *Title and citation.* This chapter shall be known as the "Jacksonville Beach Land Development Code" and may be cited and referred to herein as the LDC.
- (b) *Authority.* The city council of the city has the authority to adopt the LDC pursuant to the Fl. Const. Article VIII, Sec. 2, F.S. § 166.01, et seq., the Jacksonville Beach Charter, F.S. § 163.3161, et seq., Florida Administrative Code (F.A.C.) Rule Rule 9J-5 and Rule 9J-24, and such other authorities and provisions that are established in the statutory or common law in the State of Florida.
- (c) *Findings.* The city council of Jacksonville Beach, Florida, hereby makes the following findings:
- (1) Jacksonville Beach, pursuant to F.S. § 163.3161, et seq., the Florida Local Government Comprehensive Planning and Land Development Regulation Act (hereinafter the "Act"), is required to prepare and adopt a comprehensive plan.
 - (2) After adoption of the comprehensive plan, the Act, and in particular F.S. § 163.3202(1),

mandates that Jacksonville Beach adopt land development regulations that are consistent with and implement the adopted comprehensive plan.

- (3) F.S. § 163.3194(1)(b), requires that all land development regulations enacted or amended by Jacksonville Beach shall be consistent with the adopted comprehensive plan, and any land development regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, shall be amended so as to be consistent.
 - (4) F.S. § 163.3194(1)(a), mandates that after a comprehensive plan has been adopted in conformity with the Act, all development undertaken by, and all actions taken in regard to development orders by governmental agencies in regard to land under the jurisdiction of the comprehensive plan shall be consistent with the comprehensive plan.
 - (5) Pursuant to F.S. § 163.3194(3)(a), a development order and land development land regulations shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.
 - (6) F.S. § 163.3194(3)(b), states that a development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of development are compatible with and further the objectives, policies, land uses, densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.
 - (7) On October 15, 1990, the City of Jacksonville Beach adopted the Jacksonville Beach Comprehensive Plan as its comprehensive plan pursuant to the requirements of F.S. § 163.3161 et seq., and FAC Rule 9J-5.
 - (8) The LDC is adopted to implement the comprehensive plan. It is consistent with the comprehensive plan, in part, because the land uses, densities, or intensities, capacity or size, timing, and other aspects of development permitted, further the objectives, policies, land uses, and densities and intensities in the comprehensive plan, and meet all other criteria enumerated in the comprehensive plan.
 - (9) The LDC is also adopted to preserve and enhance the present advantages that exist in Jacksonville Beach; encourage the most appropriate use of land, water, and natural resources, consistent with the public interest; overcome present handicaps, and deal effectively with future problems that may result from the use and development of land; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewage, drainage, solid waste, parks, schools, fire and police facilities; conserve, develop, utilize, and protect natural resources; protect human, environmental, social, and economic resources; and maintain, through orderly growth and development, the community character and stability of present and future land uses and development in Jacksonville Beach.
- (d) *Purpose and intent.*

- (1) *Implementation of comprehensive plan.* It is the purpose of the city council that the LDC implement and ensure that all development orders approved in Jacksonville Beach are consistent with the comprehensive plan.
- (2) *Comprehensive and consistent regulations.* It is also the purpose of the city council that the LDC establish comprehensive and consistent standards, regulations and procedures for the review and approval of all proposed development of land in the City of Jacksonville Beach.
- (3) *Efficient and effective regulations.* It is the further purpose of the city council that the development process under the LDC be efficient, in terms of time and expense, effective, in terms of addressing the natural resource and public facility implications of proposed development, and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of Jacksonville Beach.

(Ord. No. 7500, § 1.3, 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-2. Relationship to comprehensive plan.

The adoption of the LDC is consistent with, compatible with and furthers the goals, objectives, policies, land uses, and densities or intensities in the comprehensive plan.

(Ord. No. 7500, § 1.2, 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-3. Applicability.

The provisions of the LDC shall apply to the development of all land in the total area of the City of Jacksonville Beach, except as expressly and specifically provided otherwise in the LDC. No development shall be undertaken without prior authorization pursuant to the LDC.

(Ord. No. 7500, § 1.3, 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-4. Minimum requirements.

The provisions of the LDC are the minimum requirements necessary to accomplish the purposes of the LDC and implement and ensure consistency with the comprehensive plan.

(Ord. No. 7500, § 1.4, 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-5. Exceptions.

Unless otherwise stated in Art. X, Adequate Public Facilities Standards, the following development orders shall be exempt from the terms of the LDC.

- (1) *Planned unit development.*
 - a. The provisions of the LDC and any amendments hereto shall not affect the validity of any lawfully approved preliminary development plan for a planned unit development (PUD) approved prior to the effective date of the LDC if a final development plan for the PUD is

approved within one (1) year of the date of approval of the preliminary development plan.

b. The provisions of the LDC and any amendments hereto shall not affect the validity of any lawfully approved final development plan approved prior to the effective date of the LDC.

- (2) *Site plan.* The provisions of the LDC and any amendments hereto shall not affect the validity of any lawfully approved site plan approved prior to the effective date of the LDC if a building permit is issued for the site plan within six (6) months of the date of approval of the site plan.
- (3) *Special exception.* The provisions of the LDC and any amendments hereto shall not affect the validity of any lawfully approved special exception approved prior to the effective date of the LDC if a development order or occupational license is issued for the special exception within six (6) months of the date of approval of the special exception.
- (4) *Previously issued building permits.* The provisions of the LDC and any amendments hereto shall not affect the validity of any lawfully issued and effective building permit issued prior to the effective date of the LDC if:
 - a. The development authorized by the permit has commenced prior to the effective date of the LDC or any amendment hereto, or will commence after the effective date of the LDC but prior to the permit's expiration or termination; and
 - b. The development continues without interruption in good faith until development is complete. If the building permit expires, any further development shall be in conformance with the requirements of the LDC or any amendment.
- (5) *Existing uses.* All uses existing on the effective date of the LDC that are not permitted in the LDC shall be considered nonconforming under the terms of the LDC.
- (6) Buildings in existence or with approved construction permits or located in an adopted Planned Unit Development PUD zoning district on or before the November 3, 2004, amendment to Section 52 of the Jacksonville Beach City Charter, may be completed, repaired or rebuilt to a height not to exceed the previously existing height, within the same building footprint, subject to any other applicable state, federal or local laws. The height limits are not intended to restrict or otherwise adversely affect a property owner's vested rights under constitutional, statutory or common law. If it is determined by a court of competent jurisdiction that a landowner has vested rights, the landowner can elect to proceed with development under the Land Development Code in effect on the date of adoption of said Charter amendment.

(Ord. No. 7500, § 1.5, 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2005-7899, § 1, 4-4-05)

Secs. 34-6--34-20. Reserved.

ARTICLE II.

INTERPRETATION OF THE LAND DEVELOPMENT CODE

Sec. 34-21. Interpretations.

- (a) *Authority.* The planning and development director shall have the authority to make all interpretations of the text of the LDC and the official zoning atlas.
- (b) *Initiation.* An interpretation may be requested by any resident, landowner or any person having a contractual interest in land in Jacksonville Beach.
- (c) *Procedures.*
- (1) *Submission of request for interpretation.* Before an interpretation shall be provided by the planning and development director, a request for interpretation shall be submitted to the planning and development director in a form established by the planning and development director and made available to the public.
 - (2) *Determination of sufficiency.* Within five (5) working days after a request for interpretation has been received, the planning and development director shall determine whether the request is complete. If the planning and development director determines that the request is not complete, a written notice shall be served on the applicant specifying the deficiencies. The planning and development director shall take no further action on the request for interpretation until the deficiencies are remedied.
 - (3) *Rendering of interpretation.* Within ten (10) working days after the request for interpretation has been determined complete, the planning and development director shall review and evaluate the request in light of the comprehensive plan, the LDC, and the official zoning atlas, whichever is applicable, consult with the city attorney, and then render an interpretation.
- (d) *Form.* The interpretation shall be in writing and shall be sent to the applicant by certified mail.
- (e) *Appeal.*
- (1) Within thirty (30) days after issuance of a written interpretation by the planning and development director, the applicant may appeal the interpretation to the board of adjustment.
 - (2) The board of adjustment shall hold an advertised public hearing on the appeal pursuant to section 34-154(d).
 - (3) At the public hearing, the board of adjustment shall consider the interpretation of the planning and development director and public testimony in light of the comprehensive plan, the LDC, and the official zoning atlas, whichever is applicable. The board of adjustment shall modify or reject the planning and development director's interpretation only if it is not supported by substantial competent evidence or if the interpretation is contrary to the comprehensive plan, the LDC or the official zoning atlas, whichever is applicable.

(f) *Official record.* The planning and development director shall maintain an official record of the interpretations in the planning and development department, which shall be available for public inspection during normal business hours.

(Ord. No. 7500, § 2.1, 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-22--34-30. Reserved.

ARTICLE III.

RULES OF CONSTRUCTION

Sec. 34-31. Rules of construction.

In the construction of the language of the LDC, the rules set out in this section shall be observed unless such construction would be inconsistent with the manifest intent of the city council as established in the comprehensive plan. The rules of construction and definitions set out herein shall not be applied to any express provisions excluding such construction, or where the subject matter or context of such section is repugnant.

(1) *Generally.*

- a. All provisions, terms, phrases and expressions contained in the LDC shall be liberally construed in order that the true intent and meaning of the city council as established in the comprehensive plan may be fully carried out. Terms used in these regulations, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the State of Florida for the same terms.
- b. In the interpretation and application of any provision of the LDC it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the LDC imposes greater restrictions upon the subject matter than a general provision imposed by the comprehensive plan or another provision of the LDC, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

(2) *Text.* In case of any difference of meaning or implication between the text of the LDC and any figure, the text shall control.

(3) *Computation of time.* Computation of time means the time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded.

(4) *Day.* Day means a working weekday unless otherwise stated.

(5) *Delegation of authority.* Whenever a provision appears requiring the head of a department or some other city officer or employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize professional-level subordinates to perform the required act or duty unless the terms of the

provision or section specify otherwise.

- (6) *Gender.* Words importing the masculine gender shall be construed to include the feminine and neuter.
- (7) *May.* May means permissive.
- (8) *Month* means a calendar month.
- (9) *Non-technical and technical words.* Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- (10) *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. The use of the plural number shall be deemed to include any single person or thing.
- (11) *Shall.* Shall means mandatory.
- (12) *Tense.* Words used in the past or present tense include the future as well as the past or present.
- (13) *Week.* Week means seven (7) calendar days.
- (14) *Written.* Written means any representation of words, letters or figures whether by printing or other form or method of writing.
- (15) *Year.* Year means a calendar year, unless a fiscal year is indicated or three hundred sixty-five (365) calendar days is indicated.
- (16) *Exclusivity of uses in zoning districts.* The permitted uses and conditional uses in the zoning districts established in Article VII, Zoning Districts, are exclusive, and shall be permitted subject to the standards and procedures of the LDC.
- (17) *Interpretation of uses in zoning districts.* The North American Industry Classification System (1997) shall be used in interpreting whether a use not expressly identified as a permitted use or a conditional use in a zoning district is sufficiently similar to those uses identified, and should be considered as a permitted use or conditional use in the zoning district.
- (18) *Interpretation of zoning district boundaries.* Where uncertainty exists concerning boundaries of zoning districts as shown on the official zoning atlas, the following rules shall be used in the interpretation of the zoning district boundaries.
 - a. *Center lines.* Boundaries indicated as approximately following the center lines of streets, alleys or highways shall be construed as following such center lines.

- b. *Lot, section and tract lines.* Boundaries indicated as approximately following platted lot lines, section or tract lines shall be construed as following such lines.
- c. *Political boundaries.* Boundaries indicated as approximately following political boundaries shall be construed as following such political boundaries.
- d. *Railroad lines.* Boundaries indicated as following railroad lines shall be construed as following the center line of the railroad right-of-way.
- e. *Shorelines.* Boundaries indicated as approximately following shorelines shall be construed as following such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
- f. *Parallel lines.* Where boundaries are approximately parallel to a street, highway, road, alley or railroad right-of-way, the distance of such boundaries from the property line of such street, highway, road alley or railroad right-of-way, shall be, unless otherwise shown by dimensions, one lot depth on lots facing said street, highway, road, alley or railroad right-of-way, or approximately one hundred fifty (150) feet, on acreage and tracts or on parallel lots, to the nearest lot line between lots to conform to adjacent district lines.
- g. *Bisecting lines.* Where boundaries approximately bisect blocks, the boundaries are the median line of such blocks, between the center lines of boundary streets.
- h. *Uncertainties.* Where the physical or cultural features existing on the ground are at variance with those shown on the official zoning atlas, or in case any other uncertainty exists, the planning and development director shall interpret the intent of the official zoning atlas as to the location of boundaries.
- i. *Street abandonments.* Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the land to which it reverted shall apply to such vacated or abandoned road, street, or alley.
- j. *Excluded areas.* Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, said parcels shall be given a classification by the city council that is consistent with the comprehensive plan. Such cases shall be processed in the same manner as petitions for amendments to the official zoning atlas.

(Ord. No. 7500, § 3.1, 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-32--34-40. Reserved.

ARTICLE IV.

DEFINITIONS

Sec. 34-41. General.

Terms in the LDC shall have the following definitions.

Abandoned sign means a sign on which a business advertised on that sign is no longer licensed, no longer has a certificate of occupancy or is no longer an ongoing business at that location.

Accessory building means a building which is detached from the main building on the lot and the use of which is subordinate or incidental to that of the main building. For residential districts and land uses, any structure containing a dwelling unit or units shall be considered a principal structure.

Accessory use means a use incidental and subordinate to the principal use of a lot or building located upon the same lot.

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 load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

Adequate public facilities means compliance with Art. X, Adequate Public Facility Standards.

Adjacent landowner means an owner of land sharing a boundary with another parcel of land. For purposes of the LDC, an intervening road, right-of-way, easement or canal shall not destroy the adjacency of the two (2) parcels.

Administration commission means the governor and the cabinet.

Adult day care services means any building, whether operated for profit or not, which undertakes through its ownership or management to provide, for a part of a twenty-four (24)-hour day, the basic services which may include but are not limited to providing a protective setting, social activities, leisure-time activities, self-care training, rest, and nutritional services, to three (3) or more adults, not related to the owner/operator by blood or marriage, who require such services.

Affected person means persons owning property, residing, or owning or operating a business within the City of Jacksonville Beach, and local governments adjoining Jacksonville Beach that can demonstrate that an amendment of the comprehensive plan as proposed would produce substantial impacts on the increased need for publicly funded infrastructure or substantial impacts on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, in order to qualify under this definition, shall also have submitted oral or written objections during Jacksonville Beach's consideration of a comprehensive plan amendment.

Affidavit attesting to subsequent receipt of certificate of public facilities reservation means an affidavit signed by the applicant that defers the application for a certificate of public facilities reservation until receipt of a final development order for the proposed development, acknowledging that future rights to develop the land are subject to the receipt of a certificate of public facilities reservation and acknowledging that no vested rights

are granted by the City of Jacksonville Beach, or acquired by the applicant as it relates to the adequate public facilities standards of Art. X, Adequate Public Facility Standards.

Aggrieved or adversely affected person means any person or local government which will suffer an adverse effect to an interest protected or furthered by the comprehensive plan, including interests related to health and safety, police and fire protection systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, or environmental or natural resources. The alleged adverse effect may be shared in common with other members of the community at large, but shall exceed in degree the general interest in common good shared by all persons.

Alcoholic beverage establishment means any establishment devoted primarily to the sale of alcoholic beverages for consumption on or off-premises, which is licensed by the State of Florida to dispense or sell alcoholic beverages.

Alley means a roadway dedicated to public use or an approved private way, which affords only a secondary means of access to abutting property that is not intended for general traffic circulation.

Alteration means any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or moving of a building or structure from one location to another. In the case of a sign, alteration shall include any change of copy, color, size, shape, illumination, position, construction, or supporting structure.

Apartment sign means a sign identifying an apartment project or building.

Application for development permit means an application submitted to City of Jacksonville Beach requesting the approval of a development permit.

Approved street means any local street, constructed according to the specifications in Article IX, Subdivision Standards, and accepted by resolution of the City Council of the City of Jacksonville Beach for maintenance purposes.

Aquifer means a groundwater bearing geologic formation, or formations, that contain enough saturated permeable material to yield significant quantities of water.

Area of shallow flooding means a designated A0 or V Zone on the City's flood insurance rate map (FIRM) with base flood depths from one (1) to three (3) 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 sign means the square foot area within a continuous perimeter enclosing the extreme limits of the sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of the actual surface area. In the case of painted wall signs composed of letters, shapes, or figures, or skeleton letters mounted without a border, the sign area shall be the area of the smallest rectangle or other geometric figure that would enclose all of the letters, shapes and figures. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be so constructed that the perimeter of both faces coincide and are parallel and not more than twenty-four (24) inches apart.

Area of special flood hazard means the land in the floodplain within the city subject to a one (1) percent or greater chance of flooding in any given year.

Automobile wrecking yard ("junkyard") means a lot or group of contiguous lots used for the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or lots of two (2) or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or resale shall constitute prima facie evidence of an automobile wrecking yard.

Auxiliary dwelling unit means a one family dwelling unit subordinate in area to, and attached to a structure containing a listed permitted or approved listed conditional use. Minimum floor area of auxiliary dwelling unit is subject to section 34-340: Residential, multiple family: RM-2 standards for multiple family dwellings.

Awning, or canopy, means any shelter, supported partially or entirely from the exterior wall of a building.

Awning sign, or canopy sign, means any shelter, supported partially or entirely from the exterior wall of a building, which is used for advertising. Such sign may be constructed of canvas, plastic, metal, or other similar material.

Banner shall mean any sign intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentations applied to paper, flexible plastic, or fabric of any kind. National flags and flags of political subdivisions shall not be considered banners for the purpose of this Code.

Bar means any establishment which is devoted primarily to the retailing and on-premises consumption of malt, vinous, distilled or other alcoholic beverages within an enclosed building and which is licensed by the State of Florida to dispense or sell alcoholic beverages. A bar may include a package liquor store on the same premises. The term "bar" is intended to include lounges, nightclub, tavern, or other drinking places within its meaning.

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any year.

Bed and breakfast means a limited occupancy visitor accommodation facility consisting of a residential building or group of residential buildings containing a total of not less than four (4) and not greater than ten (10) guest rooms and a manager's residence, where visitor occupancy is limited to a maximum of seven (7) consecutive days, where such lodging and a daily meal or meals are provided for compensation, and said meals are served only to resident guests of the inn. Bed and breakfast inns are limited to the adaptive conversion and reuse of, or reproductions of, historically or architecturally unique residential structures, which are compatible with the surrounding neighborhood.

Billboard means a sign structure, including building, for any sign advertising an establishment, merchandise, service or entertainment, which is sold, produced, manufactured and/or furnished at a place other than on the property on which such sign is located.

Block means a parcel of land usually bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as water bodies or public open space, and not traversed by a through street.

Board of adjustment means the Jacksonville Beach board of adjustment.

Boarding (lodging) house means a building other than a hotel, where rooms are rented and meals may be provided for compensation.

Boutique shall mean any retail establishment selling clothing, specialty food goods, gifts, coffees and antiques, located in a freestanding building not more than two (2) stories in height and not containing more than two thousand (2,000) square feet on either floor.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building means a structure having a roof supported by columns or walls, that is designed or built for support, enclosure, shelter or protection of any kind.

Building code means Chapter 7 of the Jacksonville Beach Code of Ordinances and the standard codes as published by the Southern Building Code Congress, Inc., adopted by reference therein.

Building frontage means the length of an exterior wall of an establishment facing a street or any rights-of-way, exclusive of alleys and railroad rights-of-way. For buildings with frontage on more than one street or right-of-way, the frontage containing the principal building address shall be designated as the building frontage.

Building height means the vertical distance between the elevation of the crown of the road of the nearest adjacent roadway at the center of the front of the building; and either the highest point of the coping of a flat roof, the deck line of a mansard roof, or the mean height level between eaves and ridge for hip, gable, and gambrel roofs.

Building line means a line across a parcel of land that is the distance a structure must be set back from a lot boundary line, street center line or right-of-way, as defined in Art. VII, Zoning Districts, for the zoning district in which the parcel is located.

Building official means the appointed individual in charge of the Building Division of the Jacksonville Beach Planning and Development Department.

Building permit means a permit for the construction of or addition to a structure, the installation of a mobile home, or a final development order for those improvements to land not requiring building permits or permits for mobile home installation. Building permits shall include those permits which allow the installation for location of a mobile home or a recreational vehicle to a site or lot.

Canopy (See "Awning")

Canopy sign (See "Awning sign")

Capital improvement element ("CIE") means the capital improvement element of the comprehensive plan.

Carport means a roofed structure providing space for parking or storage of motor vehicles enclosed on not more than three (3) sides.

CERCLA means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

Certificate of public facilities reservation means a written determination, issued by the planning and development director, verifying the current availability of a minimum level of road, potable water, sanitary sewer, solid waste collection, stormwater management, and recreation and open space facilities to serve the proposed project concurrent with the development of that project pursuant to the requirements of Art. X, Adequate Public Facilities Standards.

Change of occupancy means a discontinuance of an existing use and the substitution therefor of a use of a different kind or class. Change of occupancy is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

Child day care services means an establishment, licensed by the HRS, which provides non-resident day or night care for more than six (6) children on a fee basis. The term includes day nurseries, day care centers, day care agencies, nursery schools, or play schools, but not foster homes or community-based residential facilities.

City council means the city council of the City of Jacksonville Beach, Florida.

Clinic, medical or dental means an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by one (1) person or a group of persons practicing any form of medical care, whether such persons are medical doctors, chiropractors, osteopaths, chiropodists, naturopath, optometrists, dentists or any such profession, the practice of which is lawful in the State of Florida.

Cluster housing means a residential development pattern with structures arranged in closely related groups such as around culs-de-sac, instead of spreading housing uniformly over a tract, where the remainder of the land is commonly maintained open space. Control takes place through zoning by density.

Coastal high hazard area means the area subject to high velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VE or V.

Coastal construction setback line means a line landward of the mean high water line at any riparian coastal location fronting the Atlantic coast shoreline, exclusive of bays, inlets, rivers, bayous, creeks, passes and the like. No construction in this area shall be allowed unless a permit is obtained from the DEP.

Code enforcement board means the board appointed and vested with the authority to enforce local codes and ordinances pursuant to F.S. Ch. 162.

Commercial vehicle any motor vehicle licensed by the state as a commercial vehicle, any vehicle designed for a commercial or industrial function, or any vehicle marked with commercial advertising.

Common ownership means a shared interest in real property by the same person or any persons related by marriage or blood within an immediate family including parents, spouses, siblings and children.

Community center means a building or land open to the public and used for recreational, social, educational, and cultural activities, usually owned and operated by a public or nonprofit group or agency.

Compatibility setback ("buffer") means a strip of land used to visibly separate one (1) use from another or to shield or block noise, light, or other nuisances.

Comprehensive plan means the Jacksonville Beach Comprehensive Plan, adopted pursuant to F.S. § 163.3161, et seq., as amended.

Conditional use means a use which is generally not compatible with the other land uses permitted in a zoning district, but with individual review and control of its location, design, configuration and intensity and density of use, buildings and structures, and the imposition of conditions pertinent thereto in order to ensure the appropriateness of the use at a particular location, may be permitted in the zoning district as a conditional use pursuant to the procedures and standards of section 34-221, et seq.

Condominium means a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all of the owners on a proportional, undivided basis.

Conservation-protected land means all undeveloped estuarine wetland areas, any undeveloped area within a fifty (50) foot strip upland of the designated estuarine wetland area, the sandy portion of the beach, and any areas landward of the sandy beach designated by the Federal Emergency Management Agency as lying within a V or velocity coastal hazard zone.

Conservation-restricted land means all designated palustrine or upland wetland areas and any areas designated by the Federal Emergency Management Agency as lying within an A or special flood hazard area.

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

Contiguous means a sharing of a common border at more than a single point of intersection.

Curb level means the permanently established elevation or grade of the curb top in front of a lot.

D.C.A. means the Florida Department of Community Affairs.

D.E.P. means the Florida Department of Environmental Protection

Density means the number of dwelling units divided by the gross area of the land on which such dwelling units are located. Where used in the LDC, density shall mean gross density. Gross density includes all of the land within a particular area excluding nothing.

Developed area shall mean any platted or occupied section of the city abutting a public right-of-day in which twenty-five (25) percent of the lots in a block or tract have been developed by the building of a residential or commercial structure.

Developer means the legal or beneficial owner of any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land, including a governmental agency undertaking any development.

Development means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land or the dividing of land into three (3) or more parcels.

- (1) The following activities or uses shall be taken for the purposes of these regulations to involve "development:"
 - a. A reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water.
 - b. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.
 - c. Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including "coastal construction" as defined in F.S. § 161.021.
 - d. Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.
 - e. Demolition of a structure.
 - f. Clearing of land as an adjunct of construction.
 - g. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
- (2) For the purpose of these regulations the following operations or uses shall not be taken to involve "development:"

- a. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.
- b. Work by any utility and other persons engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewer mains, pipes, cables, utility tunnels, powerlines, towers, poles, tracts, or the like.
- c. Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.
- d. The use of any structure or land devoted to dwelling units for any purpose customarily incidental to enjoyment of the dwelling.
- e. A change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the class.
- f. A change in the ownership or form of ownership of any parcel or structure.
- g. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required by law.

Development agreement means an agreement entered into between the City of Jacksonville Beach and a person associated with the development of land pursuant to F.S. § 163.3220 or 380.06.

Development order means any order granting or granting with conditions an application for development permit.

Development permit means an amendment to the official zoning atlas, a planned unit development (PUD) zoning district classification, a redevelopment district (RD) zoning district classification, a conditional use, a development plan, subdivision approval, a variance, a building permit or any other official action of the city having the effect of permitting the development of land.

Development of regional impact ("DRI") means any development, exceeding the thresholds established by the State of Florida pursuant to F.S. Ch. 380.06, which because of its character, magnitude or location would have a substantial effect on the health, safety, or welfare of the citizens of more than one county.

Diameter breast height (DBH) means the trunk diameter of an existing tree measured four and one-half (4 1/2) feet above the average ground level at the tree base. If the tree forks between four and one-half (4 1/2) and two (2) feet above ground level, it shall be measured below the swell resulting from the fork. Trunks that fork below two (2) feet, shall be considered multi-trunk trees. DBH for multi-trunk trees shall be determined by adding together the DBH of the two (2) largest trunks four and one-half (4 1/2) feet above the ground.

Directional sign means any sign, permanently or temporarily erected by or with approval of the city or any authorized government agency to denote the route to any city, town, village, historic place, shrine or hospital; signs directing and regulating traffic; notices of any public transportation agency or company necessary for the direction or safety of the public; signs, notices or symbols as to the time and place of civic meetings.

Drip line means a vertical line extending from the outermost branches of a tree to the ground.

Dwelling means a building or portion thereof designed exclusively for residential occupancy, including single family, two-family or duplex, townhouses, and multiple family dwellings, but not including hotels, boarding or lodging houses, or mobile homes, whether such mobile homes are movable or anchored in a stationery fashion.

Dwelling, attached means a one-family dwelling attached to two (2) or more one-family dwellings by common vertical walls.

Dwelling, multiple family means a structure containing two (2) or more dwelling units.

Dwelling, single-family means the use of land for only one (1) dwelling unit, other than a mobile home, that is developed with open yards on all sides of the dwelling unit. This use includes manufactured single-family units certified by the Florida Department of Community Affairs to be in compliance with the Florida Manufactured Building Act of 1979, Part 4, F.S. Ch. 553.

Dwelling, townhouse means a structure of three (3) or more single family units separated by party walls in which each unit has its own front and rear access to the outside and no unit is located over another unit. The party walls separating the dwelling units shall be fire resistant and shall extend to the roof line of the structure and shall have no openings therein.

Dwelling, two-family ("duplex") means a structure on a single lot containing two (2) dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both units.

Dwelling unit means a building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people; no portion of which building interior, including any kitchen, shall be designed, arranged or closed off in a manner that eliminates interior access to or exit therefrom. This use includes manufactured single-family units certified by the Florida Department of Community Affairs to be in compliance with the Florida Manufactured Building Act of 1979, Part 4, Ch. 553, F.S. Buildings with more than one (1) kitchen or set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facilities are located outside of any building and are clearly accessory, such as an outdoor grill.

Dwelling, zero lot line detached means the use of land for only one dwelling unit, which is not attached to any other dwelling unit that has one (1) wall located on one (1) interior side lot line.

Easement means a grant of the use of land by the land owner to any person, or to the general public for a specified purpose.

Educational services means different establishments providing a variety of academic or technical instruction on the elementary, secondary, junior college, college, university, professional, or vocational level.

Egress means an exit.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

Engineer means a professional engineer registered to practice by the State of Florida.

E.P.A. means the United States Environmental Protection Agency.

Essential public services means the erection, construction, alteration, or maintenance of underground, surface or overhead utility installations of water, sewer, gas, telephone and electrical systems and the equipment and appurtenances such as substations and lift stations necessary for such systems to furnish an adequate level of service.

Exceptional specimen tree means any tree which is determined by the city council to be of unique and intrinsic value to the general public because of its size, age, historic association, or ecological value, or any tree designated a Florida State Champion by the American Forestry Association. The planning and development director shall keep a record of all specimen trees and their location.

Existing grade means the elevation of the ground in its natural state, before man-made alterations, including the deposition of fill, adjacent to and within two (2) feet of the proposed exterior walls of a structure.

Family means any number of individuals related by blood, marriage or legal adoption, and no more than four (4) persons not so related living together as a single housekeeping unit.

Fence means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Fixed projecting sign means any sign which is attached to a building and extends outward for more than twelve (12) inches beyond the walls of the building to which it is attached.

Finished grade, or finished elevation, means the elevation of the ground surface upon the completion of any construction, immediately adjacent to and within two (2) feet of the exterior walls of a structure.

Flashing sign means any illuminated sign, on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated. Illuminated signs which indicate the time and/or temperature, shall not be considered flashing signs provided that the total area of the sign so used shall not exceed ten (10) square feet in size. For the purposes of this definition, any moving illuminated sign affected by intermittent lighting shall be deemed a flashing sign.

Flat or wall sign means any sign erected parallel to the face or the outside wall of any building that is supported throughout its length by the wall of the building.

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

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by the Federal Emergency Management Agency. This report contains flood profiles, as well as the flood 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 lands that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floor means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Foster home means any facility, licensed by the HRS, which houses foster residents and provides a family living environment for the residents, including such supervision and care as may be necessary to meet residents' physical, emotional, and social life needs of the residents. Delinquent children, alcohol and drug abusers, and dangerous mentally ill persons are excluded from this definition.

Fraternal club or lodge means those associations and organizations of a civic, fraternal or social character not operated or maintained for profit, for which there is restricted public access or use.

Free-standing (ground) sign means a detached sign which shall include any signs supported by uprights or braces placed upon or in or supported by the ground and not attached to any building.

Functionally dependent facility means a facility that cannot be used for its intended purpose unless it is located or carried out close to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufactured sales, or service facilities.

Future land use map means the figure entitled "Future Land Use Map 2010, City of Jacksonville Beach, Florida" included as part of the future land use element of the Jacksonville Beach Comprehensive Plan, adopted pursuant to F.S. § 163.3161, et seq., as amended.

Garage means an accessory building or part of the main building used for the parking or storage of four (4) automobiles or less, used by the occupants of the main building.

Governing body means the city council of the City of Jacksonville Beach, Florida.

Government use means any use which aids in the function of local, state and federal government. Such uses shall include but not be limited to branch government, government owned buildings, post offices, and community centers.

Gross area means an entire area without exception.

Ground cover means a low-growing herbaceous or woody plant other than turf, not over two (2) feet high, planted in such a way as to cover the ground.

Ground-mounted monument sign means a type of freestanding sign placed upon the ground independent of support from the face of a building that generally has greater width than height and typically constructed of a solid material such as wood, masonry or high-density urethane.

Groundwater means water that fills all the unblocked voids of underlying material below the natural ground surface, which is the upper limit of saturation, or water which is held in the unsaturated zone by capillarity.

Group home, elderly-oriented means a dwelling unit licensed to serve clients of the HRS, providing a living environment for elderly residents who operate as the functional equivalent of a family, including supervision and care by support staff as may be necessary to meet the physical, emotional, and social life needs of residents. An elderly resident is any person age sixty (60) and over who is currently a resident of the state and who, because of a functional impairment, requires personal assistance with the activities of daily living but does not require nursing home or institutional care.

Group home, developmentally or physically disabled means a dwelling unit licensed to serve clients of HRS, providing a living environment for residents who operate as the functional equivalent of a family, including supervision and care by support staff as may be necessary to meet the physical, emotional, and social life needs of residents. A developmentally-disabled resident is a person with a disorder or syndrome which is attributable to retardation, cerebral palsy, autism or spina bifida and which constitutes a substantial handicap that can reasonably be expected to continue indefinitely. A physically-disabled resident is a person who has a physical impairment which substantially limits one (1) or more major life activities, or who has a record of having, or is regarded to have such physical impairment.

Halfway house means a licensed home for inmates on release from more restrictive custodial confinement or initially placed in lieu of more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

Hedge means a landscape barrier consisting of a continuous, dense planting of shrubs.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to any construction, immediately adjacent to and within two (2) feet of the proposed walls of a structure.

Historical structure means any of the nine (9) structures identified by the Jacksonville Historical Landmark Commission in the City of Jacksonville Beach, Florida's Comprehensive plan document.

Home occupation, type I means a home occupation use in which no persons other than members of the family residing on the premises are engaged in the occupation, which has no visible exterior evidence of the conduct of the occupation, which does not create need for off- street parking beyond normal dwelling needs, which does not generate additional traffic, and in which no equipment is used other than that normally used in household, domestic or general office use.

Home occupation, type II means a home occupation use in which not more than one (1) person other than members of the family residing on the premises is employed on the premises, which has not more than one (1) unilluminated sign not exceeding one (1) square foot in area as visible exterior evidence of conduct of the occupation, and which accommodates both dwelling and home occupation parking needs off the street.

Hotel means a building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient guests or tenants, in which four (4) or more rooms are furnished for the accommodation of such guests; whether or not having one (1) or more dining rooms, restaurants or cafes where meals are served. Such sleeping accommodations and dining rooms, restaurants or cafes, and accessory uses such as gift shops, barber shops or other services primarily intended for the use of the hotel guests, being conducted in the same building or accessory buildings in connection therewith.

H.R.S. means the Florida Department of Health and Rehabilitative Services.

Illuminated sign means any sign equipped with an artificial source of light either within or on the surface of the sign or adjacent thereto for the purpose of illuminating the sign.

In compliance means consistent with the requirements of F.S. §§ 163.3177, 163.3178 and 163.3191, the Northeast Florida Regional Policy Plan, the State Comprehensive Plan and Rule 9J-5, F.A.C., where such rule is not inconsistent with F.S. Ch. 163, Part II.

Ingress means an access or entry.

Irrigation means the mechanical application of water to plant material in order to sustain plant life.

Junk yard means a place, structure, or lot where junk, waste, discarded, salvaged, or similar materials are bought, sold, exchanged, baled, packed, disassembled, stored, or handled.

Kennel means any structure or premises where four (4) or more animals over six (6) months of age, not owned by the occupants of the premises, are kept for sale or for the purpose of breeding or temporary boarding, except in an animal hospital, animal grooming parlor or pet shop.

Kitchen means any room or space used or intended and designed to be used for cooking or the preparation of food. The installation of a cooking appliance constitutes a kitchen within the meaning of this definition, and where such a kitchen is installed or maintained in a room or suite of rooms said room or suite of rooms shall constitute a dwelling unit.

Land means the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

Land development regulation commission means the agency designated to prepare and review the land development regulations in the City of Jacksonville Beach. In Jacksonville Beach, the land development regulation commission is the city council.

Level of service (LOS) standard means an indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and relative to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for road, potable water supply, sanitary sewer, solid waste collection, stormwater management, or recreation and open space facilities.

Local planning agency means the planning commission.

Lot means a parcel, tract, or area of land of varying size established by plat, subdivision, or as otherwise permitted by law, which is designated as a single unit which is intended to be occupied by one building, or group of buildings, and its accessory uses.

Lot, corner means a lot abutting upon two (2) or more streets at their intersection.

Lot coverage shall mean the number determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches, and accessory buildings, driveways, and paved, bricked, or wooden walkways, pool decks and patios, by the lot area.

Lot depth means the distance measured in a mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the opposite rear line of the lot.

Lot, interior means a lot other than a corner lot with frontage on only one (1) street.

Lot line means the lines of record bounding a lot which divides one (1) lot from another lot or from a public or private street or any other public space.

Lot, through means a lot other than a corner lot having frontage on two (2) streets.

Lot width means the horizontal distance between side lot lines measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Major development means (1) any residential development containing more than one hundred (100) dwelling units, (2) a commercial or office development containing thirty thousand (30,000) or more square feet of floor area, (3) any combination of land uses which will generate one thousand (1,000) or more vehicle trips per day, and (4) any combination of land uses that will generate an increase of one hundred (100) or more new peak hour trips. Trip generation shall be based on the ITE Trip Generation Manual, current edition.

Manufactured building means a closed structure, building assembly, or system of assemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection, with or without specified components, as a finished building

or part of a finished building, which shall include, but not be limited to, residential, commercial, institutional, storage, or industrial structures. Manufactured building may also mean, at the option of the manufacturer, any building of open construction made or assembled in manufacturing facilities away from the building site for installation, or assembly and installation, on the building site.

Marina means an establishment with a waterfront for the purpose of storing watercraft and pleasure boats on land, in buildings, in slips or on boat lifts, including accessory facilities for purposes such as refueling, minor repair and launching.

Mean sea level (MSL) means the average height of the sea for all stages of the tide. For the purposes of the LDC, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Mobile home means the use of land for a structure, including the plumbing, heating, air conditioning, and electrical components contained therein, transportable in one or more sections which structure is eight (8) feet or more in width and over (40) feet in length, or which, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a metal frame and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. If fabricated after June 15, 1976, each section should bear a HUD label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards, 42 USC 5401 and 24 CFR 3282 and 3283. This use does not include manufactured buildings meeting the criteria contained in the definition of a single-family dwelling.

Mobile home park, existing means premises existing as of March 6, 1995 (ref. Ord. No. 95-7617), with required improvements and utilities where mobile home spaces are rented or leased for use by mobile homes for residential occupancy which may include services and facilities for the residents.

Mobile home park, expansion to existing means an increase in the number of mobile home sites to an existing mobile home park.

Mobile home park, new means premises approved for development after March 6, 1995 (ref. Ord. No. 95-7617), with required improvements and utilities where mobile home spaces are rented or leased for use by mobile homes for residential occupancy which may include services and facilities for the residents.

Mobile home park means premises with required improvements and utilities where mobile home spaces are rented or leased for use by mobile homes for residential occupancy which may include services and facilities for the residents.

Mobile home site means land within a mobile home park or subdivision designated for the accommodation of not more than one (1) mobile home.

Mobile (portable) sign means any sign, whether on its own trailer, wheels, chassis, or otherwise, which is manifestly designed to be transported from one place to another. It is frequently characteristic of a portable sign that the space provided for advertising matter is so constructed that advertising messages may be changed at will by the replacement of lettering or symbols. A portable sign may at the same time fall within the definition of other types of signs and still be a portable sign.

Monopole means a vertical self-supporting structure, not guyed, made of spin-cast concrete, concrete,

steel or similar material, presenting a solid appearance.

Motel means a group of attached or detached buildings containing individual sleeping units, with automobile storage or parking space provided in connection therewith, designed for use primarily by transients.

National Geodetic Vertical Datum (NGVD) means the vertical control, as corrected in 1929, used as a reference for establishing varying elevations within the flood plain.

New construction means structures for which the start of construction commenced on or after the effective date of the LDC.

Newspaper of general circulation means a newspaper of local origin published at least on a weekly basis, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

Nonconforming building or structure means any building or other structure which was lawfully constructed but which does not comply with all applicable provisions of the LDC, including size and dimensional standards, off-street parking standards, landscape standards, performance standards, or height standards either on the effective date of the LDC or as a result of any subsequent amendment. Such noncomplying building or structure shall be referred to as a nonconformity.

Nonconforming lot of record means a lot which conformed to the relevant land use standards at the time of the creation of the lot, but which does not comply with applicable regulations of the LDC for width and area.

Nonconforming sign means any sign that was validly installed under laws or ordinances in effect prior to the effective date of the LDC or subsequent amendments, but which is in conflict with the provisions of the LDC.

Nonconforming use means any use of a building or structure which, at the time of the commencement of the use, was a permitted use in the zoning district until the effective date of the LDC, but which does not, on the effective date of the LDC or amendment thereto, conform to any one of the current permitted uses of the zoning district in which it is located. Such nonconforming use may be referred to as a nonconformity.

Nonresidential activity means any activity which occurs in any building, structure, or open area which is not used primarily as a private residence or dwelling.

Nursing or personal care facility means any institution, building or buildings, residence, private home, boarding home, home for the aged or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a period exceeding twenty-four (24) hours, one (1) or more personal services for adults who by reason of illness, physical infirmity, or advanced age are unable to care for themselves and are not related to the owner or administrator by blood or marriage, and who require such services.

Oceanfront lots means lots fronting or parallel to the ocean.

Off-premises sign means any sign, regardless of type, advertising a business and not located on the same site as that occupied by the business.

Outdoor restaurant or bar means any restaurant or bar, or portion thereof, which exists outside of the permanent exterior walls of the principal building(s) on a lot. This definition includes any deck or other area constructed and/or utilized on the roof of a structure.

Owner means any part or joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal or beneficial title to whole or part of a building or land.

Package liquor store means any establishment devoted primarily to the sale of alcoholic beverages for consumption off-premises, which is licensed by the State of Florida to dispense or sell alcoholic beverages for consumption off-premises.

Painted wall sign means any sign painted on any surface or roof of any building.

Parcel of land means any quantity of land and water capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

Parking bay means a parking module consisting of one (1) or more rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces.

Parking lot means an off-street, ground level area or plot of land used for the storage or parking of vehicles.

Parking space means a space for the parking of a motor vehicle within a public or private parking area.

Person means any person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever or any combination of such, jointly or severally.

Pets, household means any domestic animal such as cats, dogs, hamsters, and birds other than poultry that are customarily kept for personal use or enjoyment within the home. Poultry, hooved animals of any type, predatory animals, or any animal which is normally raised to provide food for people shall not be considered as household pets.

Planned unit development means a development of land that is under unified control and is planned for and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features or improvements.

Planning and development director means the person appointed to direct the planning and development department of the City of Jacksonville Beach.

Planning commission means the Jacksonville Beach planning commission.

Plant nurseries mean an agricultural endeavor devoted exclusively to the raising of ornamental plants for sale or transplanting.

Plat means a map or drawing upon which an exact representation of a subdivision and other information is presented in compliance with the requirements of Article IX, Subdivision Standards.

Political campaign sign means any sign indicating the name and/or picture of an individual seeking election to a public office, or relating to a forthcoming public election or referendum, or pertaining to the advocating by persons, groups or parties of political views or policies.

Potable water facilities means the planning of, engineering for, acquisition of land for, or construction of potable water facilities necessary to meet the LOS for potable water facilities.

Preserve area means vegetative areas required to be preserved under the jurisdiction of DER, SJRWMD or other governmental regulatory agencies.

Protected tree means any tree, except those which are hereinafter exempted in section 34-424(b), with a DBH of six (6) inches or more.

Public potable water supply well means a well withdrawing potable water from the surficial aquifer that serves and is operated by public utilities. For the purposes of section 34-468 public utility shall mean any municipal system that provides service to the public and utilities required to obtain a SJRWMD Individual Water Use Permit.

Public protected tree means any tree, except those which are hereinafter exempted in section 34-424(b), with a DBH of six (6) inches or more located on lands owned by the city, its agencies or authorities, or any land upon which easements are imposed for the benefit of the city, its agencies or authorities, or upon which other ownership control may be exerted by the city, its agencies or authorities, including rights-of-way, parks, public areas and easements for drainage, sewer, water and other public utilities.

Real estate sign means any temporary sign erected by the owner, or his exclusive agent, advertising that the real property upon which the sign is located, or any portion thereof, is for sale or for rent.

Recreation and open space facilities means the planning of, engineering for, acquisition of land for or construction of park and recreation facilities necessary to meet the LOS for recreation and open space facilities.

Recreational vehicle means a vehicle that is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck, and

- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Redevelopment district means an area designated by the city council as blighted and in need of redevelopment pursuant to F.S. Ch. 163, Part III. When indicated as a redevelopment district or RD zone district, reference is made to an area classified in accordance with section 34-347 of the LDC.

Regulated area means that area within the zone of protection surrounding each public potable water supply well.

Regulated substances mean:

(1) Substances which have one (1) or more of the following characteristics:

- a. They are listed as a priority toxic pollutant and hazardous substance by the EPA in 40 CFR 122.21;
- b. They are an EPA Designation Reportable Quantities and Notification Requirements for Hazardous substances under CERCLA (40 CFR 302).
- c. They are a degradation product which is toxic, which includes petroleum based products;
- d. They are on a restricted use pesticide list promulgated pursuant to F.S. Ch. 487, set forth in Chapters 5E-2 and 5E-9, F.A.C.

(2) As well as the following physical characteristics:

- a. They are prone to be persistent in the environment;
- b. They are water soluble or prone to pass downward through surface soils, to enter into and mix with groundwater, and be transported by the movement of groundwater.

Religious organization means a structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

Restaurant means an establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

Restaurant, drive-in means an establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food to customers who are not in motor vehicles, for consumption either on or off the premises.

Right-of-way means the area of a highway, road, street, way, parkway, electric transmission line, gas pipeline, water main, storm or sanitary sewer main, 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.

Road facilities mean the planning of, engineering for, acquisition of land for or construction of roads necessary to meet the LOS for road facilities.

Roof sign means any sign erected or maintained in whole or in part upon, against, or directly above the roof or parapet line of a building.

Sand dunes mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Sanitary sewer facilities means the planning of, engineering for, acquisition of land for, or construction of sanitary sewer facilities necessary to meet the LOS for sanitary sewer facilities.

Screen enclosure means a structural network of metal or wood members with open mesh panels for both walls and roof.

Service station means any building, structure or land used for the dispensing, sale or offering for sale at retail, and any automobile fuel, oils, or accessories in connection with which is performed general automotive servicing, such as tire servicing and repair, and including engine and transmission repair, but excluding body work, straightening of frames, painting, or welding. All work must be done inside of an enclosed building.

Shade tree means a tree with a mature crown spread of at least fifteen (15) feet.

Shopping center means a group of retail stores, service establishments or any other business not necessarily owned by one (1) person nor by a single land ownership which is adjacent to and utilizing a common off-street parking area.

Shrub means a self-supporting woody perennial plant characterized by multiple stems and branches continuous from the base, naturally growing to a mature height between two (2) and twelve (12) feet.

Sign means any device or representation for visual communication, including its structural and component parts, which is used or intended to be used to attract attention to an activity for identification or advertising purposes.

Sign height means the distance from the average ground level at the base of the supporting structure of a free-standing ground or wall-type sign to the top of the sign.

Snipe sign means a sign made of any material when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, fences or other objects, and the advertising matter appearing thereon is not applicable to the present use of the premises upon which such sign is located.

Solid waste facilities mean the planning of, engineering for, acquisition of land for or construction of solid waste facilities necessary to meet the LOS for solid waste facilities.

Stormwater management facilities mean the planning of, engineering for, acquisition of land for or the construction of stormwater management facilities necessary to meet the LOS for stormwater management facilities.

Story means that portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next above.

Street means a right-of-way for vehicular traffic, designated as an alley, avenue, boulevard, court, drive, expressway, highway, lane, road, street, or thoroughfare (also referred to as roadway). A street may be dedicated to the public or maintained in private ownership, but open to the public. For the purposes of the LDC, "streets" are divided into the following categories:

- (1) *Arterial street* means a road which is used to move large volumes of traffic rapidly between population centers, around population centers, or from one section of the urban area to another.
- (2) *Collector street* means a road designed primarily to connect local streets with arterials or to provide access from residential areas to major destination points such as shopping or employment centers and which may be expected to carry a significant volume of traffic.
- (3) *Cul-de-sac* means a minor road of short length having one end open to traffic and one end terminating in a vehicular turn-around.
- (4) *Local street* means a road used primarily for access to abutting properties within a subdivision.
- (5) *Approved private street* means a street or road that meets the design standards set forth herein corresponding to its intended functional use, that is not dedicated to the City of Jacksonville Beach.
- (6) *Approved street* means any local street, constructed according to the specifications in Article IX Subdivision Standards, and accepted by resolution of the city council of the City of Jacksonville Beach for maintenance purposes.

Street line means the line separating the street and abutting property.

Structure means anything constructed, installed or portable, the use of which requires location on land. It includes a movable building which can be used for housing, business, commercial, agricultural or office purposes, either temporarily or permanently. It also includes roads, walkways, paths, fences, swimming pools, tennis courts, poles, tracks, pipelines, transmission lines, signs, cisterns, sheds, docks, sewage treatment plants and other accessory construction.

Structural alterations mean any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders, floor joists or roof joists; or in the dimensions or configurations of the roof or exterior walls.

Subdivider means a person developing a subdivision, or that person's agent.

Subdivision means the division of land into three (3) or more parcels for the purpose of sale or lease, including the addition to or resubdivision of land, if not exempted by the terms of the LDC.

Subdivision sign means a sign identifying a named, platted subdivision and erected on private property at the local street entrance to the property.

Submerged land means land below the mean high tide or mean high water line.

Substantial damage means damage to a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, alteration, or improvement to a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure, either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any development for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

Temporary structure means any non-habitable structure for ancillary use which does not require a permanent foundation or connection to the ground for its support, and has no permanent connection to or provisions for municipal utilities, and can be disassembled without the use of destructive force for relocation or removal.

Temporary sign means any sign designed for a particular location and not capable of being transported to other sites which is used for a specific purpose and is to be removed after sixty (60) days.

Travel trailer (recreational vehicle) means a portable structure built on a chassis, designed as a temporary dwelling for travel, recreation and vacation purposes. It is not more than nine (9) feet in width and up to forty (40) feet in length.

Travel trailer park means a duly licensed camp, park or other area established to carry on the business of parking or otherwise servicing travel trailers (recreational vehicles or motor homes). The development plan and all sanitary facilities of a travel park must conform to the requirements of the state and county health authorities.

Tree means a self-supporting woody plant having a single trunk or a multiple trunk of lower branches, growing to a mature height of at least twelve (12) feet in northeast Florida.

Understory means assemblages of natural low-level woody, herbaceous, and ground cover species which exist in the area below the canopy of the trees.

Veterinary services mean any building or portion thereof designed or used for veterinary care, surgical procedures or treatment of animals, but not the boarding of well animals.

Water-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 long-term storage, manufacture, sales, or service facilities.

Well means a pit or hole sunk into the earth to reach a resource supply such as water.

Wetland means hydrologically sensitive areas which are identified by being inundated or saturated by surface or groundwater with a frequency or duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally includes swamps, marshes, bogs, and similar areas.

Wetland, estuarine means the area of mixing of saline, marine waters with freshwater drainage from upland areas, and is subject to tidal inundation with a range of frequencies. The estuarine wetlands include the salt marsh and the estuarine forested wetland areas of the community.

Wetland, palustrine means areas adjacent to the estuarine wetlands, which may be informally defined as freshwater drainage features which may or may not have continuous connection to tidal waters.

Window or door sign, temporary means a sign painted on, or affixed to, glass surfaces of windows, doors, store equipment, fuel pumps, or other types of vending equipment used for dispensing retail products for the specific purpose of attracting attention of the passerby to the sale, to promotion items, or other products or services, other than the identity of the proprietor, nature of the business, or name of the business. Temporary window or door signs made of paper, plastic or fabric of any kind affixed to the exterior of the window or door are considered to be banners for the purposes of the LDC.

Window or door sign, permanent means any sign visible from the exterior of a building or structure which is painted, attached, glued, or otherwise affixed to a window or door for the specific purpose of identifying the proprietor, nature of the business, or name of the business to the passerby.

Yard means a required open space on the same lot with a principal or accessory building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

Yard, front means a yard across the full width of the lot, extending from the front line of the building to the front line of the lot.

Yard, side means an open unoccupied space on the same lot with the main building, situated between the side line of the building and the adjacent side line of the lot, extending from the rear line of the front yard to the front line of the rear yard.

Yard, rear means a yard extending across the full width of the lots measured between the rear line of the lot and the rear line of the main building.

Zone of protection means that area within five hundred (500) feet of a public potable water supply well. (Ord. No. 7500, § 4.1, 8-19-91; Ord. No. 94-7607, § 1, 8-15-94; Ord. No. 95-7617, § 1, 3-6-95; Ord. No. 95-7623, § 1, 5-1-95; Ord. No. 95-7627, § 1, 7-17-95; Ord. No. 96-7681, § 1, 10-21-96; Ord. No. 96-7689, § 1, 12-16-96; Ord. No. 99-7769, § 1, 8-16-99; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2005-7899, § 2, 4-4-05; Ord. No. 2006-7920, § 1, 4-3-06)

Secs. 34-42--34-50. Reserved.

ARTICLE V.

DECISION MAKING AND ADMINISTRATIVE BODIES

DIVISION 1.

GENERALLY

Secs. 34-51--34-60. Reserved.

DIVISION 2.

CITY COUNCIL

Sec. 34-61. Powers and duties.

In addition to any authority granted the city council by general or special law, the city council shall have the following powers and duties under the provisions of the LDC:

- (1) To initiate, hear, consider and approve, approve with conditions, or deny applications to amend the text of the comprehensive plan;
- (2) To initiate, hear, consider and approve, approve with conditions, or deny applications to amend the future land use map of the comprehensive plan;
- (3) To initiate, hear, consider and approve, approve with conditions, or deny applications for development permits to amend the text of the Code;
- (4) To initiate, hear, consider and approve, approve with conditions, or deny applications for development permits to amend the official zoning atlas of the Code;
- (5) To hear, consider and approve, approve with conditions, or deny applications for development permits for a planned unit development (PUD);
- (6) To serve as the land development regulation commission as required by F.S. § 163.3194;
- (7) To designate and appoint hearing officers to make decisions as the city council may deem appropriate;
- (8) To take such other action not delegated to the planning commission, board of adjustment, code enforcement board, hearing officer or heads of city departments, as the city council may deem desirable and necessary to implement the provisions of the comprehensive plan and the LDC.

(Ord. No. 7500, § 5.1(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-62--34-70. Reserved.

DIVISION 3.

PLANNING COMMISSION

Sec. 34-71. Establishment and purpose.

There is hereby established a planning commission.
(Ord. No. 7500, § 5.2(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-72. Powers and duties.

The planning commission shall have the following powers and duties under the provisions of the LDC:

- (1) To serve as the local planning agency (LPA), as required by F.S. § 163.3174;
- (2) To prepare or cause to be prepared the comprehensive plan, or any element or portion thereof;
- (3) To prepare or cause to be prepared the LDC;
- (4) To initiate, review, hear, consider and make recommendations to the city council to approve, approve with conditions, or deny applications for development permits to amend the text of the comprehensive plan;
- (5) To initiate, review, hear, consider, and make recommendations to the city council to approve, approve with conditions, or deny applications to amend the future land use map of the comprehensive plan;
- (6) To initiate, review, hear, consider, and make recommendations to the city council to approve, approve with conditions, or deny applications to amend the text of the LDC;
- (7) To initiate, review, hear, consider, and make recommendations to the city council on applications for development permits to approve, approve with conditions, or deny amendments to the official zoning atlas of the LDC;
- (8) To hear, consider, and make recommendations to approve, approve with conditions, or deny applications for development permits for a planned unit development;
- (9) To hear, consider, and approve, approve with conditions, or deny applications for development permits for conditional uses;
- (10) To hear, consider and approve, approve with conditions, or deny applications for development permits for a development for major developments;
- (11) To make its special knowledge and expertise available upon written request and authorization of

the city council to any official, department, board, commission or agency of the city, state or federal governments;

(12) To recommend to the city council additional or amended rules of procedure not inconsistent with this section to govern the Planning Commission's proceedings; and

(13) To make studies of the resources, possibilities and needs of the city and to report its findings and recommendations, with reference thereto, from time to time, to the city council.

(Ord. No. 7500, § 5.2(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-73. Commission membership.

(a) *Qualifications.* Members of the planning commission shall be a resident of the city for two (2) years prior to appointment, and a qualified elector. No member of the city council or a city employee shall serve on the planning commission. Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or education in planning, law, architecture, natural resource management, real estate, and related fields.

(b) *Appointment.* The planning commission shall be composed of five (5) members, to be appointed by the city council. The city council shall also appoint two (2) alternate members, a first alternate and a second alternate. The alternate members shall vote only in the absence of regular members. The first alternate member shall have priority to vote in the absence of the first regular member's absence.

(Ord. No. 7500, § 5.2(C), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-74. Terms of office.

(a) *Member.* All members serving on the planning commission on the effective date of the LDC shall complete their terms according to their prior appointments. The term of office of each member appointed under the LDC shall be for four (4) years. When a person is appointed to fill out the term of a departing member, that person's term shall end at the time the departing member's term would have ended.

(b) *Alternate member.* The term of an alternate member of the planning commission shall be for four (4) years. When a person is appointed to fill out the term of a departing alternate member, that person's term shall end at the time the departing member's term would have ended.

(Ord. No. 7500, § 5.2(D), 8-19-91; Ord. No. 94-7603, § 1, 6-20-94; Ord. No. 2001-7810, § 1, 7-16-01)

Sec 34-75. Removal from office.

(a) In the event that any member is no longer a qualified elector or is convicted of a felony, or an offense involving moral turpitude while in office, the city council shall terminate the appointment of such person as a member of the planning commission, and appoint a new member.

(b) If any member of the planning commission fails to attend three (3) regular planning commission meetings without cause over a six-month period, the chairman of the planning commission shall notify the city council, who shall declare the member's office vacant, and appoint a new member.

(Ord. No. 7500, § 5.2(E), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-76. Vacancy.

Whenever a vacancy occurs on the planning commission, the full time member's position shall be served by an alternate member until a permanent member can be appointed by the city council. The city council shall appoint the new member within thirty (30) days of the vacancy.

(Ord. No. 7500, § 5.2(F), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-77. Officers; quorum; rules of procedure.

(a) *Chairman and vice-chairman.* At an annual organizational meeting, the members of the planning commission shall elect a chairman and vice-chairman from among its members. The chairman and vice-chairman's term shall be for one (1) year. No member shall serve as chairman for more than two (2) consecutive terms. The chairman shall administer oaths, shall be in charge of all procedures before the planning commission and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the planning commission. In the absence of the chairman, the vice-chairman shall act as chairman.

(b) *Secretary.* The planning and development director shall serve as secretary of the planning commission. The secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the planning commission, which shall include the vote of all members upon every question, and be attested to by the secretary. The minutes shall be approved by a majority of the planning commission members voting. In addition, the secretary shall maintain all records of planning commission meetings, hearings, proceedings, and the correspondence of the planning commission.

(c) *Staff.* The planning and development department shall be the professional staff of the planning commission.

(d) *Quorum and voting.* The presence of three (3) or more members of the planning commission shall constitute a quorum of the planning commission necessary to take action and transact business. All actions shall require a simple majority of the quorum present.

(e) *Rules of procedure.* The planning commission shall, by a majority vote of the entire membership, adopt rules of procedure for the transaction of business, and shall keep a record of meetings, resolutions, findings and determinations. The planning commission may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.

(Ord. No. 7500, § 5.2(G), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-78. Meetings.

(a) *General.* Meetings of the planning commission shall be held on the second and fourth Mondays of each month to dispense of matters properly before the planning commission. Additionally, meetings may be called by the chairman or at the request of three (3) members of the planning commission in writing. The location of all planning commission meetings shall be in the City of Jacksonville Beach in a place accessible to the public.

(b) *Meetings open to public.* All meetings and public hearings of the planning commission shall be

open to the public in a place accessible to the public.

(c) *Notice.* Public hearings shall be set for a time certain after due public notice.
(Ord. No. 7500, § 5.2(H), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-79. Compensation.

The members of the planning commission shall serve without compensation, but may be reimbursed for such travel, mileage and/or per diem expenses as may be authorized by the city council.
(Ord. No. 7500, § 5.2(I), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-80--34-90. Reserved.

DIVISION 4.

BOARD OF ADJUSTMENT

Sec. 34-91. Establishment.

There is hereby established a board of adjustment.
(Ord. No. 7500, § 5.3(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-92. Powers and duties.

The board of adjustment shall have the following powers and duties under the provisions of the LDC:

- (1) To hear, review, consider and approve, approve with conditions, or deny variances to the terms of Article VIII of the LDC. Variances shall only be granted from the dimensional standards of Article VII, the off-street parking or landscape standards of Article VIII, and the subdivision standards of the LDC, except that a height variance shall not be permitted in any zoning district. Variances shall not be granted to permit a use not generally allowed in the zoning district in which it is located;
- (2) To hear, review, consider and approve, approve with conditions or deny appeals from interpretations of the LDC or official zoning atlas by the planning and development director;
- (3) To make its special knowledge and expertise available upon written request and authorization of the city council to any official, department, board, or commission of the city; and
- (4) To recommend to the city council additional or amended rules of procedure not inconsistent with this section to govern board of adjustment proceedings.

(Ord. No. 7500, § 5.3(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-93. Board membership.

- (a) *Qualifications.* Members of the board of adjustment shall be residents of the City of Jacksonville

Beach for two (2) years prior to appointment, and qualified electors. No member of the city council or a city employee shall serve on the board of adjustment. Although no specific experience requirements shall be necessary as a pre-requisite to appointment, consideration shall be given to applicants who have experience in planning, the law, architecture, natural resource management, real estate and related fields.

(b) *Appointment.* The board of adjustment shall be composed of five (5) members appointed by the city council. The city council shall also appoint two (2) alternate members, a first alternate and a second alternate. The alternates shall serve a two (2) year term. The alternate members shall vote only in the absence of regular members. The first alternate shall have priority to replace the first regular member that is absent.

(c) *Terms of office.* All members serving on the board of adjustment on the effective date of the LDC shall complete their terms according to their prior appointments. The term of office of each member appointed under the LDC shall be four (4) years. There shall be no restraint on the number of terms any member of the board of adjustment may serve. When a member is appointed to fill out the term of a departing member, that person's term will end at the time the departing member's term ends.

(d) *Removal from office.*

(1) In the event that any member is no longer a qualified elector or is convicted of a felony, or an offense involving moral turpitude in office, the city council shall terminate the appointment of such person as a member of the board of adjustment.

(2) If any member of the board of adjustment fails to attend three (3) regular board of adjustment meetings without cause over a six (6) month period, the chairman of the board of adjustment shall notify the city council who shall declare the member's office vacant and fill the vacancy.

(e) *Vacancy.* When a member resigns or is removed, the first alternate member shall vote in his or her absence until a permanent member can be appointed. Any vacancy on the board of adjustment shall be filled by the city council within thirty (30) days.

(Ord. No. 7500, § 5.3(C), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-94. Officers; quorum; rules of procedure.

(a) *Chairman and vice-chairman.* At an annual organizational meeting, the members of the board of adjustment shall elect one (1) of their members as chairman and one (1) as vice-chairman. The chairman shall administer oaths, shall be in charge of all proceedings before the board of adjustment, shall decide all points of order on procedure, and shall take such action as shall be necessary to preserve the order and integrity of all proceedings before the board of adjustment. In the absence of the chairman, the vice-chairman shall act as chairman and shall have all powers of the chairman. The chairman and vice-chairman shall serve a term of one (1) year. No member shall serve as chairman for more than two (2) consecutive terms.

(b) *Secretary.* The planning and development director or his designated representative shall serve as secretary for the board of adjustment. The secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the board of adjustment, which shall include the vote of all members upon every question, and be attested to by the secretary. The minutes shall also indicate whether a member is absent or disqualified from voting. The minutes shall be approved by a majority of the board of adjustment

members voting. In addition, the secretary shall maintain all records of board of adjustment meetings, hearings, proceedings, and the correspondence of the board of adjustment, as public records in the planning and development department.

(c) *Staff.* The planning and development department shall be the professional staff for the board of adjustment.

(d) *Quorum and voting.* No meeting of the board of adjustment shall be called to order, nor may any business be transacted by the board of adjustment without a quorum consisting of at least three (3) members of the board of adjustment being present. All actions shall require a simple majority of the members of the board of adjustment then present and voting, except that three (3) affirmative votes shall be necessary in order for any variance to be adopted or for any interpretation of the planning and development director to be overturned or modified in any way. Members of the board of adjustment are required to vote on all matters before the board of adjustment, unless they are absent or disqualified.

(e) *Disqualification.* If a member of the board of adjustment determines that they have private or personal interests in an issue that comes before the board of adjustment, they may disqualify themselves from participation in that issue. A member of the board of adjustment may be disqualified from participation on an issue by a majority vote of the board of adjustment, on the same grounds.

(f) *Rules of procedure.* The board of adjustment shall, by a majority vote of the entire membership, adopt rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The board of adjustment may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be necessary.
(Ord. No. 7500, § 5.3(D), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-95. Meetings.

(a) *General.* Meetings of the board of adjustment shall be held on the first and third Tuesdays of each month to dispose of matters before the board. Additional meetings may be called by the chairman or in writing by three (3) members of the board of adjustment. All meetings shall be held in the City of Jacksonville Beach in a place accessible to the public.

(b) *Continuance.* If a matter is postponed due to lack of a quorum, the chairman shall continue the meeting as a special meeting to be held within seven (7) days thereafter. In case of delays caused by other reasons, the public hearing shall be rescheduled to the next board of adjustment meeting. The secretary shall notify all members of the date of the continued public hearing and also shall notify all parties.

(c) *Open to public.* All meetings and public hearings of the Board of Adjustment shall be open to the public.

(d) *Notice.* Public hearings shall be set for a time certain after due public notice.

(e) *Compensation.* Members of the board of adjustment may receive such travel and other expenses while on official business for the board of adjustment as are made available by the city council for these purposes.

(Ord. No. 7500, § 5.3(E), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-96--34-115. Reserved.

Editors Note: Ord. No. 7810, adopted 7-16-01, deleted Division 5, §§ 34-101--34-107 in its entirety and is replaced by a new Div. 5 as follows. Formerly, Div. 5 pertained to the Code Enforcement Board and derived from Ord. 7500, § 5.4(B)--(G) 8-19-91.

DIVISION 5.

HEARING OFFICER.

Sec. 34-116. Creation and appointment.

The city council may appoint one (1) or more hearing officers to hear and consider such matters as may be required under any provision of the LDC or as may be determined to be appropriate by the city council from time to time. Such hearing officers shall serve at the pleasure of the city council for such period as is determined by the city council. Such hearing officers shall be compensated at a rate to be determined by the city council, which amount shall be reimbursed to the city by the applicant. Whoever shall accept an appointment as a hearing officer shall, for a period of one (1) year from the date of termination as holder of such office, not act as agent or attorney in any proceeding, application or other matter before any decision-making body of the city in any matter involving land that was the subject of a proceeding which was pending during the time served as a hearing officer.

(Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-117. Minimum qualifications.

A hearing officer shall have the following minimum qualifications:

- (1) Demonstrated knowledge of administrative, environmental and land use planning and law and procedures; and
- (2) Hold no other appointive or elective public office or position in Jacksonville Beach during the period of appointment.

(Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-118. Duties.

A hearing officer shall have the following duties:

- (1) To conduct hearings on such matters as may be requested by the city council;
- (2) To render to the city council a written report containing a summary of the testimony and evidence given and findings and recommendations regarding the specific standards applicable to the particular application for development permit;
- (3) To issue subpoenas to compel the attendance of witnesses and production of documents, and to administer oaths to witnesses appearing at the hearing; and

(4) To perform such other tasks as the city council may assign.
(Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-119--34-130. Reserved.

Editors Note: Ord. No. 7810, adopted 7-16-01, amended Division 6, §§ 34-116--34-130, in its entirety to read as set herein, and renumbered as former Div. 7. Formerly, Div. 6 pertained to the hearing officer, and derived from Ord. No. 7500, § 5.5(A)--(C), 8-19-91.

DIVISION 6.

OTHER OFFICIALS

Sec. 34-131. Planning and development director.

(a) *Creation and appointment.* The planning and development director shall be the agency head of the planning and development department and shall be appointed by and serve at the pleasure of the city manager.

(b) *Jurisdiction, authority and duties.* In addition to the jurisdiction, authority and duties which may be conferred upon the planning and development director by other provisions of the city code, the city council, and the city manager, the planning and development director shall have the following jurisdiction, authorities and duties under the LDC:

- (1) To review, consider and render interpretations of the text of the LDC or the official zoning atlas;
- (2) To hear, consider and approve, approve with conditions, or deny applications for development permits for development plans;
- (3) To hear, consider and approve, approve with conditions, or deny a certificate of public facilities reservation;
- (4) To undertake the day to day administration of the LDC;
- (5) To receive applications for development permits for processing pursuant to the terms of the LDC;
- (6) To serve as the secretary to the planning commission and board of adjustment pursuant to the terms of the LDC;
- (7) To ensure that adequate public notice is provided for applications for development permits pursuant to the terms of the LDC;
- (8) To initiate requests to the city attorney to institute proceedings against the violators of the LDC;
- (9) To undertake the current and long range comprehensive planning responsibilities of the city under F.S. § 163.3161 et seq. as amended, including all planning for land use, public facilities, and environmental resources;

- (10) To review every five (5) years the comprehensive plan and the LDC and recommend amendments to the planning commission and city council;
- (11) To review annually the capital improvement element, capital improvement program and capital improvement schedule of the comprehensive plan and recommend amendments or updates to the planning commission and the city council; and
- (12) To coordinate other local, regional and state planning and permitting processes affecting development in the city and to serve as liaison to such local, regional, and state planning agencies having jurisdiction over development in the city.

(Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-132. City attorney.

In addition to the jurisdiction, authority and duties which may be conferred upon the city attorney by other provisions of the city code, the city attorney shall have the following authority and duties:

- (1) To review and approve as to form all written findings of fact and resolutions drafted by the planning and development director, planning commission, board of adjustment or city council, in connection with any requirement of the LDC;
- (2) To review and approve as to form all development agreements, PUD agreements, easements, declarations of covenants, letters of credit, performance guarantees or other such documentation in connection with any requirement of the LDC; and
- (3) To advise the planning and development director, planning commission, board of adjustment and city council in regard to the legal issues which may arise during implementation of the comprehensive plan and the LDC.

(Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-133. Director of public works.

In addition to the jurisdiction, authority, and duties which may be conferred upon the director of public works by other provisions of the city code, the director of public works shall have the authority and duty to review and make a recommendation to the planning and development director on applications for development permits for planned unit developments, subdivisions, development plans, and certificates of public facility reservations.

(Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-134. Fire chief.

In addition to the jurisdiction, authority, and duties which may be conferred upon the fire chief by other provisions in the LDC, the fire chief shall have the authority and duty to review and make a recommendation to the planning and development director on applications for development permits for planned unit developments, subdivisions, and development plans.

(Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-135. Director of electric utilities.

In addition to the jurisdiction, authority, and duties which may be conferred upon the director of electric utilities by other provisions in the LDC, the director of electric utilities shall have the authority and duty to review and make a recommendation to the planning and development director on applications for development permits for planned unit developments, subdivisions and development plans.

(Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-136. Building official.

In addition to the jurisdiction, authority, and duties which may be conferred upon the building official by other provisions in the LDC, the building official shall have the authority and duty to review and approve, approve with conditions, or deny a building permit.

(Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-137--34-150. Reserved.

Editors Note: Division 7, §§ 34-131--150, is deleted in its entirety and renumbered as Div. 6. Formerly, Div. 7, pertained to other officials and derived from Ord. No. 7500; 5.6--5.11, 8-19-91.

ARTICLE VI.

DEVELOPMENT REVIEW PROCEDURES

DIVISION 1.

GENERAL APPLICABILITY

Sec. 34-151. Applicability.

The provisions of this division shall apply to every application for a development permit.

(Ord. No. 7500, § 6.1(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-152. Application and fees.

Every application for a development permit and every application for a preapplication conference shall be in a form specified by the planning and development director and shall be accompanied by a nonrefundable fee as is established from time to time by the city council to defray the actual cost of processing the application.

(Ord. No. 7500, § 6.1(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-153. Preapplication conference.

(a) A preapplication conference is mandatory prior to submission of an application for a development permit for a planned unit development (PUD) zoning district designation and a redevelopment (RD) zoning district designation. The procedures for this mandatory preapplication conference requirement are outlined in the sections 34-347 and 34-348.

(b) A potential applicant for any other application for development permit may request in writing a preapplication conference with the planning and development director. Prior to the conference, the applicant shall provide to the planning and development director, a description of the character, location and magnitude of the proposed development and the type of development permit sought. The purpose of the meeting is to acquaint the potential applicant with the requirements of the LDC and the views and concerns of the city as it pertains to the proposed application for development permit. The substance of the preapplication conference shall be recorded in a letter of understanding prepared by the planning and development director. The letter shall be mailed to the applicant within seven (7) working days after the preapplication conference. The letter of understanding shall set forth the subjects discussed at the conference and the city's position in regard to the subject matters discussed. The applicant shall be entitled to rely upon representations made at the conference only to the extent such representations are set forth in the letter of understanding. (Ord. No. 7500, § 6.1(C), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-154. Notice.

Notice of all public hearings required under the LDC shall be provided by the planning and development director in accordance with the following provisions.

(1) *Site specific comprehensive plan amendments.*

- a. *Public hearings.* Amendments to the future land use map related to small scale developments adopted pursuant to section 34-176(b) require only one public hearing before the local planning agency, followed by one public hearing before the Jacksonville Beach city council, which shall be an adoption hearing as described in F.S. § 163.3184(7), and are not subject to the requirements of F.S. § 163.3184(3)-(6), unless the city council elects to have them subject to those requirements.

For all other amendments, the planning commission and the city council each shall hold at least one (1) public hearing on a proposed amendment to the future land use map, prior to the proposed amendment's transmittal to DCA pursuant to F.S. § 163.3184(3), for written comment. The planning and development director shall also, at the same time a copy of a proposed amendment is transmitted to DCA, transmit a copy to any other local government or governmental agency in the state that has filed a written request for a copy with the planning and development director, and paid a fee to defray the costs of mailing. Upon receipt of written comments from DCA on the proposed amendment, the city council shall have sixty (60) calendar days to hold at least one (1) more public hearing and adopt the proposed amendment, adopt the amendment with changes, or determine that it will not adopt the amendment. The city shall in writing invite DCA to participate in the public hearing held after written comments have been received from DCA. The public hearing held after the city's receipt of DCA's written comments shall be on a weekday approximately five (5) working days after the day the advertisement for the meeting is published.

- b. *Notice.* The required advertisement for the public hearings shall be no less than one-quarter (1/4) page in a standard size or a tabloid size newspaper, and the headline in the

advertisement shall be in a type no smaller than eighteen (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 city and of general interest and readership in the community, 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 (5) working days a week, unless the only newspaper in the city is published less frequently. The advertisement shall be in substantially the following form:

NOTICE OF CHANGE OF LAND USE

The City of Jacksonville Beach proposes to change the use of land within the area shown in the map in this advertisement.

A public hearing on the proposal will be held on (date and time) at (place).

The advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposal. The map shall include major street names as a means of identification of the area. The advertisement shall also state the places within the boundary of the City of Jacksonville Beach where the proposed amendment may be inspected by the public. The advertisement shall also advise that interested parties may appear at the meeting and be heard regarding the transmittal or adoption of the amendment.

- (2) *Amendment to the text of the LDC, or boundaries of the official zoning atlas (including RD and PUD Zoning District designations).*
 - a. *Public hearings.* The planning commission shall hold one (1) public hearing and the city council shall hold two (2) public hearings on a proposed amendment which changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or which changes the actual zoning atlas designation of a parcel or parcels of land involving ten (10) contiguous acres or more. The second public hearing before the city council shall be held approximately two (2) weeks after the first public hearing. The day, time, and place at which the second city council public hearing will be held shall be announced at the first public hearing. The planning commission and the city council each shall hold at least one (1) public hearing on a proposed amendment which in any other way amends the text of the LDC or which changes the actual zoning atlas designation of a parcel or parcels of land involving less than ten (10) contiguous acres. The public hearings shall be held after 5:00 p.m. on a weekday.
 - b. *Notice, publication, and mailing requirements for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, or which change the actual zoning atlas designation of a parcel or parcels of land involving ten (10) contiguous acres or more of the area in the city.* Approximately seven (7) calendar days prior to the planning commission public hearing and approximately seven (7) calendar days prior to the first city council public hearing and approximately five (5)

calendar days prior to the second city council public hearing, the planning and development director shall have published an advertisement notice of the public hearing which shall be no less than two (2) columns wide by ten (10) inches long in a standard size or a tabloid size newspaper, with the headline in the advertisement in type no smaller than eighteen (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 city and of general interest and readership in the community, not one of limited subject matter. The advertisement shall state the date, time, place of the public hearing, the subject of the meeting, and the place or places within the boundaries of the city where the proposed amendment may be inspected by the public. The advertisement shall also advise that interested parties may appear at the meeting and be heard regarding the amendment.

1. For an amendment to the text of the LDC which changes the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall be in the following form:

NOTICE OF DEVELOPMENT CODE TEXT CHANGE

The City of Jacksonville Beach proposes to adopt Ordinance No. _____ amending the text of the Land Development Code. The amendment will affect the land within the area shown in the map in this advertisement.

A public hearing on the proposed text change will be held on (date and time) at (meeting place).

The advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposal. The map shall include major street names as a means of identification of the area. In lieu of publishing this advertisement, the planning and development director may mail a notice to each person owning real property in the area covered by the proposal. Such notice shall clearly explain the proposal and shall notify the person of the date, time and location of the public hearing.

2. For an amendment to the official zoning atlas (including RD and PUD zoning district designations) involving a parcel or parcels totaling ten (10) contiguous acres or more of the land area of the city, the advertisement shall be in the following form:

NOTICE OF ZONING CHANGE

The City of Jacksonville Beach proposes to adopt Ordinance No. _____ rezoning (changing the permitted use of) the land within the area shown in the map in this advertisement.

A public hearing on the rezoning will be held on (date and time) at (meeting place).

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 area. In lieu of publishing this advertisement, the planning and development director may mail a notice to each person owning real property in the area covered by the proposal. Such notice shall clearly explain the proposal and shall notify the person of the date, time and location of the public hearing.

- (3) *Notice, publication, and mailing requirements for amendments to the text of the land development code which do not change the actual list of permitted, conditional, or prohibited uses within a zoning category or amendments to the official zoning atlas (including RD and PUD zoning district designations) involving a parcel or parcels totaling less than ten (10) contiguous acres of the land area of the city.*
- a. *Publication.* The planning and development director shall have published at least ten (10) calendar days but not more than thirty (30) calendar days in advance of each public hearing, a notice of such hearing in a newspaper of general circulation in the city. The notice of the public hearing shall state the date, time and place of the meeting, the application number or the title of the proposed ordinance, and the place or places where such application or proposed ordinance may be inspected by the public. The notice shall also advise that interested parties may appear at the public hearing and be heard with respect to the application or proposed ordinance.
 - b. *Mailing.* The planning and development director shall be required to provide notice by mail of each public hearing to all owners of real property within three hundred (300) feet of the periphery of a property whose names and addresses are known by reference to the latest published ad valorem tax records of the county property appraiser, including notice to the owner of such property, which is the subject of the application request. The notice shall state the substance of the application or 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 thirty (30) days prior to the date set for the public hearing, and a copy of the notice shall be kept available for public inspection during regular business hours at the planning and development department.
 - c. *Posting.* Any property which is the subject of an application for an amendment to the official zoning atlas (including RD and PUD zoning district designations) involving less than ten (10) acres of the land area of the city shall be posted with a notice of public hearing (a sign) by the planning and development director at least five (5) days in advance of any public hearing. All signs shall be erected in full view of the public on each street side of the land subject to the application. Where the land does not have frontage on a public street, signs shall be erected on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the land subject to the application. The signs shall be removed after the decision is rendered on the application. The failure of any such posted notice sign to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the planning commission or

city council.

(c) *Conditional uses.*

(1) *Public hearing.* The planning commission shall hold one (1) public hearing on an application for development permit for a conditional use.

(2) *Public notice.*

- a. *Publication.* The planning and development director shall have published at least ten (10) calendar days but not more than thirty (30) calendar days in advance of a public hearing on an application for development permit for a conditional use, a notice of such hearing in a newspaper of general circulation in the city. The notice of the public hearing shall state the date, time and place of the public hearing, and the place where such application may be inspected by the public. The notice shall also advise that interested parties may appear at the public hearing and be heard with respect to the application.
- b. *Mailing.* The planning and development director shall be required to provide notice by mail, at least fifteen (15) calendar days but no more than thirty (30) calendar days in advance of any public hearing on an application for development permit for a conditional use, to all owners of real property within three hundred (300) feet of the periphery of the property subject to the application, whose names and addresses are known by reference to the latest published ad valorem tax records of the county property appraiser. The notice shall state the substance of the application and shall set a time and place for the public hearing on such application.
- c. *Posting.* The land subject to the application for development permit for a conditional use shall be posted with a notice (a sign) of the public hearing by the planning and development director at least fifteen (15) calendar days in advance of any public hearing. All signs shall be erected in full view of the public on each street side of the land subject to the application. Where the land does not have frontage on a public street, signs shall be erected on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the land subject to the application. The signs shall be removed after the decision is rendered on the application. The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the planning commission.

(4) *Variances.*

a. *Public hearings.* The board of adjustment shall hold one (1) public hearing on an application for development permit for a variance.

b. *Public notice.*

1. *Publication.* The planning and development director shall ensure advertised

public notice given of the public hearing in a newspaper of general circulation published in the City of Jacksonville Beach at least fifteen (15) calendar days prior to the public hearing.

2. *Mailing.* The planning and development director shall ensure notice is mailed to all property owners within three hundred (300) feet of the subject property at least fifteen (15) calendar days prior to the public hearing.
3. *Posting.* The planning and development director shall ensure the land subject to the application for a development permit for a variance is posted with a notice (a sign) of the public hearing at least fifteen (15) calendar days in advance of any public hearing. All signs shall be erected in full view of the public on each street side of the land subject to the application. Where the land does not have frontage on a public street, signs shall be erected on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the land subject to the application. The signs shall be removed after the decision is rendered on the application. The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the board of adjustment.

(Ord. No. 7500, § 6.1(D), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-155. Hearing procedures for application for development permit.

(a) *Setting the hearing.* When the planning and development director determines that an application for a development permit is sufficient and that a public hearing is required by this code, the planning and development director shall consult with the secretary of the body or bodies required to conduct the hearing and shall select a place and time certain for the required hearing, and shall cause the public hearing to be scheduled.

(b) *Examination and copying of application and other documents.* At any time upon reasonable request, any person may examine an application for development permit and materials submitted in support of or in opposition to an application for development permit at the planning and development department. Copies of such materials shall be made available at cost.

(c) *Conduct of hearing.*

(1) *Rights of all persons.* Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Anyone representing an organization must present written evidence of their authority to speak on behalf of the organization in regard to the matter under consideration. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of an organization, state the name and mailing address of the organization.

(2) *Due order of proceedings.* The body conducting the hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. The order of the proceedings shall be as follows:

- a. The planning and development director shall present a narrative and graphic description of the application for development permit.
 - b. The planning and development director shall present a written and oral recommendation, including the report of the planning and development director, if relevant. This recommendation shall address each factor required to be considered by the LDC prior to consideration of the application for development permit. The recommendation of the planning and development director, if relevant, shall be made available to the applicant at least three (3) working days prior to the public hearing.
 - c. The applicant shall present any information the applicant deems appropriate.
 - d. Public testimony shall be heard, first in favor of the proposal, then in opposition to it.
 - e. The planning and development director and city attorney may respond to any statement made by the applicant or any public comment.
 - f. The applicant may respond to any testimony or evidence presented by the city staff or public.
- (3) *Testimony.* In the event any testimony or evidence is excluded as irrelevant, immaterial or unduly repetitious, the person offering such testimony or evidence shall have an opportunity to append such evidence to the record.
- (4) *Continuance of public hearing or meeting.* The body conducting the hearing or meeting may, on its own motion or at the request of any person, continue the hearing or meeting to a fixed date, time and place. An applicant shall have the right to request and be granted one (1) continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the hearing only upon good cause shown.
- (5) *Withdrawal of application for development permit.* An application for a development permit may be withdrawn by the applicant if a written request for withdrawal is received by the planning and development director prior to five (5) working days of any public hearing on the application for development permit. If an application for a development permit is withdrawn pursuant to this section, that application or a similar application for development permit shall not be resubmitted or accepted for review pursuant to the LDC for a period of six (6) months.
- (6) *Record.*
- a. The body conducting the hearing shall record the proceedings by any appropriate means. A copy of the hearing transcript may be acquired by any person upon application to the planning and development director, and payment of a fee to cover the cost of duplication of the audio record, tape or transcription, whichever is appropriate.
 - b. The transcript of oral proceedings (either audio or written), including testimony and

statements of personal opinions, the minutes of the Secretary, all applications, exhibits and papers submitted in any proceeding before the decision-making body, the report and recommendation of the planning and development director, or other member of the city staff, and the decision and report of the decision-making body shall constitute the record.

- c. All records of decision-making bodies shall be public records, open for inspection at the planning and development department during normal business hours upon reasonable notice.

(Ord. No. 7500, § 6.1(E), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-156. Actions by decision-making persons and bodies.

(a) *General.* All decision-making persons and bodies shall act in accord with the time limits established in this code. Action shall be taken as promptly as possible in consideration of the interests of the citizens of the City of Jacksonville Beach.

(b) *Findings.* All decisions shall be in writing and shall include at least the following elements:

- (1) A summary of the information presented before the decision-making body;
- (2) A summary of all documentary evidence provided to the decision-making body on which the decision-making body considered in making its decision; and
- (3) A clear statement of specific findings of fact and a statement of the basis upon which such facts were determined, with specific reference to the relevant standards set forth in the LDC.

(c) *Notification.* Notification of a decision-making body's decision shall be provided by the planning and development director to the applicant by certified mail. A copy of the decision shall also be available to the applicant at the planning and development department during normal business hours within a reasonable period of time after the decision.

(Ord. No. 7500, § 6.1(F), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-157. Consolidated applications.

To the extent practicable, applications for development permits may be consolidated for review pursuant to an agreement between the applicant and the planning and development director at a preapplication conference.

(Ord. No. 7500, § 6.1(G), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-158. Successive applications.

Whenever any application for a development permit is denied for failure to meet the substantive requirements of the LDC, an application for a development permit for all or a part of the same land shall not be considered for a period of one (1) year after the date of denial unless the subsequent application involves an application for development permit that is materially different from the prior proposal, or unless the person or four (4) members of the decisionmaking body that made the final decision on the application determines that the

prior denial was based on a material mistake of fact. For the purposes of this section, an application for a development permit shall be considered materially different if it involves a change in land use, a change in intensity of use of twenty-five (25) percent, or the application expressly satisfies the deficiencies that were identified in the prior denial. The body charged with conducting the initial public hearing under such successive application shall resolve any question concerning the similarity of a second application or other questions which may develop under this section.

(Ord. No. 7500, § 6.1(H), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-159. Suspension of development review proceedings.

In the discretion of the planning and development director, any application for a development permit may be suspended during the pendency of a code enforcement proceeding pursuant to Article XIII, Enforcement Proceedings and Penalties, involving all or a portion of the land proposed for development.

(Ord. No. 7500, § 6.1(I), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-160. Traffic impact studies.

(a) *Applicability.* A traffic impact study shall be prepared by the city, at the applicant's sole expense, for all applications for a development order for the following types of development permits:

- (1) Site specific comprehensive plan amendment.
- (2) Amendment to the zoning atlas, including a Planned Unit Development (PUD) or a Redevelopment District (RD) zoning district classification.
- (3) Conditional use for a major development.
- (4) Development plan for a major development.

(b) *Preliminary procedures.* Upon receipt of a sufficient application for a development order for an applicable type of development permit, the planning and development director shall refer the application to a traffic engineer who is employed by or under contract to the city. The traffic engineer shall provide the planning and development director with a cost proposal to carry out the required traffic impact study, including the cost of an initial estimate of the daily and peak hour trips if required to determine if the application is a major development. The applicant shall pay the cost of the traffic impact study before the director of planning and development may issue a notice for the traffic engineer to proceed with the work. The payment for the cost of the traffic impact study shall be in addition to any other fees and cost required to be paid to the city for the application.

(c) *Traffic impact study procedures.* The traffic impact study, when required, shall be conducted in accordance with generally accepted traffic engineering principles by a person who is qualified under the laws of the State of Florida for such work. The work shall be conducted using the current edition of the Institute of Traffic Engineers (ITE) manual *Trip Generation*; and any other transportation and traffic engineering models and procedures as may be deemed necessary to carry out the work in a comprehensive manner. The traffic engineer shall provide the planning and development director with three (3) copies of a written report. The written report shall include the data, analysis, conclusions, and recommendations of the traffic engineer

regarding compliance with the provisions of article X, adequate public facility standards for road facilities that may be attributed to the traffic generated by the development contemplated by the application. A copy of the report shall be provided to the applicant within five (5) working days of its receipt by the director of planning and development.

(Ord. No. 2006-7915, § 1, 4-3-06)

Secs. 34-161--34-170. Reserved.

DIVISION 2.

SITE SPECIFIC COMPREHENSIVE PLAN AMENDMENTS

Sec. 34-171. Purpose.

The purpose of this section is to provide a means for changing the boundaries of the future land use map of the comprehensive plan (site specific comprehensive plan amendment). It is not intended to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the city council shall consider, in addition to the factors set forth in this section, the consistency of the proposed amendment with the intent of the comprehensive plan.

(Ord. No. 7500, § 6.2(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-172. Authority.

The city council may amend the boundaries of the future land use map upon compliance with the provisions of this section.

(Ord. No. 7500, § 6.2(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-173. Initiation.

Site specific comprehensive plan amendments may be proposed by the city council, the planning commission, the planning and development director, or the owner or another person having a contractual interest in land to be affected by a proposed amendment, or their agent, pursuant to the procedures and standards of this section. In addition to site specific comprehensive plan amendments, the city council, the planning commission, or the planning and development director may, once a year, initiate general amendments to the comprehensive plan.

(Ord. No. 7500, § 6.2(C), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-174. Submission of application.

An application for an amendment to the future land use map of the comprehensive plan shall be submitted to the planning and development director along with a nonrefundable application fee which is established by the city council from time to time to defray the actual cost of processing the application.

(Ord. No. 7500, § 6.2(D), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-175. Contents of application.

The application shall be submitted in a form established by the planning and development director and made available to the public, and shall include a traffic impact study, pursuant to section 34-160. (Ord. No. 7500, § 6.2(E), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2006-7915, § 2, 4-3-06)

Sec. 34-176. Timing.

Proposed amendments shall be accepted for review and processing once each year, prior to the third Monday in March. There shall be two (2) exceptions to this timing requirement.

- (1) An amendment shall be considered at any time if it is directly related to a development of regional impact, including changes which have been determined to be substantial deviations. Nothing in this section shall be deemed to require favorable consideration of an amendment solely because it is related to a development of regional impact.
- (2) A future land use map amendment shall be considered at any time if it is directly related to small scale development activities, under the following conditions:
 - a. The proposed amendment involves a use of ten (10) acres or fewer, therefore deeming it small scale development for purposes of this paragraph.
 - b. The cumulative annual effect of the acreage for all small scale amendments adopted by the Jacksonville Beach city council shall not exceed eighty (80) acres.
 - c. The proposed amendment does not involve the same property granted a change within the prior twelve (12) months.
 - d. The proposed amendment does not involve the same owner's property within two hundred (200) feet of the property granted a change within the prior twelve (12) months.
 - e. The proposed amendment does not involve a text change to the goals, policies, and objectives of the comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.
 - f. The local government shall send copies of the notice and amendment to the state land planning agency, the regional planning council, and any other person or entity requesting a copy. This information shall also include a statement identifying any property subject to the amendment that is located within a coastal high hazard area as identified in the local comprehensive plan.

(Ord. No. 7500, § 6.2(F), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-177. Determination of sufficiency.

By the first Monday in April, the planning and development director shall determine if the application is sufficient. For a small scale development amendment accepted pursuant to section 34-176(b), a sufficiency determination will be made within ten (10) working days of its submittal.

- (1) If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied. The applicant shall be notified that for the application to be reviewed for that year, the application must be determined sufficient by the third Monday in April. For a small scale development amendment, if the determination is made that an application is insufficient, no further action shall be taken on that application until the deficiencies are remedied.
- (2) When an application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

(Ord. No. 7500, § 6.2(G), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-178. Review, report and recommendation.

If the application is determined to be sufficient (as long as it is determined sufficient by the third Monday in April, for any amendment other than a small scale development amendment), the planning and development director shall review the application, prepare a staff report and a recommendation of approval, approval with conditions, or disapproval based on the standards in section 34-182(b), by the second Monday in May. The planning and development director shall send a copy of the staff report to the applicant by mail on the day the staff report is completed, along with written notification of the time and place the application will be considered by the planning commission. For a small scale amendment, the planning and development director shall prepare a staff report and recommendation of approval, approval with conditions, or disapproval based on the standards in section 34-182(b), and shall send a copy of the staff report to the applicant by mail no later than ten (10) working days of the date that the application will be considered by the planning commission, along with written notification of the time and place the application will be considered.

(Ord. No. 7500, § 6.2(H), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-179. Public hearings.

Amendments to the future land use map related to small scale developments adopted pursuant to section 34-176(b) require only one public hearing before the local planning agency, followed one public hearing before the Jacksonville Beach city council, which shall be an adoption hearing as described in F.S. § 163.3184(7), and are not subject to the requirements of F.S. § 163.3184(3)-(6), unless the city council elects to have them subject to those requirements.

For all other amendments, the planning commission and the city council each shall hold at least one (1) public hearing on a proposed amendment to the future land use map, prior to the proposed amendment's transmittal to DCA pursuant to F.S. § 163.3184(3), for written comment. The planning and development director shall also, at the same time a copy of a proposed amendment is transmitted to DCA, transmit a copy to any other local government or governmental agency in the state that has filed a written request for a copy with the planning and development director, and paid a fee to defray the costs of mailing. Upon receipt of written comments from DCA on the proposed amendment, the city council shall have sixty (60) calendar days to hold at least one (1) more public hearing and adopt the proposed amendment, adopt the amendment with changes, or determine that it will not adopt the amendment. The city shall in writing invite DCA to participate in the public

hearing held after written comments have been received from DCA. The public hearing held after the city's receipt of DCA's written comments shall be on a weekday approximately five (5) working days after the day the advertisement for the meeting is published.

(Ord. No. 7500, § 6.2(I), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-180. Public notice.

Public notice of the public hearings shall be provided by the planning and development director pursuant to the requirements of section 34-154(a).

(Ord. No. 7500, § 6.2(J), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-181. Action by planning commission.

The planning commission shall review the application, the staff report and recommendation, and the testimony given, and submit its recommendations and findings to the city council based on the standards in section 34-182(b).

(Ord. No. 7500, § 6.2(K), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-182. Action by city council following public hearings.

(a) The city council shall consider the application, the staff report, the recommendation of the planning commission, and the testimony given at the public hearings.

(b) The city council shall consider the adoption of an ordinance enacting the proposed amendment based on only one (1) or more of the following factors, as long as the comprehensive plan maintains its internal consistency.

- (1) Changed projections (e.g., regarding public service needs) in the comprehensive plan that affect boundaries of the future land use map;
 - (2) Changed assumptions (e.g., regarding demographic trends or land availability) in the comprehensive plan, including but not limited to the fact that growth in the area, in terms of the development of vacant land, new development, and the availability of public services has altered the character such that the proposed amendment is now reasonable and consistent with the land use characteristics;
 - (3) Data errors, including errors in mapping, vegetative types and natural features in the comprehensive plan;
 - (4) New issues that have risen since adoption of the comprehensive plan;
 - (5) Recognition of a need for additional detail or comprehensiveness in the comprehensive plan; or
 - (6) Data updates.
- (c) The city council shall adopt the proposed amendment, or the proposed amendment as modified,

by not less than a majority of its total membership.
(Ord. No. 7500, § 6.2(L), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-183. Determination of compliance.

(a) *Transmittal of adopted amendment to DCA.* The planning and development director shall transmit five (5) copies of the adopted amendment to DCA within five (5) working days after its adoption. The planning and development director shall also transmit a copy of the amendment to any local government or governmental agency in the state that has filed a written request with the planning and development director, along with a fee to defray the costs of mailing.

(b) *Determination of compliance or noncompliance by DCA.* DCA shall have forty-five (45) calendar days after its receipt of the adopted amendment from the planning and development director to determine if the adopted amendment is in compliance or not in compliance with the State Comprehensive Plan, The Northeast Florida Regional Policy Plan, F.S. § 163.3161, et seq., and F.A.C. Rule 9J-5.

(c) *Procedure for determination of compliance by DCA.*

(1) *Issuance of notice of intent.* If DCA issues a notice of intent the adopted amendment is in compliance, any affected person, within twenty-one (21) calendar days after publication of the notice of intent, may file a petition with DCA pursuant to F.S. § 120.57, challenging DCA's notice of intent determining the adopted amendment is in compliance.

(2) *No petition filed/final agency action.* If no petition is filed within twenty-one (21) calendar days, DCA's notice of intent shall be considered final agency action that the adopted amendment is in compliance.

(3) *Petition filed/public hearing.* If a petition is filed, a proceeding shall be conducted by a hearing officer of the Division of Administrative Hearings of the Department of Administration (DOAH) to determine compliance of the adopted amendment. The hearing shall be governed by the following requirements:

a. It shall be held in Jacksonville Beach, Florida;

b. The parties to the proceeding shall be the petitioner, the City of Jacksonville Beach, DCA, and any affected person who intervenes; and

c. The adopted amendment shall be determined to be in compliance if Jacksonville Beach's determination of compliance is fairly debatable.

(4) *Recommended order on public hearing.* Upon completion of the hearing, the hearing officer shall submit a recommended order on whether the adopted amendment is in compliance or is not in compliance, to DCA, who shall allow ten (10) calendar days for the filing of exceptions to the recommended order.

(5) *DCA action on recommended order.* DCA shall issue a final order within thirty (30) calendar

days of receipt of the recommended order from the hearing officer.

- a. *Final order in compliance.* If DCA determines that the adopted amendment is in compliance, it shall issue a final order that the adopted amendment is in compliance.
 - b. *Recommended order not in compliance.* If DCA determines that the adopted amendment is not in compliance, it shall submit a recommended order to the administration commission for final action.
- (6) *Action of administration commission.*
- a. *Finding in compliance.* If the administration commission finds the adopted amendment is in compliance, it shall issue a final order of compliance.
 - b. *Finding not in compliance.* If the administration commission finds the adopted amendment is not in compliance, the administration commission shall specify remedial actions which would bring the adopted amendment into compliance pursuant to F.S. § 163.3184(11).
- (d) *Procedure for determination of not in compliance by DCA.*
- (1) *Issuance of notice of intent/not in compliance public hearing.* If DCA issues a notice of intent to find the adopted amendment not in compliance, a proceeding shall be conducted by a hearing officer of DOAH to determine compliance of the adopted amendment.
- (2) *Requirements of hearing.* The hearing shall be subject to the following:
- a. It shall be held in Jacksonville Beach, Florida;
 - b. The parties to the proceeding shall be Jacksonville Beach, DCA and any affected person who intervenes;
 - c. The city's determination that the adopted amendment is in compliance shall be presumed correct, and shall be sustained unless it is shown by a preponderance of the evidence that the amendment is not in compliance.
 - d. The city's determination that elements of the comprehensive plan are related to and consistent with each other shall be sustained if the determination is fairly debatable.
- (3) *Recommended order on hearing.* After completion of the hearing, the hearing officer shall submit a recommended order to the administration commission for final agency action.
- (4) *Action of administration commission.*
- a. *Finding of in compliance.* If after a hearing the administration commission finds the adopted amendment is in compliance, it shall issue a final order of compliance.

b. *Finding of not in compliance.* If the administration commission finds the adopted amendment is not in compliance, the administration commission shall specify remedial actions which would bring the adopted amendment into compliance pursuant to F.S. § 163.3184(11), Fla. Stat.

(5) *Exclusive proceedings.* These proceedings shall be the sole proceedings or action for a determination of the compliance of an adopted amendment of the comprehensive plan. (Ord. No. 7500, § 6.2(M), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-184--34-200. Reserved.

DIVISION 3.

ZONING ATLAS AND CODE AMENDMENTS

Sec. 34-201. Purpose.

The purpose of this section is to provide a means for changing the text of this code, or the boundaries of the official zoning atlas. It is not intended to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the city council shall consider, in addition to the factors set forth in this section, the consistency of the proposed amendment with the intent of the comprehensive plan. (Ord. No. 7500, § 6.3(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-202. Authority.

The city council may amend the text of the LDC, or the boundaries of the official zoning atlas upon compliance with the provisions of this division. (Ord. No. 7500, § 6.3(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-203. Initiation.

Amendments may be proposed by the city council, the planning commission, the planning and development director or the owner or another person having a contractual interest in property affected by a proposed amendment or their agent. (Ord. No. 7500, § 6.3(C), 8-19-91)

Sec. 34-204. Submission of application.

An application for a development permit for an amendment to the LDC or the official zoning atlas shall be submitted to the planning and development director along with a nonrefundable application fee which is established by the city council from time to time to defray the actual cost of processing the application. (Ord. No. 7500, § 6.3(D), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-205. Contents of application.

The application shall be submitted in a form established by the planning and development director and made available to the public, and shall contain the following information:

- (1) The name, address, and telephone number of the owner of record of the land proposed for the amendment to the LDC, and a copy of a warranty deed of the land.
 - (2) The name, address, and telephone number of the developer, if different from the owner, and an explanation of the difference.
 - (3) The name, address, and telephone number of the agent for the application, if there is an agent.
 - (4) The name, address, and telephone number of all land use, environmental, engineering, economic, or other professionals that are assisting in the application.
 - (5) If relevant, the street address and legal description of the land on which the amendment is proposed to occur, with attached copies of any instruments referenced, such as, but not limited to, deeds, plats, easements, covenants, and restrictions.
 - (6) A copy of the relevant Duval County property assessment map, showing the exact location of the land proposed for amendment, with the boundaries clearly marked.
 - (7) If relevant, an eight and one-half (8 1/2) by eleven (11) vicinity map locating the map proposed for amendment.
 - (8) If relevant, an aerial photograph that is less than twelve (12) months old, of the land proposed for amendment, with the boundaries clearly marked.
 - (9) If relevant, a description of the zoning district designation in the LDC, and the future land use map designation in the comprehensive plan, of the land proposed for amendment.
 - (10) A description of the proposed amendment, an explanation of why it complies with the standards of the LDC, including a traffic impact study, pursuant to section 34-160.
- (Ord. No. 7500, § 6.3(E), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2006-7915, § 3, 4-3-06)

Sec. 34-206. Determination of sufficiency.

The planning and development director shall determine if the application is sufficient within five (5) working days.

- (1) If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied.
- (2) If the application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review

pursuant to the procedures and standards of this section.
(Ord. No. 7500, § 6.3(F), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-207. Review, report and recommendation.

Within ten (10) working days after the application is determined to be sufficient, the planning and development director shall review the application, and prepare a staff report recommending approval, approval with conditions, or disapproval based on the standards in section 34-211(c). The planning and development director shall mail a copy of the staff report and recommendation to the applicant on the day the staff report is completed, along with written notification of the time and place the application will be considered by the planning commission. The public hearing on the application shall be scheduled for the first available regularly scheduled planning commission meeting by which time the public notice requirements can be satisfied, or such time as is mutually agreed upon between the applicant and the planning and development director.
(Ord. No. 7500, § 6.3(G), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-208. Public hearings.

The planning commission shall hold one (1) public hearing and the city council shall hold two (2) public hearings on a proposed amendment which changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or which changes the actual zoning atlas designation of a parcel or parcels of land involving ten (10) contiguous acres or more. The planning commission and the city council each shall hold at least one (1) public hearing on a proposed amendment which in any other way amends the text of the LDC or which changes the actual zoning atlas designation of a parcel or parcels of land involving less than ten (10) contiguous acres. The public hearings shall be held after 5:00 p.m. on a weekday. The second public hearing before the city council shall be held approximately two (2) weeks after the first public hearing. The day, time, and place at which the second city council public hearing will be held shall be announced at the first public hearing.
(Ord. No. 7500, § 6.3(H), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-209. Notice, publication, and mailing requirements for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, or which change the actual zoning atlas designation of a parcel or parcels of land involving ten (10) contiguous acres or more of the area in the city.

Notice, publication, and mailing requirements for public hearings for amendments to the text of the LDC or the official zoning atlas shall be provided by the planning and development director pursuant to the requirements of section 34-154(b)(2).
(Ord. No. 7500, § 6.3(I), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-210. Action by planning commission.

The planning commission shall conduct a public hearing on the application pursuant to the procedures in Sections 34-155 and 34-158, and after close of the public hearing recommend to the city council approval, approval with conditions, or denial of the application for development permit. In reviewing and making a recommendation, the planning commission shall apply the standards in section 34-211(c).
(Ord. No. 7500, § 6.3(J), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-211. Action by city council following public hearing.

(a) After the review and recommendation of the planning commission, the application shall be scheduled for consideration at either one (1) or two (2) public hearings by the city council, pursuant to section 34-208.

(b) The city council shall consider the application, all relevant support materials, the staff report and recommendation of the planning and development director, the recommendation of the planning commission, and the testimony given at the public hearing.

(c) After the close of the public hearing or hearings, whichever is appropriate, the city council shall consider the adoption of an ordinance enacting the proposed amendment based on one (1) or more of the following factors, provided however, that in no event shall an amendment be approved which will result in an adverse community change in which the proposed development is located.

- (1) Whether the proposed amendment is consistent with the comprehensive plan;
- (2) Whether the proposed amendment is in conflict with any portion of the LDC;
- (3) Whether and the extent to which the proposed amendment is consistent with existing and proposed land uses;
- (4) Whether and the extent to which there are any changed conditions that require an amendment;
- (5) Whether and the extent to which the proposed amendment would result in demands on public facilities, and whether and the extent to which the proposed amendment would exceed the level of service standards established for public facilities in the comprehensive plan;
- (6) Whether, and the extent to which, zoning district boundaries are not properly drawn on the official zoning atlas;
- (7) Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the coastal environment;
- (8) Whether and the extent to which the proposed amendment would adversely affect the property values in the area;
- (9) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern;
- (10) Whether it is impossible to find other lands in the city for the proposed use in a zoning district that permits such use as of right.

(d) The city council shall adopt the proposed amendment or the proposed amendment as modified, by not less than a majority of the quorum present at the public hearing.
(Ord. No. 7500, § 6.3(K), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-212--34-220. Reserved.

DIVISION 4.

CONDITIONAL USES

Sec. 34-221. Purpose.

Conditional uses are those uses which are generally not compatible with the other land uses permitted in a zoning district, but with individual review and control of their location, design, configuration and intensity and density of use, buildings and structures, and the imposition of conditions pertinent thereto in order to ensure the appropriateness of the use at a particular location, may be permitted in the zoning district as a conditional use.

(Ord. No. 7500, § 6.4(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-222. Authority.

The planning commission, in accordance with the procedures, standards and limitations of this section, shall approve, approve with conditions, or deny an application for a development permit for a conditional use after recommendation by the planning and development director.

(Ord. No. 7500, § 6.4(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-223. Authorized conditional uses.

Only those uses which are authorized as conditional uses in Art. VII, Div. 2 may be approved as conditional uses. The designation of a use as a conditional use in a zoning district in Art. VII, Div. 2 does not constitute an authorization of such use or an assurance that such use will be approved under the LDC; rather, each proposed conditional use shall be evaluated by the planning and development director and the planning commission for compliance with the standards and conditions set forth in this section and the applicable zoning district.

(Ord. No. 7500, § 6.4(C), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-224. Initiation.

An application for a development permit for a conditional use shall be submitted by the owner, or any other person having a written contractual interest in the land for which the conditional use is proposed, or their authorized agent.

(Ord. No. 7500, § 6.4(D), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-225. Submission of application.

An application for a development permit for a conditional use shall be submitted to the planning and

development director along with a nonrefundable application fee which is established by the city council from time to time to defray the actual cost of processing the application.

(Ord. No. 7500, § 6.4(E), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-226. Contents of application.

The application shall be in a form established by the planning and development director and made available to the public, and shall include the following information:

- (1) The name, address, and telephone number of the owner of record of the land proposed for the conditional use.
- (2) The name, address, and telephone number of the developer, if different from the owner, and an explanation of the difference.
- (3) The name, address, and telephone number of the agent for the application, if there is an agent.
- (4) The name, address, and telephone number of all land use, environmental, engineering, economic, or other professionals that are assisting in the application.
- (5) The street address and legal description of the land on which the proposed conditional use is proposed to occur, with attached copies of any instruments referenced, such as, but not limited to, deeds, plats, easements, covenants, and restrictions.
- (6) An eight and one-half (8 1/2) by eleven (11) vicinity map locating the map proposed for development.
- (7) A description of the existing zoning district designation in the LDC and the future land use map designation in the comprehensive plan of the land proposed for the conditional use.
- (8) An explanation of the proposed conditional use and the reason the conditional use is requested.
- (9) A site plan, if the development is:
 - a. A development of regional impact;
 - b. Impacts an adjacent local government;
 - c. Is a residential development that is greater than forty (40) dwelling units; or
 - d. Is a non-residential development greater than twenty-five thousand (25,000) square feet of conditioned floor area.
- (10) An explanation of why it complies with the standards of the LDC, including a traffic impact study, pursuant to section 34-160, if the proposed project is a major development.

(Ord. No. 7500, § 6.4(F), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2006-7915, § 4, 4-3-06)

Sec. 34-227. Determination of sufficiency.

The planning and development director shall review an application within five (5) working days of its receipt, and determine if the application is sufficient.

- (1) If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied.
- (2) If the application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

(Ord. No. 7500, § 6.4(G), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-228. Review and report.

Within fifteen (15) working days after the application is determined sufficient, the planning and development director shall review the application, prepare a report, and schedule a public hearing for the planning commission to review the application. The planning and development director shall mail a copy of the report to the applicant on the day the report is completed, along with written notification of the time and place the application for development permit will be considered by the planning commission.

(Ord. No. 7500, § 6.4(H), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-229. Public notice.

The planning and development director shall ensure public notice is provided of the public hearing pursuant to the requirements of section 34-154(c).

(Ord. No. 7500, § 6.4(I), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-230. Public hearing before the planning commission.

At the public hearing, the planning commission shall review the application, all relevant support materials, the staff report, and consider the public testimony. After the close of the public hearing, the planning commission shall issue a development order approving, approving with conditions, or denying the application for development permit for a conditional use consistent with the standards in section 34-231.

(Ord. No. 7500, § 6.4(J), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-231. Standards applicable to all conditional uses.

When considering an application for development permit for a conditional use, the planning commission shall consider whether and the extent to which:

- (1) The conditional use is consistent with the goals, objectives and policies of the comprehensive plan, including standards for building and structural intensities and densities, and intensities of use;

- (2) The conditional use is consistent with the character of the immediate vicinity of the land proposed for development, and designed so that it is consistent with the harmonious development of the zoning district in which it is proposed;
- (3) The design of the proposed conditional use minimizes adverse effects, including visual impact, of the proposed use on adjacent properties, and provides adequate screening and buffering;
- (4) The proposed conditional use will have an adverse effect on the permitted uses of the zoning district where it is located;
- (5) The proposed conditional use will have an adverse effect on the value of adjacent property;
- (6) There are adequate public facilities and services pursuant to Article X, Adequate Public Facility Standards;
- (7) The proposed conditional use will require signs or exterior lighting which will cause glare or adversely impact area traffic safety;
- (8) There is adequate ingress and egress to the proposed conditional use, and it is designed so as to minimize traffic congestion on the city's roads;
- (9) The proposed conditional use is consistent with the requirements of the LDC;
- (10) The applicant has the financial and technical capacity to complete the conditional use as proposed, and has made adequate legal provision to guarantee the provision of open space and other improvements associated with the proposed conditional use;
- (11) The proposed conditional use complies with all additional standards imposed on it by the particular provision of the comprehensive plan authorizing such use and all other applicable requirements of the LDC.

(Ord. No. 7500, § 6.4(K), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-232. Conditions.

The planning commission may impose such conditions on a conditional use that are necessary to accomplish the purposes of the comprehensive plan and the LDC to prevent or minimize adverse effects upon the public and the environment in the neighborhood, including, but not limited to: Limitations on size, bulk and location; requirements for landscaping, buffering, lighting, adequate ingress and egress and other on-site or off-site, project-related improvements; duration of the development order; and hours of operation. Such conditions, if determined necessary by the planning commission, shall be made part of the development order for the conditional use.

(Ord. No. 7500, § 6.4(L), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-233. Assignability and transferability.

A development order for a conditional use is not assignable or transferable, but is granted only to the applicant. This section shall not apply to the assignment or transfer of ownership of a dwelling unit. (Ord. No. 7500, § 6.4(M), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2006-7916, § 1, 4-3-06)

Sec. 34-234. Time limit.

The planning commission may establish a reasonable time limit within which a building permit for the conditional use must be issued. If a building permit is not issued within this time limit, the development order for the conditional use shall become null and void. Only one (1) extension for up to one (1) year in length may be granted by the planning commission for the conditional use, upon written application to the planning and development director, and a showing of good cause. No request for an extension shall be considered unless a written application requesting the extension is submitted to the planning and development director no later than thirty (30) working days prior to the date the development order is to expire. (Ord. No. 7500, § 6.4(N), 8-19-91; Ord. No. 7810, § 1, 7-16-01)

Sec. 34-235. Minor deviations.

Minor deviations from a development order for a conditional use shall be approved by the planning and development director. Minor deviations which are authorized are those that appear necessary in light of technical or engineering considerations first discovered during actual development and that are not reasonably anticipated during the initial approval process. Minor deviations shall be limited to the following:

- (1) Alteration of the location of any road or walkway by not more than five (5) feet;
- (2) Alteration of the building envelope of up to five (5) percent, provided such alteration complies with the requirements of the LDC;
- (3) Reduction of the total amount of open space by not more than five (5) percent provided that such reduction does not permit the required open space to be less than that required by the LDC; or
- (4) Alteration of the location, type or quality of required landscaping, as long as it complies with the requirements of the LDC.

(Ord. No. 7500, § 6.4(O), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-236. Amendments to permits for conditional uses.

A development order for a conditional use may be amended, extended, varied or altered only pursuant to the standards and procedures established for its original approval.

(Ord. No. 7500, § 6.4(P), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-237--34-250. Reserved.

DIVISION 5.

DEVELOPMENT PLAN REVIEW

Sec. 34-251. Purpose.

Development plans shall be required in accordance with the provisions of this section in order to ensure that the proposed development complies with the site development standards in Article VIII and other requirements of the LDC, and to otherwise protect the public health, safety and general welfare of the citizens of the City of Jacksonville Beach.

(Ord. No. 7500, § 6.5(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-252. Applicability.

A development order for a development plan is required prior to receipt of a building permit for any nonresidential development or any residential development of three (3) dwelling units or more.

(Ord. No. 7500, § 6.5(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-253. General description of development plan review.

An application for a development permit requesting approval of a development plan shall be reviewed and approved, approved with conditions, or denied by the planning and development director. An appeal of the decision of the planning and development director on the application for development permit for development plan may be made by the applicant to the planning commission.

(Ord. No. 7500, § 6.5(C), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-254. Initiation.

An application for a development permit for a development plan shall only be submitted by the owner, or any other person having a contractual interest in the land, or their authorized agent.

(Ord. No. 7500, § 6.5(D), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-255. Submission of application.

An application for a development permit for a development plan shall be submitted to the planning and development director, along with a nonrefundable application fee which is established from time to time by the city council to defray the actual cost of processing the application.

(Ord. No. 7500, § 6.5(E), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-256. Contents of application.

The application shall be in a form established by the planning and development director and made available to the public. The materials to be provided as part of the application are to provide the city with sufficient information to ensure compliance with this section and the LDC, and shall include the following information:

- (1) The name, address, and telephone number of the owner of record of the land proposed for development.
- (2) The name, address, and telephone number of the developer, if different from the owner, and an

explanation of the difference. Written authorization from the land owner shall also be submitted if the application is being submitted by a person other than the landowners.

- (3) The name, address, and telephone number of the agent for the application, if there is an agent.
- (4) The name, address, and telephone number of all land use, environmental, engineering, economic, or other professionals that are assisting in the application.
- (5) The street address and legal description of the land on which the development plan is proposed to occur, with attached copies of any instruments referenced, such as, but not limited to, deeds, plats, easements, covenants, and restrictions.
- (6) A description of the zoning district designation and the future land use map designation in the comprehensive plan of the land proposed for development.
- (7) Identification of all existing rights-of-way and easements and water courses, floodplains, wetlands, and other environmentally sensitive areas on or within two hundred (200) feet of the land subject to the development plan.
- (8) Topography of the site in one (1) foot contours based on USGS datum.
- (9) A title block denoting the type of application, tax map sheet, lot, block and subdivision name (if applicable).
- (10) A location map of the land with reference to surrounding lands, subdivisions, streets, and municipal boundaries within five hundred (500) feet of the land subject to the proposed development plan.
- (11) A boundary survey or plat of the land subject to the development plan prepared by a registered land surveyor, showing the location and material of all permanent reference monuments and benchmarks, a metes and bounds description listing dimensions, bearings, curve data, length of tangents, radii, and central angles of all centerline curves of streets, and the size of the land in acres to the newest tenth of an acre, or in square feet.
- (12) A development plan, with north arrow and scale, identifying:
 - a. The proposed land uses, densities, and intensities of use;
 - b. The location of proposed structures showing size, and setbacks;
 - c. Common areas;
 - d. Recreational facilities;
 - e. Ingress and egress to the development, and the internal traffic circulation system and identification of street names;

- f. Utility location;
 - g. Easements;
 - h. Off-street parking and loading facilities;
 - i. Landscaping and buffering; and
 - j. Signage.
- (13) If applicable, the preliminary subdivision plat, which includes the subdivision name in bold legible letters under which the location of the plat by government survey lot, section, township, and range shall appear.
 - (14) Bench marks at convenient points with locations and elevations indicated.
 - (15) Length and bearings of the exterior boundary of the site.
 - (16) Approximate dimensions of all lots, lot lines and setbacks.
 - (17) Location and area of all property to be dedicated for public use or reserved by deed or covenant for use by all land owners in the development of a statement of the conditions of such dedication or reservation.
 - (18) A schedule showing the lot area, width, depth, dimensional standards, building coverage, landscaping and parking of the development plan, and how they comply with the requirements of the LDC.
 - (19) A site clearing and tree removal permit application or affidavit.
 - (20) If the proposed project is a major development, the application shall include a traffic impact study, pursuant to section 34-160.
 - (21) Proposed utility infrastructure plans, including sanitary sewer, potable water, a stormwater management plan with supporting calculations prepared in accordance with section 34-466(e), and an electric plan with accurate indication of locations of points of connection to public systems.
 - (22) Spot and finished elevations at all property corners, corners of all structures or dwellings, existing and proposed first floor elevations, and appropriate locations in and around vehicle use areas.
 - (23) Site utility and construction details, including a cross-connection control plan.
 - (24) Roadway and paving cross-sections and profiles.

- (25) Lighting plan and details.
- (26) Landscape plan and details.
- (27) Provisions for solid waste management.
- (28) Plans for signs, if any.
- (29) Sight triangles at the intersections of roadways and curb cuts with roadways.
- (30) Vehicular and pedestrian circulation patterns.
- (31) Off-street parking and loading plans showing spaces, size and type, aisle widths, curb cuts, drives, driveways, and all ingress and egress areas and dimensions.
- (32) Preliminary architectural plans and elevations.
- (33) Demonstration of how the development plan complies with the standards of Article X, Adequate Public Facilities Standards.
- (34) An explanation of why the proposed development plan complies with the standards of this section.

(Ord. No. 7500, § 6.5(F), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2006-7915, § 5, 4-3-06)

Sec. 34-257. Determination of sufficiency.

The planning and development director shall determine if the application is sufficient within five (5) working days of its receipt.

- (1) If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied.
- (2) When the application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

(Ord. No. 7500, § 6.5(G), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-258. Review and decision.

Within ten (10) working days after the application is determined sufficient, the planning and development director shall review the application, and prepare a staff report on whether the application complies with the standards in section 34-259, and informing the applicant of the application's approval, approval with conditions, or disapproval. On the day the staff report is completed, the planning and development director shall mail a copy of the staff report to the applicant.

(Ord. No. 7500, § 6.5(H), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-259. Standards.

A development plan shall comply with the following standards:

- (1) *Consistency with comprehensive plan.* It shall be compatible with the goals, objectives and policies of the comprehensive plan.
- (2) *Compatible with surrounding land uses.* It shall be compatible with surrounding land uses.
- (3) *Not deter surrounding undeveloped properties.* It shall not hinder, deter, or impede development of surrounding undeveloped land in accordance with the comprehensive plan.
- (4) *Adequate public facilities.* It complies with Article X, Adequate Public Facility standards. The provision of adequate public facilities for the proposed development shall be consistent with the CIE of the comprehensive plan.
- (5) *Design and layout of development.* It shall be adequately designed so that the general layout of the proposed development will be compatible with surrounding land uses and not be at such variance with other development so as to cause a substantial depreciation of property values.
- (6) *Ingress and egress, and internal traffic circulation.* It shall provide adequate ingress and egress to the land proposed for development, provide adequate separation of automotive and pedestrian traffic, and provide adequate internal traffic circulation.
- (7) *Screens and buffers.* It shall provide adequate screens and buffering to ensure compatibility with land uses internal and external to the proposed development.
- (8) *Open space.* It shall provide adequate open space and on-site recreational facilities, consistent with the citywide goals, objectives, and standards established in the comprehensive plan.
- (9) *Site development standards.* It shall comply with the site development standards of Article VIII of the LDC.

(Ord. No. 7500, § 6.5(I), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-260. Conditions.

The planning and development director shall have the authority to impose such conditions on a development plan that are necessary to accomplish the purposes of this section, the LDC, and the comprehensive plan.

(Ord. No. 7500, § 6.5(J), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-261. Appeal.

An applicant may appeal a decision of the planning and development director on an application for

development permit for a development plan by filing an appeal with the planning commission within ten (10) working days of the decision. The planning commission shall hear the appeal within thirty (30) working days of its filing, and consider only the record before the planning and development director at the time of the decision. The planning commission shall reverse the decision of the planning and development director only if there is substantial competent evidence in the record that the application complies with the standards of this section. (Ord. No. 7500, § 6.5(K), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-262. Effect of development order for a development plan.

Issuance of a development order for a development plan shall be deemed to authorize the applicant to submit to the city council a final plat pursuant to the procedures and standards of Article VIII, subdivision standards, and then an application for a building permit. A final plat, however, cannot be submitted until the improvements for the proposed development are in place or bonded. (Ord. No. 7500, § 6.5(L), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-263. Time limitations.

Receipt of a development order for a development plan shall expire at the end of two (2) years after the date of its initial approval if an application for a final plat and/or a building permit is not submitted. Only one (1) extension, up to one (1) year in length shall be granted for the development plan by the planning and development director, upon written application to the planning and development director, and a showing of good cause. No request for an extension shall be considered unless a written application requesting the extension is submitted to the planning and development director no later than thirty (30) working days prior to the date the development order is to expire. Failure to submit an application for a building permit within the time limits established by this section shall render null and void the development order for the development plan. (Ord. No. 7500, § 6.5(M), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-264. Minor deviations to development plan.

Minor deviations may be made from the development plan upon written approval of the planning and development director. Minor deviations which shall be authorized are those that appear necessary in light of technical or engineering considerations first discovered during actual development that are not reasonably anticipated during the initial approval process, and shall be limited to the following:

- (1) Alteration of the location of any road or walkway by not more than five (5) feet;
- (2) Alteration of the building envelope of up to five (5) percent, provided such alteration complies with the requirements of the LDC;
- (3) Reduction of the total amount of open space by not more than one (1) percent, provided that such reduction does not permit the required open space to be less than that required by the standards of the LDC;
- (4) Alterations of the location, type or quality of required landscaping elements, as long as it complies with the standards of the LDC.

(Ord. No. 7500, § 6.5(N), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-265. Amendments to development plan.

A development plan may be amended only pursuant to the procedures established for its original approval, or as are otherwise set forth in this section.

(Ord. No. 7500, § 6.5(O), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-266--34-280. Reserved.

DIVISION 6.

VARIANCES

Sec. 34-281. Purpose.

Variations are deviations from the terms of the LDC which would not be contrary to the public interest when owing to special circumstances or conditions, the literal enforcement of the provisions of the LDC would result in undue and unnecessary hardship.

(Ord. No. 7500, § 6.6(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-282. Authority.

The board of adjustment, in accordance with the procedures, standards and limitations of this section shall approve, approve with conditions, or deny an application for development permit for a variance after recommendation by the planning and development director.

(Ord. No. 7500, § 6.6(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-283. Authorized variances.

Variations shall only be granted from the dimensional standards of Article VII, the off-street parking or landscape standards of Article VIII, and the subdivision standards of the LDC, except that a height variance shall not be permitted in any zoning district. Variations shall not be granted to permit a use not generally allowed in the zoning district in which it is located.

(Ord. No. 7500, § 6.6(C), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-284. Initiation.

An application for a development permit for a variance shall be submitted by the owner or other person having a written contractual interest in the land for which the variance is proposed.

(Ord. No. 7500, § 6.6(D), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-285. Procedure, review and public hearing.

(a) *Submission of application.* An application for a development permit for a variance shall be submitted to the planning and development director along with a nonrefundable application fee which is

established by the city council from time to time to defray actual application processing costs.

(b) *Contents of application.* The application shall be in a form established by the planning and development director and made available to the public and shall include the following information.

- (1) The name, address, and telephone number of the owner of record of the land proposed for development.
- (2) The name, address, and telephone number of the developer, if different from the owner, and an explanation of the difference.
- (3) The name, address, and telephone number of the agent for the application, if there is an agent.
- (4) The name, address, and telephone number of all land use, environmental, engineering, economic, or other professionals that are assisting in the application.
- (5) The street address and legal description of the land on which the proposed variance is proposed to occur, with attached copies of any instruments referenced, such as, but not limited to, deeds, plats, easements, covenants, and restrictions.
- (6) A copy of the relevant Duval County property assessment map, showing the exact location of the land proposed for the variance, with the boundaries clearly marked.
- (7) An eight and one-half (8 1/2) by eleven (11) vicinity map locating the map proposed for development.
- (8) A description of the present zoning district designation in the LDC and the future land use map designation in the comprehensive plan for the land proposed for the variance.
- (9) A boundary survey or plat of the land, prepared by a registered land surveyor, that shows the location of all existing improvements and includes all relevant setbacks from property lines. All proposed additions or improvements shall be added to the boundary survey, to scale, including all relevant setbacks from property lines.
- (10) A description of the proposed variance and an explanation of why the proposed variance complies with the standards of the LDC.

(c) *Determination of sufficiency.* The planning and development director shall review the application within five (5) working days of its submission to determine if it is sufficient.

- (1) If the planning and development director determines that the application is not sufficient, a written notice shall be served on the applicant specifying the application's deficiencies. The planning and development director shall take no further action on the application until the deficiencies are remedied.
- (2) If the planning and development director determines the application is sufficient, the planning

and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

(d) *Public notice.* The planning and development director shall ensure that the public hearing is noticed pursuant to the requirements of section 34-154(4).

(e) *Public hearing before board of adjustment on application for variance.* The board of adjustment, after public notice, shall hold a public hearing on the application pursuant to the provisions established in section 34-155, and shall issue a development order granting, granting with conditions, or denying the application for variance pursuant to the standards of section 34-286.

(Ord. No. 7500, § 6.6(E), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-286. Standards applicable to all variances.

In order to authorize any variance from the terms of this code, the board of adjustment must find that:

- (1) Special conditions and circumstances exist which are peculiar to the parcel of land, building or structure, which are not applicable to other parcels of land, structures or buildings in the same zoning district;
- (2) Special circumstances and conditions do not result from the actions of the applicant;
- (3) Granting the variance will not confer upon the applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings, or structures, in the same zoning district;
- (4) Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship;
- (5) Grant of variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure; and
- (6) Grant of variance will be generally consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code and will not adversely effect adjacent land.

(Ord. No. 7500, § 6.6(F), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-287. Supplemental standards for variances in flood hazard areas.

In addition, to authorize any variance in flood hazard areas, the following standards must also be met:

- (1) There shall be no danger that materials may be swept onto other lands to the injury of others;
- (2) There shall be no danger of life and property due to flooding or erosion damage;

- (3) There shall be minimum susceptibility of the proposed facility and its contents to flood damage;
- (4) The development subject to the variance shall be of some importance to the community;
- (5) There shall be a necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (6) There are no alternative locations for the proposed development, that are not subject to flooding or erosion damage;
- (7) The proposed development is compatible with existing and anticipated development;
- (8) The proposed use is compatible and consistent with the comprehensive plan and floodplain management program for that area;
- (9) There is safe access from the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site will not destroy the development;
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges is minimal;
- (12) There shall be within any designated floodway no increase in flood levels during the base flood discharge;
- (12) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of an historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;
- (13) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
- (14) The base flood elevation and the elevation to which the structure with a variance is to be built shall be determined and the landowner shall provide a written statement recognizing that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (15) The variance shall be reported to the Federal Emergency Management Agency.
(Ord. No. 7500, § 6.6(G), 8-19-91; Ord. No. 95-7617, § 2, 3-6-95; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-288. Conditions.

The planning and development director may recommend, and the board of adjustment may impose, such conditions on variances as are necessary to accomplish the goals, objectives and policies of the comprehensive plan and this code including, but not limited to, limitations on size, bulk, location, requirements for landscaping, buffering, lighting, provisions of adequate ingress and egress, on and off-site project-related improvements, and reasonable time limits within which the variance shall be initiated and completed.

(Ord. No. 7500, § 6.6(H), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-289. Administrative variance.

Notwithstanding the other provisions of Division VI, the planning and development director shall issue an administrative variance from the dimensional standards of Article VII and the off-street parking and loading or landscape standards of Article VIII of the LDC (except that a height variance shall not be permitted in any zoning district) if the proposed application for an administrative variance complies with the standards of section 34-286. For the purposes of this section, an administrative variance is a variance that does not vary from the relevant dimensional, off-street parking and loading, or landscape standards by more than ten (10) percent.

(Ord. No. 7500, § 6.6(I), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-290--34-300. Reserved.

DIVISION 7.

BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

Sec. 34-301. Building permit.

- (a) *Permit required.* It shall not be lawful to develop land without approval of a building permit pursuant to the procedures and standards of this section.
- (b) *Procedure.*
 - (1) *Submission of application.* Any application for a building permit shall be submitted to the building official along with a nonrefundable application fee that is established by the city council to defray the actual application processing costs.
 - (2) *Contents of application.* The application shall be submitted in a form established by the building official and made available to the public, which shall include the following information:
 - a. For that development that does not have an approved development order for a development plan, a plot plan in duplicate, drawn to scale, showing the legal description and actual shape and dimensions of the land to be built upon, and the following:
 - 1. Exact sizes and locations on the lot of buildings already existing, if any;

2. Exact size and location on the lot of the building or buildings to be erected or altered at the scale of one (1) inch equals ten (10) feet, or an appropriate scale as determined by the planning and development director;
3. Existing use of buildings on the land, if any;
4. Intended use of each building or buildings or parts thereof;
5. Number of units the building is designed to accommodate;
6. Location and number of required off-street parking and off-street loading spaces;
7. A tree survey;
8. A survey of the land, made by a land surveyor licensed in Florida; all property stakes shall be in place and marked at the time of application;
9. Such other information with regard to the land and existing and proposed structures as may be necessary to determine compliance with and provide for the enforcement of the LDC.

b. Construction plans drawn to an appropriate scale.

(Ord. No. 7500, § 6.7(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-302. Certificate of occupancy.

(a) *Certificate required.* A certificate of occupancy shall be required subsequent to building permit approval but in advance of occupancy or use of any development.

(b) *Procedure.* A certificate of occupancy shall be issued for all completed development or construction that has been inspected and found in compliance with the applicable code requirements.

(c) *Record of occupancy permits.* A record of occupancy permits shall be kept on record in the office of the building official.

(Ord. No. 7500, § 6.7(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-303--34-320. Reserved.

ARTICLE VII.

ZONING DISTRICTS

DIVISION 1.

GENERAL

Sec. 34-321. Purpose and intent.

In order to ensure that all development in the City of Jacksonville Beach is consistent with the comprehensive plan, it is necessary and proper to establish a series of zoning districts to ensure that each permitted and conditional use is compatible with surrounding land uses, served by adequate public facilities, and sensitive to natural and coastal resources. Each zoning district has its own purpose and establishes permitted uses, uses accessory to permitted uses, conditional uses, dimensional standards and other land use, density and intensity regulations, sign regulations, off-street parking and loading regulations, landscaping regulations, environmental regulations and other regulations that control the use of land in each zoning district. All development within each zoning district shall be consistent with the purposes stated for that zoning district in section 34-336 et seq.

(Ord. No. 7500, § 7.1(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-322. Zoning districts established.

In order to carry out and implement the comprehensive plan, the following zoning districts are hereby established:

- Residential, single family zoning district (RS-1)
- Residential, single family zoning district (RS-2)
- Residential, single family zoning district (RS-3)
- Residential, multiple family zoning district (RM-1)
- Residential, multiple family zoning district (RM-2)
- Commercial, professional office zoning district (CPO)
- Commercial, limited zoning district (C-1)
- Commercial, general zoning district (C-2)
- Commercial service zoning district (CS)
- Central business zoning district (CBD)
- Industrial zoning district (I-1)
- Redevelopment zoning district (RD)

Planned unit development zoning district (PUD)

(Ord. No. 7500, § 7.1(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-323. Establishment of official zoning atlas.

The location and boundaries of the zoning districts established in this article shall be set forth on the official zoning atlas of the City of Jacksonville Beach which is incorporated by reference into this article as if fully described and set forth herein. A copy of the official zoning atlas shall be located at all times for inspection by the general public during regular business hours in the planning and development department. (Ord. No. 7500, § 7.1(C), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-324. Amendment to the official zoning atlas.

If pursuant to the terms of this Code, amendments are made to the boundaries of the official zoning atlas, such amendments shall be entered on the official zoning atlas by the planning and development department within twenty (20) working days after amendment. (Ord. No. 7500, § 7.1(D), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-325. Official zoning atlas.

Regardless of the existence of purported copies of the official zoning atlas, which from time to time may be made or published, the official zoning atlas shall be located in the office of the planning and development department. The official zoning atlas shall be the final authority as to the current zoning of land in the City of Jacksonville Beach. (Ord. No. 7500, § 7.1(E), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Secs. 34-326--34-335. Reserved.

DIVISION 2.

ZONING DISTRICTS, PERMITTED USES, ACCESSORY USES, CONDITIONAL USES, DIMENSIONAL STANDARDS, OFF-STREET PARKING AND LOADING STANDARDS, SUPPLEMENTAL STANDARDS, LANDSCAPING STANDARDS, SIGN STANDARDS, AND ENVIRONMENTAL STANDARDS

Sec. 34-336. Residential, single-family: RS-1.

(a) *Purpose.* The residential, single family (RS-1) zoning district is intended to implement the low density residential land use district in the comprehensive plan. It is intended to classify areas suitable for low density single-family residential development.

(b) *Permitted uses.* The following uses are permitted as of right in the RS-1 zoning district.

(1) Single family dwellings.

(2) Public and private parks, playgrounds and recreational facilities. Private parks, playgrounds and recreational facilities shall be for the sole use of residents living in the area where such facilities are located, and shall not be used for commercial purposes.

(3) Type I home occupation.

(c) *Accessory uses.* The following uses are permitted as accessory uses in the RS-1 zoning district.

- (1) Swimming pools, tennis courts, and similar recreational facilities.
- (2) Detached garages and carports.
- (3) Utility sheds and workshops.
- (4) Boat houses, docks, piers and similar structures.
- (5) Doghouses and similar structures for housing household pets.
- (6) Gazebos, cabanas and other similar structures.
- (7) Non-commercial television and radio antennas not exceeding a height of fifteen (15) feet above roof line.
- (8) Barbecue pits.
- (9) Vegetable gardens, non-commercial greenhouses, and similar uses.
- (10) Any use customarily accessory to the permitted and conditional uses in the RS-1 zoning district.

(d) *Conditional uses.* The following uses are permitted as conditional uses in the RS-1 zoning district, subject to the standards and procedures established in section 34-221 et seq.

- (1) Type II home occupation.
- (2) Religious organizations.
- (3) Public and private elementary and secondary schools and technical institutes, excluding trade schools and vocational schools.
- (4) Essential public services.
- (5) Cemeteries.
- (6) Government uses, excluding correctional institutions.
- (7) Golf courses. (Regulation golf courses only).

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the RS-1 zoning district.

- (1) *Single family dwelling unit.*

- a. *Minimum lot area:* Ten thousand (10,000) square feet.
 - b. *Minimum lot width:* Ninety (90) feet at the building line and a minimum of thirty-five (35) feet at the street.
 - c. *Minimum yards:*
 1. *Front yard:* Twenty-five (25) feet.
 2. *Side yard:* Ten (10) feet on each side except when the lot is a corner lot. For a corner lot, the side yard on the corner shall be twenty (20) percent of the lot width or ten (10) feet, whichever is greater, except the side yard is never required to exceed twenty (20) feet.
 3. *Rear yard:* Thirty (30) feet.
 - d. *Floor area:* A single family dwelling unit shall contain a minimum of one thousand six hundred (1,600) square feet of conditioned living area and a one (1) car garage. The garage shall not be included as part of the single family dwelling unit's minimum square footage.
 - e. *Maximum lot coverage:* Thirty-five (35) percent.
 - f. *Height:* Thirty-five (35) feet.
 - g. *Accessory structures:* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.
- (2) *Public and private parks, playgrounds and recreational facilities:* There are no minimum dimensional standards for public and private parks, playgrounds and recreational facilities.
- (f) *Off-street parking and loading standards.* The off-street parking and loading standards for the RS-1 zoning district are found in Article VIII, Division 1.
- (g) *Supplemental standards.* The supplemental standards for the RS-1 zoning district are found in Article VIII, Division 2.
- (h) *Landscape standards.* The landscape standards for the RS-1 zoning district are found in Article VIII, Division 3.
- (i) *Sign standards.* The sign standards for the RS-1 zoning district are found in Article VIII, Division 4.
- (j) *Environmental standards.* The environmental standards for the RS-1 zoning district are found in Article VIII, Division 5.

(Ord. No. 7500, § 7.2(A), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-337. Residential, single-family: RS-2.

(a) *Purpose.* The residential, single family (RS-2) zoning district is intended to implement the low density residential land use district in the comprehensive plan. It is intended to classify areas suitable for low density single-family residential development.

(b) *Permitted uses.* The following uses are permitted as of right in the RS-2 zoning district.

- (1) Single family dwellings.
- (2) Public and private parks, playgrounds and recreational facilities. Private parks, playgrounds and recreational facilities shall be for the sole use of residents living in the area where such facilities are located, and shall not be used for commercial purposes.

(3) Type I home occupation.

(c) *Accessory uses.* The following uses are permitted as accessory uses in the RS-2 zoning district.

- (1) Swimming pools, tennis courts, and similar recreation facilities.
 - (2) Detached garages and carports.
 - (3) Utility sheds and workshops.
 - (4) Boat houses, docks, piers and similar structures.
 - (5) Doghouses and similar structures for housing household pets.
 - (6) Gazebos, cabanas and other similar structures.
 - (7) Non-commercial television and radio antennas not exceeding a height of fifteen (15) feet above roof line.
 - (8) Barbecue pits.
 - (9) Vegetable gardens, non-commercial greenhouses, and similar uses.
 - (10) Any use customarily accessory to the permitted and conditional uses in the RS-2 zoning district.
- (d) *Conditional uses.* The following uses are permitted as conditional uses in the RS-2 zoning district, subject to the standards and procedures established in section 34-221 et seq.

(1) Type II home occupation.

- (2) Religious organizations.
- (3) Public and private elementary and secondary schools and technical institutes, excluding trade schools and vocational schools.
- (4) Libraries.
- (5) Essential public services.
- (6) Cemeteries.
- (7) Government uses, excluding correctional institutions.
- (8) Golf courses. (Regulation golf courses only).
- (9) Child day care services, including kindergartens when operated on the same site as and in conjunction with a religious organization.

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the RS-2 zoning district.

(1) *Single family dwelling unit.*

- a. *Minimum lot area:* Seven thousand five hundred (7,500) square feet.
- b. *Minimum lot width:* Seventy-five (75) feet at the building line and a minimum of thirty-five (35) feet at the street.
- c. *Minimum yards:*
 1. *Front yard:* Twenty (20) feet.
 2. *Side yard:* Fifteen (15) feet in total for both side yards provided that no side yards are less than five (5) feet, except when the lot is a corner lot. For a corner lot, the side yard on the corner shall be twenty (20) percent of the lot width or ten (10) feet, whichever is greater, except the side yard is never required to exceed twenty (20) feet.
 3. *Rear Yard:* Thirty (30) feet.
- d. *Floor area:* A single family dwelling unit shall contain a minimum of one thousand two hundred (1,200) square feet of conditioned living area and a one (1) car garage or carport. The garage or carport shall not be included as part of the single family dwelling unit's minimum square footage.
- e. *Maximum lot coverage:* Thirty-five (35) percent.

- f. *Height:* Thirty-five (35) feet.
- g. *Accessory structures:* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.
- (2) *Public and private parks, playgrounds and recreational facilities:* There are no minimum dimensional standards for public and private parks, playgrounds and recreational facilities.
- (f) *Off-street parking and loading.* The off-street parking and loading standards for the RS-2 zoning district are found in Article VIII, Division 1.
- (g) *Supplemental standards.* The supplemental standards for the RS-2 zoning district are found in Article VIII, Division 2.
- (h) *Landscape standards.* The landscape standards for the RS-2 zoning district are found in Article VIII, Division 3.
- (i) *Sign standards.* The sign standards for the RS-2 zoning district are found in Article VIII, Division 4.
- (j) *Environmental standards.* The environmental standards for the RS-2 zoning district are found in Article VIII, Division 5.
(Ord. No. 7500, § 7.2(B), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-338. Residential, single-family: RS-3.

- (a) *Purpose.* The residential, single-family (RS-3) zoning district is intended to implement the medium density residential land use district in the comprehensive plan. It is intended to classify areas suitable for medium density single-family and two-family residential development.
- (b) *Permitted uses.* The following uses are permitted as of right in the RS-3 zoning district.
 - (1) Single family dwellings.
 - (2) Two-family dwellings.
 - (3) Public and private parks, playgrounds, and recreational facilities.
 - (4) Elderly-oriented group homes, group homes for the developmentally- or physically-disabled, or foster homes with less than six (6) residents.
 - (5) Type I home occupation.
- (c) *Accessory uses.* The following uses are permitted as accessory uses in the RS-3 zoning district.
 - (1) Swimming pools, tennis courts and similar recreational facilities.

- (2) Detached garages and carports.
- (3) Utility sheds and workshops.
- (4) Boat houses, docks, piers and similar structures.
- (5) Doghouses and similar structures for housing household pets.
- (6) Gazebos, cabanas and other similar structures.
- (7) Non-commercial television and radio antennas not exceeding a height of fifteen (15) feet above roof line.
- (8) Barbecue pits.
- (9) Vegetable gardens, non-commercial greenhouses, and similar uses.
- (10) Any use customarily accessory to the permitted and conditional uses in the RS-3 zoning district.

(d) *Conditional uses.* The following uses are permitted as conditional uses in the RS-3 zoning district, subject to the standards and procedures established in section 34-221 et seq.

- (1) Type II home occupation.
- (2) Zero lot line detached single family dwellings.
- (3) Religious organizations.
- (4) Public and private elementary and secondary schools and technical institutes, excluding trade schools and vocational schools.
- (5) Essential public services.
- (6) Cemeteries.
- (7) Government uses, excluding correctional institutions.
- (8) Golf courses. (Regulation golf courses only).
- (9) Child day care services, including kindergartens when operated on the same site as and in conjunction with a religious organization.
- (10) Elderly-oriented group homes, group homes for the developmentally- or physically-disabled, or foster homes with more than six (6) and less than thirteen (13) residents.

- (11) Hospitals.
- (12) Nursing and personal care facilities.
- (13) Civic, social and fraternal organizations.

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the RS-3 zoning district.

- (1) Single family dwelling unit.
 - a. *Minimum lot area:* Six thousand (6,000) square feet.
 - b. *Minimum lot width:* Sixty (60) feet at the building line and a minimum of thirty-five (35) feet at the street.
 - c. *Minimum yards:*
 - 1. *Front yard:* Twenty (20) feet.
 - 2. *Side yard:* Fifteen (15) feet total for both side yards provided that no side yards are less than five (5) feet, except when the lot is a corner lot. For a corner lot, the side yard on the corner shall be twenty (20) percent of the lot width or ten (10) feet, whichever is greater, except the side yard is never required to exceed twenty (20) feet.
 - 3. *Rear yard:* Thirty (30) feet.
 - d. *Floor area:* A single family dwelling unit shall contain a minimum of one thousand two hundred (1,200) square feet of conditioned living area and a one (1) car garage or carport. Garages or carports shall not be included as part of the single family dwelling unit's minimum square footage.
 - e. *Maximum lot coverage:* Thirty-five (35) percent.
 - f. *Height:* Thirty-five (35) feet.
 - g. *Accessory structures:* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.
- (2) *Two-family dwellings.*
 - a. *Minimum lot area:* Six thousand (6,000) square feet.
 - b. *Minimum lot width:* Sixty (60) feet at the building line and a minimum of thirty-five (35) feet at the street.

- c. *Minimum yards.*
 - 1. *Front yard:* Twenty (20) feet.
 - 2. *Side yard:* Ten (10) feet for each side yard except when the lot is a corner lot. For a corner lot, the side yard on the corner shall be twenty (20) percent of the lot width or ten (10) feet, whichever is greater, except the side yard is never required to exceed twenty (20) feet.
 - 3. *Rear yard:* Thirty (30) feet.
 - d. *Floor area:* A two-family dwelling unit shall contain a minimum of one thousand six hundred (1,600) square feet of conditioned living area. Garages or carports, if provided, shall not be included as part of the unit's minimum square footage. Each unit within a duplex shall contain a minimum of eight hundred (800) square feet of conditioned living area.
 - e. *Wall separation:* Two-family dwellings shall contain a two (2) hour fire resistant wall between units.
 - f. *Maximum lot coverage:* Thirty-five (35) percent.
 - g. *Height:* Thirty-five (35) feet.
 - h. *Accessory uses.* All accessory uses shall be located a minimum of five (5) feet from any property line or principal or accessory structures..
- (3) *Zero lot line detached single family dwellings.*
- a. *Minimum lot area:* Four thousand (4,000) square feet.
 - b. *Minimum lot width:* Forty (40) feet at the building line and a minimum of thirty-five (35) feet at the street.
 - c. *Minimum yards:*
 - 1. *Front yard:* Twenty (20) feet.
 - 2. *Side yard:* When the building is constructed on the lot line, the other side yard shall be a minimum of fifteen (15) feet. In all other instances the total for both side yards shall be a minimum of fifteen (15) feet.
 - 3. *Rear yard:* Twenty (20) feet.
 - d. *Floor area:* A zero lot line detached single family dwelling unit shall contain a minimum

of nine hundred (900) square feet of conditioned living area and a one (1) car garage. The garage shall not be included as part of the unit's minimum square footage.

- e. *Building separation.* An open space separation at least fifteen (15) feet wide shall be provided between all dwelling units in zero lot line detached single family housing development. When zero lot line detached single family dwellings are adjacent to the existing residential development, an open space separation at least fifteen (15) feet wide shall separate the developments.
- f. *Maximum lot coverage:* Thirty-five (35) percent.
- g. *Height:* Thirty-five (35) feet.
- h. *Accessory structures:* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.
- i. *Covenant or legally binding assurance:* All zero lot line development shall provide covenants or other legally binding assurances that all zero lot line buildings can be properly maintained by the owner.

- (4) *Public and private parks, playgrounds and recreational facilities.* There are no minimum dimensional standards for public and private parks, playgrounds and recreational facilities.
- (5) *Off-street parking and loading.* The off-street parking and loading standards for the RS-3 zoning district are found in Article VIII, Division 1.
- (6) *Supplemental standards.* The supplemental standards for the RS-3 zoning district are found in Article VIII, Division 2.
- (7) *Landscape standards.* The landscape standards for the RS-3 zoning district are found in Article VIII, Division 3.
- (8) *Sign standards.* The sign standards for the RS-3 zoning district are found in Article VIII, Division 4.
- (9) *Environmental standards.* The environmental standards for the RS-3 zoning district are found in Article VIII, Division 5.

(Ord. No. 7500, § 7.2(C), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-339. Residential, multiple-family: RM-1.

(a) *Purpose.* The residential, multiple family (RM-1) zoning district is intended to implement the low and medium density land use districts in the comprehensive plan located to the west of Third Street (S.R. A1A). It is intended to classify areas suitable for low and medium density residential development. Maximum densities in the RM-1 zoning district are twenty (20) dwelling units per acre.

(b) *Permitted uses.* The following uses are permitted as of right in the RM-1 zoning district.

- (1) Two-family dwellings.
- (2) Elderly-oriented group homes, group homes for the developmentally- or physically- disabled, or foster homes with less than six (6) residents.
- (3) Multiple family dwellings.
- (4) Townhouse dwellings.
- (5) Zero lot line detached single family dwellings.
- (6) Public parks, playgrounds and recreational facilities.
- (7) Type I home occupations.

(c) *Accessory uses.* The following uses are permitted as accessory uses in the RM-1 zoning district.

- (1) Swimming pools, tennis courts and similar recreational facilities.
- (2) Detached garages and carports.
- (3) Utility sheds and workshops.
- (4) Boat houses, docks, piers and similar structures.
- (5) Doghouses and similar structures for housing household pets.
- (6) Gazebos, cabanas and other similar structures.
- (7) Non-commercial television and radio antennas not exceeding a height of fifteen (15) feet above roof line.
- (8) Barbecue pits.
- (9) Vegetable gardens, non-commercial greenhouses, and similar uses.
- (10) Any use customarily accessory to the permitted and conditional uses in the RM-1 zoning district.

(d) *Conditional uses.* The following uses are permitted as conditional uses in the RM-1 zoning district subject to the standards and procedures established in section 34-221 et seq.

- (1) Elderly-oriented group homes, group homes for the developmentally or physically-disabled, and foster homes with six (6) or more residents.

- (2) Halfway houses.
- (3) Type II home occupations.
- (4) Religious organizations.
- (5) Cemeteries.
- (6) Elementary and secondary schools and technical institutes, excluding trade schools and vocational schools.
- (7) Libraries.
- (8) Mobile home parks.
- (9) Golf courses (Regulation golf courses only).
- (10) Essential public services.
- (11) Governmental uses, excluding correctional institutions.
- (12) Single-family dwellings constructed in accordance with requirements set forth in section 34-338, residential, single family: RS-3.
- (13) Hospitals.
- (14) Business and professional offices as follows: Landscape architects, doctors, dentists, miscellaneous health offices and clinics; legal services; and engineering, architecture, accounting, research, management, and related services. Uses listed herein shall not exceed fifty thousand (50,000) square feet in gross floor area. Listed uses exceeding fifty thousand (50,000) square feet in gross area shall only be approved pursuant to section 34-348 planned unit development: PUD district standards and procedures.
- (15) Financial institutions, insurance and real estate offices.
- (16) Rooming and boarding houses.
- (17) Nursing and personal care facilities.
- (18) Child day care services.
- (19) Adult day care services.
- (20) Civic, social and fraternal organizations
- (21) Community centers.

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the RM-1 zoning district.

(1) *Two-family dwellings.*

- a. *Minimum lot area:* Six thousand (6,000) square feet.
- b. *Minimum lot width:* Sixty (60) feet at the building line and a minimum of thirty-five (35) feet at the street.
- c. *Minimum yards:*
 1. *Front yard:* Twenty (20) feet.
 2. *Side yard:* Ten (10) feet for each side yard, except when the lot is a corner lot. For a corner lot, the side yard on the corner shall be twenty (20) percent of the lot width or ten (10) feet, whichever is greater, except the side yard is never required to exceed twenty (20) feet.
 3. *Rear yard:* Thirty (30) feet.
- d. *Floor area:* A two-family dwelling structure shall contain a minimum of one thousand six hundred (1,600) square feet of conditioned living area. Each unit within a two-family dwelling structure shall contain a minimum of eight hundred (800) square feet of conditioned living area.
- e. *Wall separation.* Two-family dwellings shall contain a two (2) hour fire resistant wall between units.
- f. *Maximum lot coverage:* Thirty-five (35) percent.
- g. *Height:* Thirty-five (35) feet.
- h. *Accessory structures.* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.

(2) *Zero lot line detached single family dwellings.*

- a. *Minimum lot area:* Four thousand (4,000) square feet.
- b. *Minimum lot width:* Forty (40) feet at the building line. A minimum of thirty-five (35) feet at the street.
- c. *Minimum yards:*

1. *Front yard:* Twenty (20) feet.
 2. *Side yard:* When the building is constructed on the lot line, the other side yard shall be a minimum of fifteen (15) feet. In all other instances the total for both side yards shall be a minimum of fifteen (15) feet.
 3. *Rear yard:* Twenty (20) feet.
- d. *Floor area:* A zero lot line detached single family dwelling unit shall contain a minimum of nine hundred (900) square feet of conditioned living area and a one (1) car garage. The garage shall not be included as part of the unit's minimum square footage.
 - e. *Building separation:* An open space separation at least fifteen (15) feet wide shall be provided between all dwelling units in zero lot line detached single family housing development. When zero lot line detached single family dwellings are adjacent to the existing residential development, an open space separation at least fifteen (15) feet wide shall separate the developments.
 - f. *Maximum lot coverage:* Thirty-five (35) percent.
 - g. *Height:* Thirty-five (35) feet.
 - h. *Accessory structures:* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.
 - i. *Covenant or legally binding assurance:* All zero lot line development shall provide covenants or other legally binding assurances that all zero lot line buildings can be properly maintained by the owner.
- (3) *Multiple family dwellings.*
- a. *Minimum lot area:* Five thousand (5,000) square feet plus two thousand (2,000) square feet for each unit in excess of two (2), except that the gross density shall not exceed twenty (20) dwelling units an acre.
 - b. *Minimum lot width:* Seventy-five (75) feet at the building line. A minimum of thirty-five (35) feet at the street.
 - c. *Minimum yards:*
 1. *Front yard:* Twenty (20) feet.
 2. *Side yard:* Ten (10) feet for each side yard, except when the lot is a corner lot. For a corner lot, the side yard on the corner shall be twenty (20) percent of the lot width or ten (10) feet, whichever is greater, except the side yard is never required to exceed twenty (20) feet.

3. *Rear yard:* Thirty (30) feet.
- d. *Floor area:* Multiple family dwelling units shall contain the following minimum square feet of conditioned living area excluding garages, carports and breezeways.
 1. One bedroom unit: Seven hundred (700) square feet.
 2. Two bedroom unit: Nine hundred (900) square feet.
 3. Three bedroom unit: One thousand one hundred (1,100) square feet.

This square footage requirement shall also apply to units sold as condominiums.

- e. *Maximum lot coverage:* Sixty-five (65) percent.
- f. *Height:* Thirty-five (35) feet.
- g. *Accessory structures:* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.

(4) *Townhouse dwellings.*

a. *Minimum lot area:*

Interior: One thousand five hundred (1,500) square feet.

Exterior: Two thousand five hundred (2,500) square feet.

b. *Minimum lot width:*

Interior: Fifteen (15) feet.

Exterior: Twenty-five (25) feet.

c. *Minimum yards:*

1. *Front yard:* Twenty (20) feet.

2. *Side yard:*

Interior: Zero (0) feet.

Exterior: Ten (10) feet.

Corner: The side yard on a corner lot shall be twenty (20) percent of the lot width

or ten (10) feet, whichever is greater, except the side yard is never required to exceed twenty (20) feet.

3. *Rear yard:* Thirty (30) feet.

d. *Floor area:* Townhouse units shall contain the following minimum square feet of conditioned living area excluding garages, carports and breezeways.

1. One bedroom unit: Seven hundred (700) square feet.

2. Two bedroom unit: Nine hundred (900) square feet.

3. Three bedroom unit: One thousand one hundred (1,100) square feet.

This square footage requirement shall also apply to units sold as condominiums.

e. *Maximum lot coverage:* Sixty-five (65) percent.

f. *Height:* Thirty-five (35) feet.

g. *Separation:* No more than six (6) townhouse units shall be constructed contiguous to each other without an open space separation of at least twenty (20) feet between structures.

h. *Accessory structures:* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.

(5) *Public and private parks, playgrounds and recreational facilities:* There are no minimum dimensional standards for public and private parks, playgrounds and recreational facilities.

(6) *Off-street parking and loading.* The off-street parking and loading standards for the RM-1 zoning district are found in Article VIII, Division 1.

(g) *Supplemental standards.* The supplemental standards for the RM-1 zoning district are found in Article VIII, Division 2.

(h) *Landscape standards.* The landscape standards for the RM-1 zoning district are found in Article VIII, Division 3.

(i) *Sign standards.* The sign standards for the RM-1 zoning district are found in Article VIII, Division 4.

(j) *Environmental standards.* The environmental standards for the RM-1 zoning district are found in Article VIII, Division 5.

(Ord. No. 7500, § 7.2(D), 8-19-91; Ord. No. 95-7623, § 2, 5-1-95; Ord. No. 99-7774, § 1, 10-18-99; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2003-7860, § 1, 10-6-03)

Sec. 34-340. Residential, multiple-family: RM-2.

(a) *Purpose.* The residential, multiple family (RM-2) zoning district is intended to implement the medium and high residential land use districts in the comprehensive plan located in the ocean-front area east of 3rd Street (S.R. A1A). It is intended to classify areas suitable for medium to high density residential development. Maximum density in the RM-2 zoning district is forty (40) dwelling units per acre.

(b) *Permitted uses.* The following uses are permitted as of right in the RM-2 zoning district.

- (1) Two-family dwellings.
- (2) Elderly-oriented group homes, group homes for the developmentally- or physically-disabled, or foster homes with less than six (6) residents.
- (3) Multiple family dwellings.
- (4) Townhouses.
- (5) Zero lot line detached single family dwellings.
- (6) Public parks, playgrounds and recreational facilities.
- (7) Type I home occupation.

(c) *Accessory uses.* The following uses are accessory uses in the RM-2 zoning district.

- (1) Swimming pools, tennis courts and similar recreational facilities.
- (2) Detached garages and carports.
- (3) Utility sheds and workshops.
- (4) Boat houses, docks, piers and similar structures.
- (5) Doghouses and similar structures for housing household pets.
- (6) Gazebos, cabanas and other similar structures.
- (7) Non-commercial television and radio antennas not exceeding a height of fifteen (15) feet above roof line.
- (8) Barbecue pits.
- (9) Vegetable gardens, non-commercial greenhouses, and similar uses.

(10) Any use customarily accessory to the permitted and conditional uses in the RM-2 zoning district.

(d) *Conditional uses.* The following uses are permitted as conditional uses in the RM-2 zoning district, subject to the standards and procedures established in section 34-221 et seq.

(1) Elderly-oriented group homes, group homes for the developmentally or physically-disabled, and foster homes with six (6) or more residents.

(2) Halfway homes.

(3) Type II home occupations.

(4) Religious organizations.

(5) Cemeteries.

(6) Elementary and secondary schools and technical institutes, excluding trade schools and vocational schools.

(7) Libraries.

(8) Mobile home parks.

(9) Golf courses (Regulation golf courses only).

(10) Essential public services.

(11) Governmental uses, excluding correctional institutions.

(12) Single-family dwellings constructed in accordance with requirements set forth in section 34-338, residential, single family: RS-3.

(13) Hospitals.

(14) Business and professional offices as follows: Landscape architects, doctors, dentists, miscellaneous health offices and clinics; legal services; and engineering, architecture, accounting, research, management, and related services. Uses listed herein shall not exceed fifty thousand (50,000) square feet in gross floor area. Listed uses exceeding fifty thousand (50,000) square feet in gross floor area shall only be approved pursuant to section 34-348 planned unit development: PUD district standards and procedures.

(15) Financial institutions, insurance and real estate offices.

(16) Rooming and boarding houses.

(17) Nursing and personal care facilities.

- (18) Child day care services.
- (19) Adult day care services.
- (20) Hotels and motels.
- (21) Restaurants, excluding drive-ins.
- (22) Private membership sports clubs and recreational facilities.
- (23) Civic, social and fraternal organizations.
- (24) Outdoor restaurants.
- (25) Community centers.

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the RM-2 zoning district.

- (1) *Two-family dwellings.*
 - a. *Minimum lot area:* Six thousand (6,000) square feet.
 - b. *Minimum lot width:* Sixty (60) feet at the building line and a minimum of thirty-five (35) feet at the street.
 - c. *Minimum yards:*
 - 1. *Front yard:* Twenty (20) feet.
 - 2. *Side yard:* Ten (10) feet for each side yard, except when the lot is a corner lot. For a corner lot, the side yard on the corner shall be twenty (20) percent of the lot width or ten (10) feet, whichever is greater, except the side yard is never required to exceed twenty (20) feet.
 - 3. *Rear yard:* Thirty (30) feet.
 - d. *Floor area:* A two-family dwelling structure shall contain a minimum of one thousand six hundred (1,600) square feet of conditioned living area. Each unit within a duplex structure shall contain a minimum of eight hundred (800) square feet of conditioned living area excluding garage or carport.
 - e. *Wall separation.* Two-family dwellings shall contain a two (2) hour fire resistant wall between units.

- f. *Maximum lot coverage:* Thirty-five (35) percent.
 - g. *Height:* Thirty-five (35) feet.
 - h. *Accessory structures.* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.
- (2) *Zero lot line detached single family dwellings.*
- a. *Minimum lot area:* Four thousand (4,000) square feet.
 - b. *Minimum lot width:* Forty (40) feet at the building line. A minimum of thirty-five (35) feet at the street.
 - c. *Minimum yards:*
 - 1. *Front yard:* Twenty (20) feet.
 - 2. *Side yard:* When the building is constructed on the lot line, the other side yard shall be a minimum of fifteen (15) feet. In all other instances the total for both side yards shall be a minimum of fifteen (15) feet.
 - 3. *Rear yard:* Twenty (20) feet.
 - d. *Floor area:* A zero lot line detached single family dwelling unit shall contain a minimum of nine hundred (900) square feet of conditioned living area and a one (1) car garage. The garage shall not be included as part of the unit's minimum square footage.
 - e. *Building separation.* An open space separation at least fifteen (15) feet wide shall be provided between all dwelling units in zero lot line detached single family housing development. When zero lot line detached single family dwellings are adjacent to the existing residential development, an open space separation at least fifteen (15) feet wide shall separate the developments.
 - f. *Maximum lot coverage:* Thirty-five (35) percent.
 - g. *Height:* Thirty-five (35) feet.
 - h. *Accessory structures.* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.
 - i. *Covenant or legally binding assurance:* All zero lot line development shall provide covenants or other legally binding assurances that all zero lot line buildings can be properly maintained by the owner.
- (3) *Multiple family dwellings.*

- a. *Minimum lot area:* Five thousand (5,000) square feet, plus one thousand (1,000) square feet for each unit in excess of two (2), except that the gross density shall not exceed forty (40) units an acre.
- b. *Minimum lot width:* Seventy-five (75) feet at the building line and a minimum of thirty-five (35) feet at the street.
- c. *Minimum yards:*
 - 1. *Front yard:* Twenty (20) feet.
 - 2. *Side yard:* Ten (10) feet for each side yard, except when the lot is a corner lot. For a corner lot, the side yard on the corner shall be twenty (20) percent of the lot width or ten (10) feet, whichever is greater, except the side yard is never required to exceed twenty (20) feet.
 - 3. *Rear yard:* Thirty (30) feet. For oceanfront lots, the rear yard shall be the yard adjacent to the ocean, or the easterly yard, and the front yard shall be the westerly yard, or yard opposite the rear yard.
- d. *Floor area:* Multiple family dwelling unit shall contain the following minimum square feet of conditioned living area excluding garages, carports and breezeways.
 - 1. One bedroom unit--Seven hundred (700) square feet.
 - 2. Two bedroom unit--Nine hundred (900) square feet.
 - 3. Three bedroom unit--One thousand one hundred (1,100) square feet.

This square footage requirement shall also apply to units sold as condominiums.
- e. *Maximum lot coverage:* Sixty-five (65) percent.
- f. *Height:* Thirty-five (35) feet.
- g. *Accessory structures.* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.

(4) *Townhouse dwellings.*

- a. *Minimum lot area:*

Interior: One thousand five hundred (1,500) feet.

Exterior: Two thousand five hundred (2,500) feet.

- b. *Minimum lot width:*
 - Interior:* Fifteen (15) feet.
 - Exterior:* Twenty-five (25) feet.
 - c. *Minimum yards:*
 - 1. *Front yard:* Twenty (20) feet.
 - 2. *Side yard:*
 - Interior:* None.
 - Exterior:* Ten (10) feet.
 - Corner:* The side yard on a corner lot shall be twenty (20) percent of the lot width or ten (10) feet, whichever is greater, except the side yard is never required to exceed twenty (20) feet.
 - 3. *Rear yard:* Thirty (30) feet.
 - d. *Floor area:* Townhouse units shall contain the following minimum square feet of conditioned living area, excluding garages, carports and breezeways.
 - 1. One bedroom unit--Seven hundred (700) square feet.
 - 2. Two bedroom unit--Nine hundred (900) square feet.
 - 3. Three bedroom unit--One thousand one hundred (1,100) square feet.

This square footage requirement shall also apply to units sold as condominiums.
 - e. *Maximum lot coverage:* Sixty-five (65) percent.
 - f. *Height:* Thirty-five (35) feet.
 - g. *Separation.* No more than six (6) townhouse units shall be constructed contiguous to each other without an open space separation of at least twenty (20) feet between structures.
 - h. *Accessory structures.* All accessory structures shall be located a minimum of five (5) feet from any property line or principal or accessory structures.
- (5) *Public and private parks, playgrounds and recreational facilities.* There are no minimum dimensional standards for public and private parks, playgrounds and recreational facilities.

(f) *Off-street parking and loading.* The off-street parking and loading standards for the RM-2 zoning district are found in Article VIII, Division 1.

(g) *Supplemental standards.* The supplemental standards for the RM-2 zoning district are found in Article VIII, Division 2.

(h) *Landscape standards.* The landscape standards for the RM-2 zoning district are found in Article VIII, Division 3.

(i) *Sign standards.* The sign standards for the RM-2 zoning district are found in Article VIII, Division 4.

(j) *Environmental standards.* The environmental standards for the RM-2 Zoning District are found in Article VIII, Division 5. (Ord. No. 7500, § 7.2(E), 8-19-91; Ord. No. 99-7774, §§ 2, 3, 10-18-99; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2002-7838, § 1, 7-15-02; Ord. No. 2003-7860, § 2, 10-6-03; Ord. No. 2005-7899, § 3, 4-4-05; Ord. No. 2006-7917, § 1, 4-3-06)

Sec. 34-341. Commercial professional office: CPO.

(a) *Purpose.* The commercial professional office (CPO) zoning district is intended to implement the commercial land use district in the comprehensive plan. It is intended to apply to commercial areas targeted for limited commercial and office development adjacent to arterial roadways.

(b) *Permitted uses.* The following uses, not to exceed fifty thousand (50,000) square feet in gross floor area for single or multiple use buildings or developments, are permitted as of right in the CPO zoning district. Buildings or developments containing single or multiple uses listed herein and which exceed fifty thousand (50,000) square feet in gross floor area shall only be approved pursuant to section 34-348 planned unit development: PUD district standards and procedures.

- (1) Business and professional offices as follows: Landscape architects, doctors, dentists, miscellaneous health offices and clinics; legal services; and engineering, architecture, accounting, research, management, and related services.
- (2) Financial institutions, insurance and real estate offices.
- (3) Business offices for building contractors and subcontractors (no storage of vehicles, material or equipment).
- (4) Travel agencies.
- (5) Florists.
- (6) Photographic studios.

- (7) Business services offices as follows: Advertising; business and consumer credit reporting and collections; and computer programming, data processing and other computer services.
- (8) Two-family, multiple-family, townhouses, and zero lot line detached single family dwellings, subject to the provisions of section 34-339, residential, multiple family: RM-2.
- (9) Type I home occupations.
- (c) *Accessory uses.* The following uses are permitted as accessory uses in the CPO zoning district.
 - (1) Any use customarily accessory to the permitted and conditional uses in the CPO zoning district.
 - (d) *Conditional uses.* The following uses are permitted as conditional uses in the CPO zoning district, subject to the standards and procedures established in section 34-221 et seq.
 - (1) Restaurants, except drive-in.
 - (2) Personal service establishments as follows: Beauty and barber shops, funeral services, and miscellaneous personal services.
 - (3) Business services offices as follows: Mailing, reproduction, commercial art and photography and stenographic services; and personnel supply services, excluding labor and manpower pools and similar temporary help services.
 - (4) Dance studios and schools.
 - (5) Elementary and secondary schools and technical institutes, except trade schools and vocational schools.
 - (6) Hospitals, nursing and personal care facilities, medical and dental laboratories, and miscellaneous health and allied services.
 - (7) Child day care services.
 - (8) Adult day care services.
 - (9) Museums and art galleries.
 - (10) Civic, social and fraternal organizations.
 - (11) Religious organizations.
 - (12) Government use, except correctional institutions.
 - (13) Essential public services.

- (14) Type II home occupations.
- (15) Libraries.
- (16) Cemeteries.
- (17) Boutique retail establishments.
- (18) Outdoor restaurants.

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the CPO Zoning District.

- (1) *Minimum lot area:* Six thousand (6,000) square feet.
- (2) *Minimum lot width:* Sixty (60) feet at the building line and a minimum of thirty-five (35) feet at the street.
- (3) *Minimum yards:*
 - a. *Front yard:* Twenty (20) feet.
 - b. *Side yard:* Ten (10) feet.
 - c. *Rear yard:* Thirty (30) feet.
- (4) *Floor area:* None.
- (5) *Maximum lot coverage:* Sixty-five (65) percent.
- (6) *Height:* Thirty-five (35) feet.

(f) *Off-street parking and loading.* The off-street parking and loading standards for the CPO zoning district are found in Article VIII, Division 1.

(g) *Supplemental standards.* The supplemental standards for the CPO zoning district are found in Article VIII, Division 2.

(h) *Landscape standards.* The landscape standards for the CPO zoning district are found in Article VIII, Division 3.

(i) *Sign standards.* The sign standards for the CPO zoning district are found in Article VIII, Division 4.

(j) *Environmental standards.* The environmental standards for the CPO zoning district are found in Article VIII, Division 5.

(Ord. No. 7500, § 7.2(F), 8-19-91; Ord. No. 94-7607, § 2, 8-15-94; Ord. No. 2001-7810, § 1, 7-16-01)

Sec. 34-342. Commercial limited: C-1.

(a) *Purpose.* The commercial limited (C-1) zoning district is intended to implement the commercial land use district in the comprehensive plan. It is intended to apply to commercial areas that can exist within close proximity to residential areas without creating an adverse effect on the development and character of such areas.

(b) *Permitted uses.* The following uses, not to exceed fifty thousand (50,000) square feet in gross floor area for single or multiple use buildings or developments, are permitted as of right in the C-1 zoning district. Buildings or developments containing single or multiple uses listed herein and which exceed fifty thousand (50,000) square feet in gross floor area shall only be approved pursuant to section 34-348 planned unit development: PUD district standards and procedures.

- (1) Business and professional offices as follows: Building contractors and subcontractors (no storage of vehicles, material or equipment); veterinary services for animal specialties; landscape architects; doctors, dentists, home health care services, and miscellaneous health offices and clinics; legal services; and engineering, architecture, accounting, research, management, and related services.
- (2) Bakery products manufacturing, in conjunction with the retail sale of the bakery products on the same site.
- (3) Jewelry and leather products manufacturing, in conjunction with the retail sale of the manufactured products on the same site.
- (4) Travel agencies.
- (5) Business offices for communications and utility services (no storage of vehicles, materials, or equipment).
- (6) Retail trade establishments as follows: Building materials, hardware and garden supplies; general merchandise; food; apparel and accessories; home furniture, furnishing and equipment stores; drugs; used merchandise; miscellaneous shopping goods; fuel dealers; florists; tobacco and newsstands; optical goods; and miscellaneous retail goods.
- (7) Restaurants, except drive-ins.
- (8) Financial institutions, insurance and real estate offices.
- (9) Hotels and motels.
- (10) Rooming and boarding houses.
- (11) Personal service establishments as follows: Laundry, cleaning and garment services;

photography studios; beauty and barber shops; shoe repair shops and shoe-shine parlors; tax preparation services; and miscellaneous personal services.

- (12) Business service establishments as follows: Advertising; business and consumer credit reporting and collections; mailing reproduction, commercial art and photography and stenographic services; building services; medical and other equipment rental and leasing; personnel supply, excluding labor and manpower pools and similar temporary help services; computer programming, data processing and other computer services; and miscellaneous business services.
 - (13) Automotive rental and leasing.
 - (14) Electrical repair shops and watch, clock and jewelry repair shops.
 - (15) Motion pictures theaters, except drive-in, and video tape rental.
 - (16) Amusement and recreation services as follows: Dance studios and schools; bowling centers; physical fitness facilities; coin operated amusement devices; and membership sports and recreation clubs.
 - (17) Medical and dental laboratories.
 - (18) Child day care services.
 - (19) Adult day care services.
 - (20) Museums and art galleries.
 - (21) Membership organizations, including religious organizations.
 - (22) Government use.
 - (23) Type I home occupations.
 - (24) Auxiliary dwelling unit.
 - (25) Miscellaneous repair shops and related services as follows: Camera, luggage, sewing machine, musical instrument, and precision instrument repair, piano and organ tuning and repair, locksmith, picture framing, and china and pottery decorating and firing to individual order.
- (c) *Accessory uses.* The following uses are permitted as accessory uses in the C-1 zoning district.
- (1) Any use customarily accessory to the permitted and conditional uses in the C-1 zoning district.
- (d) *Conditional uses.* The following uses are permitted as conditional uses in the C-1 zoning district, subject to the standards and procedures established in section 34-221 et seq.

- (1) Job or quick print commercial printing.
- (2) Motor vehicle dealers, new and/or used; auto and home supply stores; gasoline service stations; and boat, recreational vehicle and motorcycle dealers.
- (3) Bar, lounge, nightclub, tavern or other drinking place.
- (4) Package liquor store.
- (5) Camps and recreational vehicle parks.
- (6) Carwashes and automotive repair; except top, body and upholstery repair and paint shops.
- (7) Funeral homes.
- (8) Drive in motion picture theaters.
- (9) Amusement parks.
- (10) Hospitals, and nursing and personal care facilities.
- (11) Essential public services.
- (12) Educational services.
- (13) Golf courses.
- (14) Cemeteries.
- (15) Multiple family dwellings, subject to section 34-339 residential, multiple family: RM-1, except that the maximum building height shall be determined in accordance with paragraph (e)(6) of section 34-342, and that for properties located east of 3rd Street, the minimum lot size shall be determined in accordance with paragraph (e)(3)a. of section 34-340.
- (16) Mobile home parks.
- (17) Commercial recreation facilities such as shooting galleries, outdoor skating rinks, amusement parks, go kart tracks, miniature golf courses and similar outdoor uses.
- (18) Type II home occupations.
- (19) Outdoor restaurants or bars.
- (20) Miscellaneous repair shops and related services as follows: Taxidermist, lawnmower repair, and window and blind fabrication and repair.

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the C-1 Zoning District.

(1) *Minimum lot area:* None.

(2) *Minimum lot width:* None.

(3) *Minimum yards:*

a. *Front yard:* Ten (10) feet.

b. *Side yard:* None, except where adjacent to streets. If adjacent to a street ten (10) feet, for a corner lot, the side yard on the corner shall be ten (10) feet.

c. *Rear yard:* None. For oceanfront lots, the rear yard shall be the yard adjacent to the ocean, or the easterly yard, and the front yard shall be the westerly yard, or yard opposite the rear yard.

(4) *Floor area:* None.

(5) *Maximum lot coverage:* Eighty-five (85) percent.

(6) *Height:* Thirty-five (35) feet.

(f) *Off-street parking and loading.* The off-street parking and loading standards for the C-1 zoning district are found in Article VIII, Division 1.

(g) *Supplemental standards.* The supplemental standards for the C-1 zoning district are found in Article VIII, Division 2.

(h) *Landscape standards.* The landscape standards for the C-1 zoning district are found in Article VIII, Division 3.

(i) *Sign standards.* The sign standards for the C-1 zoning district are found in Article VIII, Division 4.

(j) *Environmental standards.* The environmental standards for the C-1 zoning district are found in Article VIII, Division 5.

(Ord. No. 7500, § 7.2(G), 8-19-91; Ord. No. 96-7681, § 2, 10-21-96; Ord. No. 96-7689, § 2, 12-16-96; Ord. No. 97-7695, § 1, 2-3-97; Ord. No. 99-7774, § 4, 10-18-99; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2002-7838, § 2, 7-15-02; Ord. No. 2003-7860, §§ 3, 4, 10-6-03; Ord. No. 2003-7861, § 1, 10-6-03; Ord. No. 2005-7899, § 4, 4-4-05; Ord. No. 2005-7904, § 1, 6-20-05)

Sec. 34-343. Commercial general: C-2.

(a) *Purpose.* The commercial general (C-2) zoning district is intended to implement the commercial

land use district in the comprehensive plan. It is intended to apply to areas appropriate for general commercial use that will meet the retail and service needs of Jacksonville Beach residents. Areas that are designated for the C-2 zoning district should be immediately accessible to the city's major road network.

(b) *Permitted uses.* The following uses, not to exceed fifty thousand (50,000) square feet in gross floor area for single or multiple use buildings or developments, are permitted as of right in the C-2 zoning district. Buildings or developments containing single or multiple uses listed herein and which exceed fifty thousand (50,000) square feet in gross floor area shall only be approved pursuant to section 34-348 planned unit development: PUD district standards and procedures.

- (1) Veterinary services and kennels, provided animals are housed in enclosed, soundproof buildings.
- (2) Newspaper printing and publishing and commercial printing.
- (3) Bakery products manufacturing, in conjunction with the retail sale of the bakery products on the same site.
- (4) Jewelry and leather products manufacturing, in conjunction with the retail sale of the manufactured products on the same site.
- (5) Sign and specialty advertising manufacturing.
- (6) Marinas.
- (7) Travel agencies.
- (8) Business offices for communications and utility services (no storage of vehicles, material or equipment).
- (9) Motor vehicle supplies and parts, wholesale.
- (10) Retail trade establishments as follows: Building materials, hardware and garden supplies; general merchandise; food; motor vehicle dealers, new and/or used; auto and home supply stores; gasoline service stations; and boat, recreational vehicle and motorcycle dealers; apparel and accessories; home furniture, furnishing and equipment stores; drugs; used merchandise; miscellaneous shopping goods; fuel dealers; florists; tobacco and newsstands; optical goods; and miscellaneous retail goods.
- (11) Restaurants.
- (12) Financial institutions, insurance, or real estate offices.
- (13) Hotels, motels, rooming, or boarding houses.
- (14) Personal service establishments as follows: Laundry, cleaning and garment services; photography studios; beauty and barber shops; shoe repair shops and shoe-shine parlors; funeral

services; and miscellaneous personal services.

- (15) Business service establishments as follows: Advertising; business and consumer credit reporting and collections; mailing reproduction, commercial art and photography and stenographic services; building services; medical and other equipment rental and leasing; personnel supply; computer programming, data processing and other computer services; and miscellaneous business services.
 - (16) Automotive rental and leasing, and carwashes.
 - (17) Electrical repair shops, and watch, clock, and jewelry repair shops.
 - (18) Motion picture theaters, except drive-in, and video tape rental.
 - (19) Amusement and recreation services: Dance studios and schools; bowling centers; physical fitness facilities; coin operated amusement devices; and membership sports and recreation clubs.
 - (20) Business and professional offices as follows: Building contractors and subcontractors (no storage of vehicles, material or equipment); landscape architects; doctors, dentists, home health care services, and miscellaneous health offices and clinics; legal services; and engineering, architecture, accounting, research, management, and related services.
 - (21) Medical and dental laboratories.
 - (22) Individual and family social services.
 - (23) Child day care services.
 - (24) Adult day care services.
 - (25) Museums and art galleries.
 - (26) Membership organizations, including religious organizations.
 - (27) Government use.
 - (28) Type I home occupations.
 - (29) Miscellaneous repair shops and related services as follows: Camera, luggage, sewing machine, musical instrument, and precision instrument repair, piano and organ tuning and repair, locksmith, picture framing, and china and pottery decorating and firing to individual order.
- (c) *Accessory uses.* The following uses are permitted as accessory uses in the C-2 zoning district.
- (1) Any use customarily accessory to the permitted and conditional uses in the C-2 zoning district.

(d) *Conditional uses.* The following uses are permitted as conditional uses in the C-2 zoning district, subject to the standards and procedures established in section 34-221 et seq.

- (1) Bar, lounge, nightclub, tavern or other drinking place.
- (2) Package liquor store.
- (3) Camps and recreational vehicle parks.
- (4) Automotive and boat repair shops.
- (5) Drive in motion picture theaters.
- (6) Hospitals; and nursing and personal care facilities.
- (7) Essential public services.
- (8) Educational services.
- (9) Golf courses.
- (10) Cemeteries.
- (11) Multiple family dwellings, subject to section 34-339 residential, multiple family: RM-1.
- (12) Mobile home parks.
- (13) Commercial recreational facilities such as shooting galleries, outdoor skating rinks, amusement parks, go kart tracks, miniature golf courses and similar outdoor uses.
- (14) Outdoor restaurants or bars.
- (15) Type II home occupations.
- (16) Miscellaneous repair shops and related services as follows: Taxidermist, lawnmower repair, and window and blind fabrication and repair.
- (17) Microbreweries.

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the C-2 zoning district.

- (1) *Minimum lot area:* None
- (2) *Minimum lot width:* None.

(3) *Minimum yards:*

a. *Front yard:* Ten (10) feet.

b. *Side yard:* None, except where adjacent to streets. If adjacent to a street, ten (10) feet. For a corner lot, the side yard on the corner shall be ten (10) feet.

c. *Rear yard:* None.

(4) *Floor area:* None.

(5) *Maximum lot coverage:* Eighty-five (85) percent.

(6) *Height:* Thirty-five (35) feet.

(f) *Off-street parking and loading.* The off-street parking and loading standards for the C-2 zoning district are found in Article VIII, Division 1.

(g) *Supplemental standards.* The supplemental standards for the C-2 zoning district are found in Article VIII, Division 2.

(h) *Landscape standards.* The landscape standards for the C-2 zoning district are found in Article VIII, Division 3.

(i) *Sign standards.* The sign standards for the C-2 zoning district are found in Article VIII, Division 4.

(j) *Environmental standards.* The environmental standards for the C-2 zoning district are found in Article VIII, Division 5.

(Ord. No. 7500, § 7.2(H), 8-19-91; Ord. No. 99-7774, § 5, 10-18-99; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2003-7860, §§ 5, 6, 10-6-03; Ord. No. 2003-7861, § 2, 10-6-03; Ord. No. 2004-7868, § 1, 2-2-04)

Sec. 34-344. Commercial service: CS.

(a) *Purpose.* The commercial service (CS) zoning district is intended to implement the mixed land use district in the comprehensive plan. It is intended to apply to areas appropriate for general commercial use, wholesale trade and storage, and limited light industrial uses.

(b) *Permitted uses.* The following uses, not to exceed fifty thousand (50,000) square feet in gross floor area for single or multiple use buildings or developments, are permitted as of right in the CS zoning district. Buildings or developments containing single or multiple uses listed herein and which exceed fifty thousand (50,000) square feet in gross floor area shall only be approved pursuant to section 34-348 planned unit development: PUD district standards and procedures.

(1) Ornamental floraculture and nurseries.

- (2) Veterinary services and kennels; provided animals are housed in enclosed, soundproof buildings.
- (3) Lawn, garden and tree services.
- (4) Building contractors and subcontractors.
- (5) Manufacturing establishments as follows: Bakery products, wood cabinet, jewelry, newspaper printing and publishing, and commercial printing.
- (6) Boat building and repairing.
- (7) General warehousing and storage.
- (8) Communications and utility services.
- (9) Wholesale trade establishments as follows: Motor vehicle supplies and parts; lumber and construction materials; other durable goods, except scrap and waste materials; paper and paper products, drugs, drug propieties and druggists' sundries, apparel, piece goods and notions; beer, wine and distilled alcoholic beverages; and flowers, nursery stock and florists supplies.
- (10) Retail trade establishments as follows: Building materials, hardware and garden supplies; motor vehicle dealers; auto and home supply stores; gasoline service stations; boat, recreational vehicle and motorcycle dealers; home furniture, furnishing and equipment stores; fuel dealers; and florists.
- (11) Laundry, cleaning and garment services.
- (12) Business service establishments as follows: Building services; medical and other equipment rental and leasing; and computer programming, data processing and other computer services.
- (13) Automotive rental and leasing, repair shops, or carwashes.
- (14) Electrical, watch, clock, jewelry, upholstery, furniture, and miscellaneous repair shops and related services.
- (15) Medical and dental laboratories.
- (16) Child day care services.
- (17) Adult day care services.
- (18) Civic, social and fraternal associations.
- (19) Government use.
- (c) *Accessory uses.* The following uses are permitted as accessory uses in the CS zoning district.

(1) Any use customarily accessory to the permitted or conditional uses in the CS zoning district.

(d) *Conditional uses.* The following uses are permitted as conditional uses in the CS zoning district, subject to the standards and procedures established in section 34-221 et seq.

(1) Handbag and other personal leather goods manufacturing.

(2) Computer and office equipment manufacturing.

(3) Religious organizations.

(4) Restaurants, except drive-ins.

(5) Outdoor restaurants.

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the CS zoning district.

(1) *Minimum lot area:* None

(2) *Minimum lot width:* None.

(3) *Minimum yards:*

a. *Front yard:* Ten (10) feet.

b. *Side yard:* None, except where adjacent to streets. If adjacent to a street, ten (10) feet. For a corner lot, the side yard on the corner shall be ten (10) feet.

c. *Rear yard:* None.

(4) *Floor area:* None.

(5) *Maximum lot coverage:* Eighty-five (85) percent.

(6) *Height:* Thirty-five (35) feet.

(f) *Off-street parking and loading.* The off-street parking and loading standards for the CS zoning district are found in Article VIII, Division 1.

(g) *Supplemental standards.* The supplemental standards for the CS zoning district are found in Article VIII, Division 2.

(h) *Landscape standards.* The landscape standards for the CS zoning district are found in Article VIII, Division 3.

4. (i) *Sign standards.* The sign standards for the CS zoning district are found in Article VIII, Division 4.

(j) *Environmental standards.* The environmental standards for the CS zoning district are found in Article VIII, Division 5.
(Ord. No. 7500, § 7.2(I), 8-19-91; Ord. No. 93-7571, § 1, 8-2-93; Ord. No. 99-7774, § 6, 10-18-99; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2003-7860, § 7, 10-6-03)

Sec. 34-345. Central business district: CBD.

(a) *Purpose.* The central business district (CBD) zoning district is intended to implement the commercial and redevelopment area land use districts in the comprehensive plan. The CBD zoning district is intended to provide a central core for the city, with a diversity of uses, and to promote flexibility in design and quality in development while preserving public access to the beach recreational area.

(b) *Permitted uses.* The following uses, not to exceed fifty thousand (50,000) square feet in gross floor area for single or multiple use buildings or developments, are permitted as of right in the CBD zoning district. Buildings or developments containing single or multiple uses listed herein and which exceed fifty thousand (50,000) square feet in gross floor area shall only be approved pursuant to section 34-347 redevelopment district: RD or section 34-348 planned unit development: PUD district standards and procedures.

- (1) Bakery products manufacturing, in conjunction with the retail sale of the bakery products on the same site.
- (2) Jewelry manufacturing, in conjunction with the retail sale of the jewelry on the same site.
- (3) Travel agencies.
- (4) Retail trade establishments as follows: Building materials, hardware and garden supplies; general merchandise stores; apparel and accessory stores; home furniture, furnishing and equipment stores; restaurants; drug stores; florists; tobacco stands and newsstands; optical goods stores; and miscellaneous retail goods.
- (5) Financial institutions, insurance and real estate offices.
- (6) Hotels and motels.
- (7) Personal service establishments as follows: Photographic studios; beauty and barber shops; shoe repair shops and shoe-shine parlors; tax preparation services; and miscellaneous personal services.
- (8) Business service establishments as follows: Advertising; business and consumer credit reporting and collections; mailing reproduction, commercial art and photography and stenographic services; personnel supply, excluding labor and manpower pools and similar temporary help services; computer programming, data processing and other computer

services; and miscellaneous business services.

- (9) Automotive rental and leasing.
- (10) Automobile parking.
- (11) Motion pictures theaters, except drive-in.
- (12) Dance studios and schools.
- (13) Amusement and recreation service establishments as follows: Physical fitness facilities; coin operated amusement devices; or membership sports and recreation clubs.
- (14) Business and professional offices as follows: Landscape architect; building contractors and subcontractors (no storage of vehicles, equipment, or materials); doctors, dentists and miscellaneous health offices and clinics; legal services; and engineering, architecture, accounting, research management and related services.
- (15) Child day care services.
- (16) Museums and art galleries.
- (17) Membership organizations, except religious organizations.
- (18) Government uses.
- (19) Multiple family dwellings, subject to section 34-340 residential multi-family, RM-2.
- (20) Public parks, playgrounds, and recreational facilities.
- (21) Libraries.
- (22) Essential public services.
- (23) Auxiliary dwelling unit.
- (24) Type I home occupations.

(c) *Accessory uses.* The following uses are permitted as accessory uses in the CBD zoning district.

(1) Any use customarily accessory to the permitted or conditional uses in the CBD zoning district.

(d) *Conditional uses.* The following uses are permitted as conditional uses in the CBD zoning district, subject to the standards and procedures established in section 34-221 et seq.

(1) Handbag and other personal leather goods manufacturing in conjunction with the retail sale of

the finished product on the same site.

- (2) Bar, lounge, nightclub, tavern or other drinking place.
- (3) Amusement parks.
- (4) Miscellaneous amusement and recreation services.
- (5) Religious organizations.
- (6) Type II home occupations.
- (7) Outdoor restaurants or bars.
- (8) Microbreweries.

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the CBD zoning district.

- (1) *Minimum lot area:* None.
- (2) *Minimum lot width:* None.
- (3) *Minimum yards:*
 - a. *Front yard:* None.
 - b. *Side yard:* None.
 - c. *Rear yard:* None. For oceanfront lots, the rear yard shall be the yard adjacent to the ocean, or the easterly yard, and the front yard shall be the westerly yard, or yard opposite the rear yard.
- (4) *Floor area:* None.
- (5) *Maximum lot coverage:* None.
- (6) *Height:* Thirty-five (35) feet.

(f) *Off-street parking and loading.* The off-street parking and loading standards for the CBD zoning district are found in Article VIII, Division 1.

(g) *Supplemental standards.* The supplemental standards for the CBD zoning district are found in Article VIII, Division 2.

- (h) *Landscape standards.* The landscape standards for the CBD zoning district are found in Article

VIII, Division 3.

(i) *Sign standards.* The sign standards for the CBD zoning district are found in Article VIII, Division 4.

(j) *Environmental standards.* The environmental standards for the CBD zoning district are found in Article VIII, Division 5.

(Ord. No. 7500, § 7.2(J), 8-19-91; Ord. No. 96-7682, § 1, 10-21-96; Ord. No. 99-7774, § 7, 10-18-99; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2002-7838, § 3, 7-15-02; Ord. No. 2003-7860, §§ 8, 9, 10-6-03; Ord. No. 2004-7868, § 2, 2-2-04; Ord. No. 2005-7899, §§ 5, 6, 4-4-05; Ord. No. 2005-7904, § 2, 6-20-05)

Sec. 34-346. Industrial district: I-1.

(a) *Purpose.* The industrial (I-1) zoning district is intended to implement the industrial land use district in the comprehensive plan. It is intended to apply to areas appropriate for general industrial uses which are not objectionable to surrounding land uses with regard to smoke, odor, fumes, and noise.

(b) *Permitted uses.* The following uses are permitted as of right in the I-1 zoning district.

(1) Ornamental floraculture and nursery.

(2) Veterinary services for animal specialties and kennels; provided animals are housed in enclosed, soundproofed buildings.

(3) Lawn, garden and tree services.

(4) Building contractors and subcontractors.

(5) Manufacturing establishments producing the following products: Bakery products, apparel, wood cabinets, newspaper printing and publishing, commercial printing, luggage, computer and office equipment, jewelry, and sign and specialty advertising.

(6) Manufacturer's display rooms.

(7) Boat building and repairing.

(8) General warehousing and storage.

(9) Trucking and courier services.

(10) Communications and utility services.

(11) Wholesale trade establishments as follows: Motor vehicle supplies and parts, new; lumber and construction materials and other durable goods, except scrap and waste materials; paper and paper products, drugs, drug propieties and druggists' sundries, apparel, piece goods and notions; beer, wine and distilled alcoholic beverages; and flowers, nursery stock and florist's supplies.

- (12) Financial institutions, insurance and real estate offices.
- (13) Business service establishments as follows: Advertising, business and consumer credit reporting and collections; mailing, reproduction, commercial art, photography, and stenography; building services; computer programming, data processing and other computer services; and personnel supply.
- (14) Automotive repair shops, service stations, and carwashes.
- (15) Electrical repair; watch, clock and jewelry repair; reupholstery and furniture repair; and miscellaneous repair shops and related services.
- (16) Business and professional offices as follows: Landscape architects; doctors, dentists, and miscellaneous health offices and clinics; and engineering, architecture, accounting, research, management and related services.
- (17) Government use.
- (18) Essential public services.
- (19) Recreational services.
- (c) *Accessory uses.* The following uses are permitted as accessory uses in the I-1 zoning district.
 - (1) Any use customarily accessory to the permitted and conditional uses in the I-1 zoning district.
- (d) *Conditional uses.* The following uses are permitted as conditional uses in the I-1 zoning district, subject to the standards and procedures established in section 34-221 et seq.
 - (1) Cemeteries.
 - (2) Used motor vehicle parts, wholesale.
 - (3) Processing and wholesale trade of scrap and waste materials, including junkyards, subject to section 34-445(d).
 - (4) Petroleum bulk stations and terminals, wholesale.
 - (5) Restaurants, except drive-ins.
 - (6) Convenience stores.
 - (7) Hotels and motels.
 - (8) Wholesale trade--nondurable goods, excluding farm products, chemical and allied products, and

petroleum products.

(9) Educational services.

(10) Outdoor restaurants.

(e) *Dimensional standards.* The following dimensional standards shall apply to all permitted, conditional, and accessory uses in the I-1 zoning district.

(1) *Minimum lot area:* None

(2) *Minimum lot width:* None.

(3) *Minimum yards:*

a. *Front yard:* Ten (10) feet.

b. *Side yard:* Five (5) feet, except for a corner lot. On a corner lot, the side yard facing the corner shall be ten (10) feet.

c. *Rear yard:* None.

(4) *Floor area:* None.

(5) *Maximum lot coverage:* Eighty-five (85) percent.

(6) *Height:* Thirty-five (35) feet.

(f) *Off-street parking and loading.* The off-street parking and loading standards for the I-1 zoning district are found in Article VIII, Division 1.

(g) *Supplemental standards.* The supplemental standards for the I-1 zoning district are found in Article VIII, Division 2.

(h) *Landscape standards.* The landscape standards for the I-1 zoning district are found in Article VIII, Division 3.

(i) *Sign standards.* The sign standards for the I-1 zoning district are found in Article VIII, Division 4.

(j) *Environmental standards.* The environmental standards for the I-1 zoning district are found in Article VIII, Division 5.

(Ord. No. 7500, § 7.2(K), 8-19-91; Ord. No. 7533, § 1, 8-17-92; Ord. No. 95-7627, § 2, 7-17-95; Ord. No. 97-7716, § 1, 10-6-97; Ord. No. 98-7754, § 1, 11-16-98; Ord. No. 2000-7790, § 1, 7-3-00; Ord. No. 2000-7800, § 1, 11-6-00; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2003-7860, § 10, 10-6-03)

Sec. 34-347. Redevelopment district: RD.

- (a) *Purpose and intent.* The RD zoning district classification is designed to achieve a diversity of uses in a desirable environment through the application of flexible land development standards and to foster creative design and planning practices in the Jacksonville Beach Downtown Redevelopment Area in order to encourage economic vitality and redevelopment pursuant to the objectives of the Jacksonville Beach Community Redevelopment Plan.
- (b) *RD zoning district boundaries.*
- (1) *General.* The RD zoning district boundaries include all lands lying in and bounded by the mean low water mark of the Atlantic Ocean and the centerline of the following streets: Thirteenth Avenue South, Third Street (State Route A1A), and Ninth Avenue North.
- (2) *Subdistricts.* The boundaries of the RD zoning district may be further described by the following subdistricts:
- a. *Downtown subdistrict:* That portion of the RD zoning district lying in and bounded by the mean low water mark of the Atlantic Ocean and the centerline of the following streets: First Avenue South, Third Street (State Route A1A), and Fifth Avenue North.
- b. *North subdistrict:* That portion of the RD zoning district lying in and bounded by the mean low water mark of the Atlantic Ocean and the centerline of the following streets: Fifth Avenue North, Third Street (State Route A1A), and Ninth Avenue North.
- c. *South subdistrict:* That portion of the RD zoning district lying in and bounded by the mean low water mark of the Atlantic Ocean and the centerline of the following streets: Thirteenth Avenue South, Third Street (State Route A1A), and First Avenue South.
- (c) *Procedure.*
- (1) *General overview.* Prior to receipt of an RD zoning district classification, land must receive approval of a preliminary development plan pursuant to the procedures and standards of this section. The preliminary development plan for an RD zoning district classification must then receive approval of a development plan pursuant to the procedures and standards of section 34-251 et seq.
- (2) *Preapplication conference.*
- a. *Submission of application.* Prior to submitting an application for a preliminary development plan for an RD zoning district, an applicant shall request in writing a preapplication conference with the planning and development director. Accompanying the request for a preapplication conference shall be an application in the form established by the planning and development director and made available to the public, and a nonrefundable application fee which is established from time to time by the city council to defray the actual cost of the preapplication conference.

- b. *Scheduling of preapplication conference.* Within ten (10) working days after the planning and development director determines that the application is sufficient, a preapplication conference shall be scheduled with the applicant, representatives of the Jacksonville Beach Community Redevelopment Agency, such other city departments and, state or federal agencies that may be involved in the review and processing of the application. The applicant shall be notified in advance by the planning and development director about which other city departments, state and federal agencies will be involved in the preapplication conference and the time, date and place of the conference.
 - c. *Preapplication conference issues.* At the preapplication conference, the planning and development director, the applicant, representatives of the Jacksonville Beach Community Redevelopment Agency, and the representatives from other city departments, state and federal state agencies shall discuss the proposed development and the following issues as they relate to the application for an RD zoning district designation:
 - 1. The existing characteristics of the site proposed for development or redevelopment including but not limited to existing built land uses, vacant areas, land ownership and existing densities;
 - 2. The relationship between the proposed development, existing land uses, and surrounding land uses;
 - 3. The status of existing and proposed on-site streets, utilities or other public and private facilities to serve the proposed development; and
 - 4. The status of public facilities that would serve the proposed development, specifically as it relates to the CIE of the comprehensive plan;
 - d. *Written summary.* Within ten (10) working days of the preapplication conference, the planning and development director shall provide the applicant with a written summary of the preapplication conference. One (1) copy of this written summary shall be submitted by the applicant to the planning and development director at the time of submission of the application for development permit.
- (3) *Preliminary development plan for an RD zoning district.*
- a. *Submission of application.* Subsequent to the preapplication conference, an application for a preliminary development plan for a RD zoning district classification shall be submitted to the planning and development director, along with a nonrefundable application fee which is established from time to time by the city council to defray the actual cost of processing the application.
 - b. *Contents of application.* The preliminary development plan shall include the following information:

1. The names, address, and telephone number of the owners of record of the land proposed for development.
2. The name, address, and telephone number of the developer, if different from the owner, and an explanation of the difference.
3. The name, address and telephone number of the agent of the applicant, if there is an agent.
4. The name, address, and telephone number of the all land use, environmental, engineering, economic, or other professionals that are assisting with the application.
5. The name, address and legal description of the land on which the preliminary development plan is proposed to occur, with attached copies of any instruments referenced, such as but not limited to deeds, plats, easements, covenants and restrictions.
6. A copy of the relevant Duval County property assessment map, showing the exact location of the land proposed for development, with the boundaries already marked.
7. An eight and one-half (8 1/2) by eleven (11) vicinity map locating the proposed land for development.
8. A statement of the planning objectives to be achieved by the planned redevelopment activity and its consistency with the Jacksonville Beach Community Redevelopment Plan. The statement shall include a detailed description of the character of the proposed development, including information relative to the architectural style of the proposed development.
9. A statement of the applicant's intentions with regard to the form of ownership contemplated for the development when construction is completed, e.g., sale or lease of all or some of the development including rental units, condominiums, or fee simple conveyance.
10. A description of the proposed development, including:
 - i. The number and type of residential dwelling units.
 - ii. The approximate gross density for the residential development.
 - iii. The amounts of land and building square footages for nonresidential developments, by type of use, including any portions to be reserved for public use.

- iv. Calculations showing the total lot coverage for building and accessory uses.
 - 11. A concept plan showing the location of all proposed buildings, the proposed traffic circulation system, and parking facilities.
 - 12. A tentative development schedule indicating:
 - i. The approximate date when construction of the development can be expected to begin.
 - ii. The stages in which the development will be built and the approximate date when construction on each stage can be expected to begin.
 - iii. The approximate date when each stage of development will be completed.
- c. Determination of sufficiency. The planning and development director shall determine if the application is sufficient within ten (10) working days after it is submitted.
 - 1. If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied.
 - 2. When the application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to this section.
- d. *Review and report.* On the day the application is determined sufficient, the planning and development director shall forward the application to the Jacksonville Beach Redevelopment Agency for its review and recommendation. Within twenty-five (25) working days after the receipt of the application, the Jacksonville Beach Redevelopment Agency shall review the application and prepare a report recommending approval, approval with conditions or denial, based on the standards in section 34-347(c)(3)(i). The planning and development director shall mail a copy of the redevelopment agency report to the applicant on the day the report is completed, along with written notification of the time and place at which the application will be considered by the planning commission at a public hearing.
- e. *Public hearings.* The planning commission shall hold one (1) public hearing and the city council shall hold two (2) public hearings on a preliminary development plan for a RD zoning district classification when the amendment would affect five (5) percent or more of the total land area of the city. The second public hearing before the city council shall be held approximately two (2) weeks after the first public hearing. The day, time, and place at which the second city council public hearing will be held shall be announced at the first public hearing. The planning commission and the city council each shall hold at

least one (1) public hearing on a proposed preliminary development plan for a RD zoning district when that amendment would affect less than five (5) percent of land in the city. The public hearings shall be held after 5:00 p.m. on a weekday.

- f. *Notice.* The planning and development director shall provide notice of the public hearings pursuant to the requirements of section 34-154(b).
- g. *Action by planning commission.* The planning commission public hearing on the application shall be conducted pursuant to the procedures in section 34-151 et seq. At the public hearing, the planning commission shall consider the application, the recommendation of the Jacksonville Beach Redevelopment Agency, comments of the applicant and city staff, and public testimony. After close of the public hearing, the planning commission shall recommend to the city council approval, approval with conditions, or denial of the preliminary development plan for the RD zoning district classification. In reviewing and making a recommendation, the planning commission shall apply the standards in section 34-347(c)(3)(i).
- h. *Action by the city council.*
 - 1. *Scheduling of public hearing.* Upon notification of the recommendation of the planning commission, the application and recommendation shall be forwarded to the city council for the scheduling of a public hearing at the first available regularly scheduled meeting by which time the public notice requirements can be satisfied, or such time as it is mutually agreed upon by the applicant and planning and development director.
 - 2. *Decision.* At the public hearing, the city council shall consider the application, the recommendation of the Jacksonville Beach Redevelopment Agency, the recommendation of the planning commission, and comments of the applicant and city staff. After the close of the public hearing, the city council shall approve, approve with conditions, or deny the application and preliminary development plan pursuant to the standards in section 34-347(c)(3)(i).
- i. *Standards.* A preliminary development plan for a RD zoning district designation shall comply with the following standards:
 - 1. *Land area.* Development shall be approved only on land having an area which is deemed to be adequate and appropriate.
 - 2. *Permitted uses.*
 - i. Uses shall be governed by the provisions of the Jacksonville Beach Community Redevelopment Plan and shall be appropriate for the location requested, compatible with other existing or proposed uses in the general vicinity, and consistent with the adopted Jacksonville Beach Community Redevelopment Plan.

- ii. The following uses are specifically prohibited:
 - a) Manufacturing., except for activity related to the production of items designed for sale at retail on the premises such as arts and crafts, jewelry, or bakery goods.
 - b) Outdoor storage yards of any kind, including junk yards.
 - c) Wholesale trade, warehouse, and distribution establishments.
 - d) Cemeteries.
 - e) Mobile home parks.
 - f) Motor vehicle repair, services, and garages.
 - g) Transportation and transportation service establishments, except terminal and service facilities for passenger transportation.
 - h) Petroleum and petroleum products receiving, storage/and distribution.
 - i) Veterinary services and kennels.
 - j) Recreational vehicle or travel trailer parks.
 - k) Commercial and industrial laundries.
 - l) Cold storage and ice processing plants.
 - m) Contract construction establishments.
 - n) Rooming and boarding houses.
- 3. *Residential density.* The maximum density allowed for residential development shall not exceed forty (40) dwelling units per gross acre, or two (2) dwelling units for the first five thousand (5,000) square feet, plus one (1) dwelling unit for each additional one thousand (1,000) square feet of land, whichever is the strictest.
- 4. *Area and setback requirements.* Minimum lot area, minimum width, yard setbacks, and maximum lot coverage shall be consistent with the goals, objectives and policies of the Jacksonville Beach Community Redevelopment Plan, comparable to the remainder of the planned redevelopment, and comparable to the existing and proposed development of the surrounding area. The maximum building height allowed shall be thirty-five (35) feet.

5. *Traffic circulation control and parking.*
 - i. A suitable transportation and traffic control plan shall be provided showing the utilization of existing roads for access to the proposed development, and their relationship to on-site driveways, parking and loading areas, refuse collection points, sidewalks, bike paths, and other traffic-related facilities. The suitability of the proposed traffic management system shall be determined, in part, by the potential impact of the development on safety, traffic flow and control, accessibility for emergency vehicles, and consistency of the development with the provisions of the Jacksonville Beach Community Redevelopment Plan.
 - ii. Principal vehicular access points shall be designed to permit smooth traffic flow and minimize hazards to vehicular and pedestrian ways. Minor streets within a Preliminary Development Plan shall not be connected to streets outside the site in such a way as to encourage their use by through traffic.
6. *Off-street parking and loading.* Off-street parking and loading shall be provided in a planned and coordinated manner consistent with the provisions of the Jacksonville Beach Community Redevelopment Plan.
7. *Open space requirements.* All residential developments shall provide common open space for amenities or recreational purposes. The use of the open space or recreational areas shall be appropriate for the scale and character of the proposed residential development based on consideration of the size, density, anticipated population, topography, and the type of dwelling units. The common open space or recreational area shall be suitably improved for its intended use and the buildings, structures, and improvements permitted in the common areas shall be appropriate to the uses which are authorized for such areas.
8. *Signage.* All signs erected shall be consistent with the goals, objectives, and policies of the adopted Jacksonville Beach Redevelopment Plan and the standards of Article VIII, Division 4.
9. *Landscape.* Landscaping shall be consistent with the goals, objectives, and policies of the Jacksonville Beach Community Redevelopment Plan and the standards of Article VIII, Division 3.
10. *Environmental.* The stormwater management and flood protection standards shall be consistent with the goals, objectives, and policies of the Jacksonville Beach Community Redevelopment Plan and the standards in Article VIII, Division 5.
11. *Utility easements.* Easements necessary for the orderly extension and maintenance of public utility systems shall be required where they are necessary to adequately

service the development.

12. *Adequate public facilities.* There shall be adequate potable water, sanitary sewer, stormwater management, solid waste, park, roads, police, fire and emergency management services facilities to service the development. The application shall comply with the standards in Article IX, Adequate public facilities standards.
 13. *Comprehensive plan consistency.* The proposed development shall be consistent with the future land use map and the goals, objectives, and policies of the comprehensive plan.
- j. *Conditions.* The Jacksonville Beach Redevelopment Agency and the planning commission shall have the authority to recommend, and the city council shall have the authority to impose such conditions on a preliminary development plan for an RD zoning district designation that are necessary to accomplish the purposes of this section, this code, and the comprehensive plan.
 - k. *Effect of development order for preliminary development plan for an RD zoning district designation.* Issuance of a development order for a preliminary development plan for an RD zoning district classification shall constitute an amendment to the official zoning map to RD zoning district. It shall also be deemed to authorize the applicant to submit to the planning and development director an application for development permit for the development plan pursuant to section 34-251 et seq. No development plan shall be accepted for review and consideration unless the preliminary development plan has been approved and remains valid and in effect.
 - l. *Recordation.* The preliminary development plan shall be recorded in the office of the Duval County Clerk, and shall be binding upon the property owners subject to the development order, their successors and assigns, and shall constitute the development regulations for the property. Development of the property shall be limited to the uses, density, configuration, and all other elements and conditions set forth on the preliminary development plan. Failure on the part of the applicant to record the preliminary development plan within a period of one hundred eighty (180) days following its approval by the city council shall render the plan invalid.
 - m. *Time limitations.* Receipt of a development order for a preliminary development plan for an RD zoning district classification shall expire at the end of one (1) year after the date of its initial approval unless an application for a development permit for a development plan has been submitted to the planning and development director. Only one (1), one-year extension shall be granted for the preliminary development plan for an RD zoning district classification by the city council, upon written application to the planning and development director. Written application requesting the extension shall be submitted to the planning and development director no later than thirty (30) working days prior to the date that the development order is to expire. Failure to submit an application for a final development plan within the time limits established by this section shall render null and void the development order for the preliminary development plan for an RD zoning

district classification.

n. *Minor deviation to preliminary development plan for an RD zoning district designation.* A minor deviation may be made from the preliminary development plan upon written approval of the planning and development director. Minor deviations which shall be authorized are those that appear necessary in light of technical or engineering considerations first discovered during actual development that are not reasonably anticipated during the initial approval process, and shall be limited to the following:

1. Alteration of the location of any road or walkway by not more than five (5) feet;
2. Alteration of the building envelope of up to five (5) percent, provided such alteration complies with the requirements of this Code.
3. Reduction of the total amount of open space by not more than five (5) percent, provided that such reduction does not permit the required open space to be less than that required by this Code.
4. Alterations of the location, type, or quality of required landscaping elements, if it complies with this Code.

o. *Amendments to preliminary development plan.* A preliminary development plan may be amended only pursuant to the procedures established for its original approval as otherwise set forth in this section.

(4) *Development plan.* An application for a development plan shall be submitted within one (1) year of receipt of a development order for a preliminary development plan for RD zoning district, or (Ord. No. 7500, § 7.2(L), 8-19-91; Ord. No. 99-7776, § 1, 12-6-99; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2004-7878, § 1, 7-19-04; Ord. No. 2005-7899, § 7, 4-4-05)

Sec. 34-348. Planned unit development district: PUD.

(a) *Purpose and intent.* The application of flexible land use regulations to the development of land is often difficult or impossible within traditional zoning district standards. In order to permit the use of more flexible land use regulations and to facilitate use of the most advantageous techniques of land development, it is often necessary to establish a planned unit development (PUD) zoning district designation in which development is in harmony with the general purpose and intent of this code and the comprehensive plan. The objective of a PUD zoning district is to encourage ingenuity, imagination and design efforts on the part of builders, architects, site planners and developers, to produce development which is in keeping with overall land use intensity and open space objectives of this code and the comprehensive plan, while departing from the strict application of the dimensional standards of the traditional zoning districts. The intent of the PUD zoning district designation is to permit such flexibility and provide performance criteria for PUD which:

- (1) Permits a creative approach to the development of land;
- (2) Accomplishes a more desirable environment than would be possible through the strict

application of the minimum standards of this Code;

- (3) Provides for an efficient use of land, resulting in small networks of utilities and streets, thereby lowering development costs;
- (4) Enhances the appearance of the land through preservation of natural features, the provision of underground utilities, where possible, and the provision of recreation areas and open space in excess of existing standards;
- (5) Provides an opportunity for new approaches to ownership;
- (6) Provides an environment of stable character compatible with surrounding areas; and
- (7) Retains property values.

(b) *General applicability.* Before any development shall be designated planned unit development (PUD) zoning district on the official zoning atlas, it shall receive PUD zoning district approval pursuant to the terms of this section.

(c) *Initiation of application.* An application for a development permit for a PUD zoning district designation may only be submitted by the owner, or any person having a contractual interest and unified control of the land, or their authorized agent.

(d) *General overview.* Prior to receipt of a planned unit development (PUD) zoning district classification, land must receive approval of a preliminary development plan for PUD pursuant to the procedures and standards of this section. The preliminary development plan for a PUD zoning district classification must then receive approval of a development plan pursuant to the procedures and standards of section 34-251 et seq.

(e) *Preapplication conference.*

- (1) *Submission of application.* Prior to submitting an application for a development permit for a development plan for a PUD, an applicant shall request in writing a preapplication conference with the planning and development director. Accompanying the request for a preapplication conference shall be an application in the form established by the planning and development director and made available to the public, and a nonrefundable application fee which is established from time to time by the city council to defray the actual cost of the preapplication conference.
- (2) *Determination of sufficiency.* Within ten (10) working days of receipt of an applicant's request for a preapplication conference and the application, the planning and development director shall determine whether the application is sufficient.
 - a. If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the deficiencies. No action shall be taken to initiate a preapplication conference until

the deficiencies are remedied.

- b. When the application is determined sufficient, the planning and development director shall notify the applicant in writing of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.
- (3) *Scheduling of preapplication conference.* Within ten (10) working days after the planning and development director determines that the application is sufficient, a preapplication conference on the proposed application shall be scheduled with the applicant and such other city departments and/or state agencies that may be involved in the review and processing of the application. The applicant shall be notified in advance by the planning and development director about which other city departments and state agencies will be involved in the preapplication conference and the time, date and place of the conference.
- (4) *Preapplication conference issues.* At the preapplication conference, the planning and development director, the applicant, and the representatives from other city departments and state agencies shall discuss the proposed development and the following issues as they relate to the application for a development permit for a development plan for a PUD.
 - a. Physical characteristics of the site proposed for development including but not limited to protection areas, wetlands and easements;
 - b. Relationship between the proposed development and surrounding land uses;
 - c. Status of existing and proposed on-site streets, utilities or other public and private facilities to serve the proposed development;
 - d. Status of public facilities that would serve the proposed development, specifically as it relates to the CIE of the comprehensive plan;
 - e. Common open areas proposed to serve the development;
 - f. Maintenance mechanisms and procedures designed to guarantee the care and upkeep of the common elements;
 - g. Identification of the appropriate development review procedures for the proposed development, and a tentative schedule of review for any proposed consolidation of review for more than one application for development permit; and
 - h. Applicability of F.S. §§ 380.05 and 380.06, (Florida Land and Water Management Act) to the proposed development.
- (5) *Written summary.* Within ten (10) working days of the preapplication conference, the planning and development director shall provide the applicant with a written summary of the preapplication conference. One (1) copy of this written summary shall be submitted by the

applicant to the planning and development director at the time of submission of the application for development permit.

- (f) *Preliminary development plan for PUD.*
- (1) *Submission of application.* Subsequent to the preapplication conference, an application for a preliminary development plan for a planned unit development (PUD) zoning district classification shall be submitted to the planning and development director, along with a nonrefundable application fee which is established from time to time by the city council to defray the actual cost of processing the application.
- (2) *Contents of application.* The application shall be submitted in a form established by the planning and development director and made available to the public that contains the following information:
- a. The name, address, and telephone number of the owner of record of the land proposed for development.
 - b. The name, address, and telephone number of the developer, if different from the owner, and an explanation of the difference.
 - c. The name address, and telephone number of the agent for the application, if there is an agent.
 - d. The name, address, and telephone number of all land use, environmental, engineering, economic, or other professionals that are assisting in the application.
 - e. The street address and legal description of the land on which the preliminary development plan for PUD is proposed to occur, with attached copies of any instruments referenced, such as, but not limited to, deeds, plats, easements, covenants, and restrictions.
 - f. Evidence that the applicant has unified control of the land proposed for PUD zoning district classification.
 - g. A copy of the relevant Duval County property assessment map, showing the exact location of the land proposed for development, with the boundaries clearly marked.
 - h. An eight and one-half (8 1/2) by eleven (11) vicinity map locating the land proposed for development.
 - i. A description of the existing zoning district classification, and future land use map designation of the land proposed for development, as well as the existing land uses and zoning district classification of any contiguous land owned by the applicant (disregarding intervening road right-of-way).

- j. A preliminary development plan, at a scale of one (1) inch equals one hundred (100) feet or larger, that contains, but is not limited to, the following:
1. The proposed name or title of the development, and the name of the engineer, architect and developer.
 2. A north arrow.
 3. The date and legal description of the proposed PUD zoning district classification.
 4. Identification of the boundaries of the land shown with bearings, distances, closures and bulkhead lines on the land, and all existing easements, section lines, streets and physical features.
 5. The names and location of adjoining developments and subdivisions.
 6. The proposed parks, school sites or other public and private open space.
 7. The vehicular and pedestrian circulation systems, including off-street parking and loading areas, driveways and access points.
 8. The site data, including tabulation of the total number of gross acres in the development, the acreage to be devoted to each of the several types of residential, non-residential uses, and open space uses, the total number of dwelling units and square feet of gross non-residential building area, and public beach access, where applicable.
 9. Designation of common open space and any complementary structures, and the tabulation of the percent of the total area devoted to common open space.
 10. A delineation of specific areas which constitute a proposed development phase.
 11. A general statement indicating the proposed means of drainage for the site to ensure conformity with natural drainage within the area or with the drainage plan established within the vicinity.
- k. A description of how there will be assurance that adequate public facilities will be available pursuant to the requirements of Article X, Adequate public facility standards.
- l. A statement of how open space and recreation facilities will be preserved and maintained.
- m. A certificate of survey completed by a professional land surveyor registered in the State of Florida certifying the preliminary development plan.
- n. The general location, dimensions and character of construction of all proposed streets, driveways, points of ingress and egress, loading areas, number of parking spaces and

areas, residential areas and structures, non-residential areas and structures, recreational areas and structures and common open space.

- o. Proposed architectural and landscape deed restrictions that clearly reflect the compatibility of the variety of primary and secondary uses proposed.
- p. Location and width of canals, waterways and flood prone areas.
- q. A development schedule.
 - 1. Delineating areas to be developed according to their order of construction.
 - 2. Proposing dates for beginning and completing construction of each development phase.
 - 3. Proposing a schedule for the construction and improvement of common open space, streets, utilities, and any other necessary improvements for each development phase.

(3) *Determination of sufficiency.* Within ten (10) working days after receipt of the application, the planning and development director shall determine if the application is sufficient.

- a. If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied.
- b. When the application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to this section.

(4) *Review and report.* Within thirty (30) working days after the application is determined sufficient, the planning and development director shall review the application, and prepare a staff report recommending approval, approval with conditions, or denial based on the standards in section 34-348(j)3. The planning and development director shall mail a copy of the staff report to the applicant by mail on the day the staff report is completed, along with written notification of the time and place the application will be considered by the planning commission at a public hearing.

(g) *Public hearings.* The planning commission shall hold one (1) public hearing and the city council shall hold two (2) public hearings on a preliminary development plan for a PUD zoning district designation when the amendment would affect five (5) percent or more of the total land area of the city. The second public hearing before the city council shall be held approximately two (2) weeks after the first public hearing. The day, time, and place at which the second city council public hearing will be held shall be announced at the first public hearing. The planning commission and the city council each shall hold at least one (1) public hearing on a proposed development plan for a PUD zoning district designation when that amendment would affect less than five (5) percent of land in the city. The public hearings shall be held after 5:00 p.m. on a weekday.

(h) *Notice.* The planning and development director shall provide notice of the public hearings pursuant to section 34-154(b).

(i) *Action by planning commission.* The planning commission shall conduct a public hearing on the application pursuant to the procedures in section 34-151 et seq. and after close of the public hearing recommend to the city council approval, approval with conditions, or denial of the preliminary development plan for the PUD zoning district classification. In reviewing and making a recommendation, the planning commission shall apply the standards in section 34-348(j)3.

(j) *Action by city council.*

(1) *Scheduling of public hearing.* After the review and recommendation of the planning commission, the application shall be scheduled for consideration at either one (1) or two (2) public hearings by the city council, whichever is applicable, at the first regularly scheduled public hearing by which time the public notice requirements can be satisfied, or such time as is mutually agreed upon between the applicant and planning and development director.

(2) *Decision.* The city council shall consider the application, the relevant support materials, the staff report, the recommendation of the planning commission, and public testimony, and after the close of the public hearing(s) shall approve, approve with conditions, or deny the application for development permit for the preliminary development plan for a PUD zoning district classification based on the standards of section 34-348(j)3.

(3) *Standards.* A preliminary development plan for a PUD shall comply with the following standards:

a. *Area.* There shall be no minimum acreage required.

b. *Unified ownership or control.* The title to all land that is part of a PUD zoning district designation shall be owned or controlled by one person. A person shall be considered to control all lands in the PUD either through ownership or written consent of the owners of the land to be subject to the conditions and standards of the development order for the development plan for the PUD zoning district designation.

c. *Density.* Residential development shall not exceed the maximum densities established in the RM-2 zoning district.

d. *Building height:* Thirty-five (35) feet.

e. *Access.* Safe and adequate access shall be provided to all development, either directly or indirectly, by a public right-of-way, private vehicular or pedestrian way or a commonly owned easement. City-owned vehicles shall be permitted access on privately owned roads, easements and common open spaces in order to perform basic municipal services such as fire and police protection and emergency service needs of the residents of the PUD.

- f. *Off-street parking and loading.* The off-street parking and loading standards for the preliminary development plan for PUD shall comply with the requirements of article VIII, division 1.
- g. *Adequate public facilities.* There shall be a demonstration that the development proposed in the preliminary development plan complies with article X, adequate public facilities standards.
- h. *Common recreation and open space.* The preliminary development plan shall comply with the following common recreation and open space standards.
 - 1. A minimum of twenty (20) percent of the gross land in the development plan shall be reserved for common recreation and usable open space. Parking areas, street rights-of-way, or minimum yards and spacing between buildings shall not be included when determining usable open space. Water bodies contained on-site may account for up to fifty (50) percent of the required open space.
 - 2. All common open space and recreational facilities shall be included in the development plan. Such common open space and recreational facilities shall be constructed and fully improved according to the development schedule established for each development phase of the development plan.
 - 3. All privately owned common open space shall continue to conform to its intended use as specified in the development plan. To ensure that all the common open space identified in the development plan will be used as common open space, restrictions and/or covenants shall be placed in each deed to ensure their maintenance and prohibit the partition of any common open space.
 - 4. If common open space is proposed to be maintained through an association or nonprofit corporation, such organization shall conform to the following standards.
 - i. The association or nonprofit corporation shall be established prior to the sale of any lots or units within the development plan for PUD.
 - ii. Membership in the association or nonprofit corporation shall be mandatory for all property owners within the development plan for PUD.
 - iii. The association or nonprofit corporation shall manage all common open space and recreational and cultural facilities that are not dedicated to the public; and shall provide for the maintenance, administration and operation of such land and any other land within the development plan for PUD not publicly owned, and secure adequate liability insurance on the land.
- i. *Compatibility of open spaces.* Open space uses shall be designed in a compatible manner.

- j. *Compatibility with surrounding land uses.* The development proposed in the Preliminary development plan shall be consistent with the character of surrounding land uses.
- k. *Beach access.* The preliminary development plan shall not diminish existing public beach access.
- l. *Consistency with comprehensive plan.* The preliminary development plan shall be consistent with the comprehensive plan.

(4) *Conditions.* The planning commission shall have the authority to recommend and the city council shall have the authority to impose such conditions on a development plan that are necessary to accomplish the purposes of this Code and comprehensive plan.

(k) *Recordation.* The preliminary development plan and PUD agreement shall be recorded in the office of the Clerk of Circuit Court, Duval County, and shall be binding upon the property owners subject to the development order, their successors and assigns, and shall constitute the development regulations for the property. Development of the property shall be limited to the uses, density, configuration, and all other elements and conditions set forth in the preliminary development plan and PUD agreement. Failure on the part of the applicant to record the development plan and PUD agreement within a period of sixty (60) calendar days following its approval by the city council shall render the PUD zoning district classification null and void.

(l) *Time limitations.* Time limitations of a development order for a preliminary development plan shall be established in the PUD agreement

(m) *Minor deviations of the preliminary development plan for PUD development order.* Minor deviations to an approved development order for a development plan for a PUD may be authorized by the planning and development director. Minor deviations shall be limited to technical or engineering considerations first discovered during actual development which could not reasonably be anticipated during the approval process and shall consist of no more than the following:

- (1) Alteration of the location of any road or walkway by not more than five (5) feet;
- (2) Alteration of the building envelope of up to five (5) percent, provided such alteration complies with the requirements of this Code.
- (3) Reduction of the total amount of open space by not more than five (5) percent, provided that such reduction does not permit the required open space to be less than that required by this Code.
- (4) Alterations of the location, type, or quality of required landscaping elements, if it complies with this Code.

(n) *Amendment to preliminary development plan for PUD.* A preliminary development plan for a PUD may be amended only pursuant to the procedures established for its original approval as otherwise set forth in this section.

(Ord. No. 7500, § 7.2(M), 8-19-91; Ord. No. 2001-7810, § 1, 7-16-01; Ord. No. 2004-7879, § 1, 7-19-04; Ord.

No. 2005-7899, § 8, 4-4-05)

Secs. 34-349--34-370. Reserved.

ARTICLE VIII.

SITE DEVELOPMENT STANDARDS

DIVISION 1.

PARKING AND LOADING STANDARDS

Sec. 34-371. Applicability.

Off-street parking and loading spaces shall be provided for all uses in accordance with the requirements of this division. Expansions of and changes to existing land uses shall also comply with such requirements. (Ord. No. 7500, § 8.1(A), 8-19-91)

Sec. 34-372. Interpretation of standards.

In interpreting the provisions of this division, the following standards shall apply:

- (1) *Floor area.* For the purpose of computing parking and loading requirements that are based on the amount of floor area in a building, gross floor area shall be used.
- (2) *Fractions and rounding.* When calculations used in determining the number of required parking and loading spaces result in fractional requirements, any fractions of less than one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall be rounded to the next highest whole number.
- (3) *Seating-based standards.* For the purpose of computing parking and loading requirements that are based on seating, the parking requirements shall be based on the total number of seats shown on the seating diagram submitted pursuant to the Jacksonville Beach Life Safety Code.
- (4) *Multiple uses.* Developments containing more than one (1) use shall provide off-street parking and loading in an amount equal to the sum of the requirements for the individual uses unless a shared parking plan is approved pursuant to section 34-376.
- (5) *Unlisted uses.* If a use is not specifically listed in the schedule of off-street parking space requirements of section 34-377, the planning and development director shall apply the off-street parking space requirements of the most closely related use.

(Ord. No. 7500, § 8.1(B), 8-19-91)

Sec. 34-373. Design standards.

- (a) *Spaces.* The minimum dimensions of off-street parking and loading spaces shall be as follows:

- (1) *Off-street parking:* Nine (9) feet by seventeen (17) feet.
- (2) *Parallel parking:* Nine and one-half (9 1/2) feet by twenty (20) feet.
- (3) *Parking for the handicapped:* Twelve (12) feet by seventeen (17) feet, plus a five-foot wide clear area (the clear area may be combined with the clear area for an adjacent handicapped space).
- (4) *Off-street loading:* Twelve (12) feet by forty (40) feet.

(b) *Parking aisles.* The minimum required dimensions of off-street parking aisles shall be based on the angle of the parking stalls to the aisle as follows:

Parking Angle (degrees)	Width of One-Way Aisle (feet)	Width of Two-Way Aisle (feet)
30	12	23
45	12	23
60	16	23
90	23	23

(c) *Turning and maneuvering space.* Off-street turning and maneuvering space shall be provided for each lot so that no vehicle shall be required to back onto a public street or alley, with the exception of one- and two-family structures, townhouses, or individual multiple-family structures containing up to four (4) units with attached garages or carports.

(d) *Parking area setbacks.* Off-street parking areas shall be located at least ten (10) feet from any corner and five (5) feet from any established right-of-way or property line unless otherwise stated in the LDC. Below ground parking garages on oceanfront lots are exempt from setback requirements, provided that they shall be constructed no closer than three (3) feet from any property line, shall be completely roofed and covered, and such roof or cover shall not be elevated more than six (6) inches above the crown of the abutting street.

(e) *Curbs and wheel stops.* Curbing or wheel stops shall be provided within off-street parking and loading areas to prevent vehicles from encroaching upon public rights-of-way, landscape areas or adjacent property. Curbing or wheel stops shall be installed at least five (5) feet from any property line.

(f) *Construction standards.* Off-street parking and loading areas shall be paved, striped, and landscaped. All landscaping shall be in accordance with section 34-425.

(g) *Lighting.* If off-street parking areas are lighted, lighting shall be designed and installed in a manner that will prevent harsh glare or excessive light from spilling onto adjacent property and streets. (Ord. No. 7500, § 8.1(C), 8-19-91)

Sec. 34-374. Location of parking facilities.

Parking spaces for all uses shall be located on the same site as the principal structure or use unless off-site parking is approved pursuant to section 34-375. (Ord. No. 7500, § 8.1(D), 8-19-91)

Sec. 34-375. Off-site parking.

If required parking spaces cannot be reasonably provided on the same site as the principal use, the planning and development director shall approve plans to provide required off-site parking if the following requirements are met:

- (1) *Location.* The nearest boundary of any off-site parking area shall not be located more than three hundred (300) feet from the primary entrance of the principal use served.
- (2) *Zoning.* Off-site parking areas shall be located on lots zoned to permit the principal use being served by the required parking, except that required parking for any residential use may be located in a nonresidential district.
- (3) *Exclusive use.* An off-site parking area may not be used for any purpose other than parking for the principal use.
- (4) *Deed restrictions.* A deed restriction dedicating the off-site parking area for use in conjunction with the principal use shall be prepared and recorded with the deed of said property. The deed restriction shall specify that the parcel or parcels shall remain as off-street parking for as long as the principal use remains, and shall contain a legal description of the property occupied by the principal use. Evidence of the recording of the deed restriction shall be provided before any construction permit is issued.
- (5) *Signs.* No signs other than one (1) identification sign and traffic directional sign shall be permitted on the off-site parking lot. Such identification sign shall indicate the name and location of the principal use served by the off-site parking area, and shall not exceed three (3) feet in height and four (4) square feet in area.

(Ord. No. 7500, § 8.1(E), 8-19-91)

Sec. 34-376. Shared parking.

The planning and development director may authorize a reduction in the number of required parking spaces for a mixed use development or for uses which are located near one another and which have different peak parking demands and operating hours. Shared parking arrangements shall be subject to the following requirements.

- (1) *Application.* An application for shared parking shall include a description of the use, a development plan complying with the requirements of section 34-256, a trip generation report, and a parking study and other information deemed necessary by the planning and development director.
- (2) *Location.* All shared parking shall be located in an area providing reasonable accessibility to all uses which it is intended to serve.
- (3) *Agreements.* In cases where the uses for which shared parking is requested are located on lots

under different ownership, proof of a long-term lease agreement shall be required and shall be subject to review by the city attorney.

(4) *Standards.* In determining whether to approve a reduction for shared parking, the following shall be considered:

- a. Characteristics of each use and projected peak parking demand, including hours of operation;
- b. Potential reductions in vehicle movements afforded by multi-purpose use of spaces by employees, customers or residents; and
- c. Potential improvements in access, design, open space preservation and circulation.

(Ord. No. 7500, § 8.1(F), 8-19-91)

Sec. 34-377. Off-street parking space requirements.

Off-street parking spaces shall be provided in accordance with the following minimum standards. In no case shall any business or office use provide fewer than three (3) off-street parking spaces.

USE TYPE	REQUIREMENT
Single-family, mobile home, two-family, townhouse, and multiple-family dwellings	Two (2) spaces per dwelling unit.
Timeshare residential structures	Two and one-quarter (2 1/4) parking spaces per dwelling unit plus spaces normally required for any accessory uses.
Housing for the elderly	One (1) space per unit.
Fraternity, sorority houses	One and one-half (1 1/2) spaces for each two (2) residents.
Hotels and motels	One and one-quarter (1 1/4) spaces per guest room for the first fifty (50) guest rooms and one (1) space per guest room over fifty (50).
Rooming and boarding houses	One and one-quarter (1 1/4) spaces per guest room.
Commercial uses	
Shopping centers:	
Up to 399,999 sq. ft.	One (1) space per two-hundred fifty (250) sq. ft. of floor area.
400,000--599,999 sq. ft.	One (1) space per two-hundred twenty-five (225) sq. ft. of floor area.
600,000 sq. ft. and over	One (1) space per two hundred (200) sq. ft. of floor area.

Marinas	One (1) space per four (4) wet berths plus one (1) space per six (6) dry storage spaces.
Bus terminals	One (1) space per four hundred sq. ft. of floor area.
Auto repair establishments	Two (2) spaces per repair stall, plus one (1) space per three hundred (300) sq. ft. of non-stall floor area.
Barber and beauty shops	Two (2) spaces per chair or station.
Banks	One (1) space per two-hundred fifty (250) sq. ft. of floor area.
Restaurants, private clubs, night clubs, bars, and taverns	One (1) space per one hundred (100) sq. ft. of floor area.
Commercial uses not specifically listed	One (1) space per two hundred (200) sq. ft. of floor area.
Professional and office uses	
Medical and dental office or clinic	One (1) space per two hundred (200) sq. ft. of floor area.
Veterinary clinic	One (1) space per three hundred (300) sq. ft. of floor area.
Radio or television broadcasting offices or studios	One (1) space per five hundred (500) sq. ft. of floor area, plus one (1) space per each two (2) employees.
Other professional or business offices	One (1) space per three hundred (300) sq. ft. of floor area.
Industrial uses	
Manufacturing, warehousing, industrial and research and development uses	One (1) space per two thousand (2,000) sq. ft. of outdoor storage, equipment servicing or manufacturing site area, plus one (1) space per one thousand (1,000) sq. ft. of floor area devoted to indoor storage, warehousing, equipment servicing or manufacturing, plus one (1) space per seven-hundred fifty (750) sq. ft. of outdoor sales, services or display area, plus one (1) space per five hundred (500) sq. ft. of indoor sales, services or display area, one (1) space per three hundred (300) sq. ft. of office or administrative floor area.

Recreational and similar uses	
Theaters	One (1) space per three (3) seats.
Bowling alleys	Four and one-half (4 1/2) spaces per bowling lane.
Amusement areas (rides, miniature golf, etc.)	One (1) space per four hundred (400) sq. ft. of area bounded by the property lines containing the amusement area.
Concession stands (shooting galleries, eating stands, etc.)	Three (3) spaces per each concession stand or portion of a structure occupied by a particular concession other than movie, stage or tent shows. Movie, stage or tent shows with seats--same requirement as for theaters. Standing movie, stage or tent shows--one (1) space per one hundred (100) sq. ft. of audience area.
Auditoriums, stadiums, arenas and similar meeting places	One (1) space per three (3) seats.
Community centers or similar facilities	One (1) space per two hundred (200) sq. ft. of floor area or one (1) space per three (3) seats, whichever is greater.
Public, private and commercial parks, campgrounds and recreational areas	One (1) space per campsite, plus one (1) space per each three (3) picnic tables.
Institutional uses	
Sanitariums, rest homes, nursing homes, convalescent homes	One (1) space per two (2) beds.
Hospitals	One and one-half (1 1/2) spaces per bed.
Churches and funeral homes	One (1) space per four (4) seats.
Art gallery, library, museum	One (1) space per four hundred (400) sq. ft. of floor area.
Elementary and junior high school	Two (2) spaces per classroom, office room and kitchen.
Senior high school	Six (6) spaces per classroom, plus one (1) space per teaching, administrative and staff person.
Child day care and kindergarten	One (1) space per three hundred (300) sq. ft. of floor area, plus adequate provision for the loading and unloading of children.

Dance, art and music studios	One (1) space per one hundred (100) sq. ft. of studio floor area.
Colleges, junior colleges, universities, vocational and business schools	One (1) space per one hundred (100) sq. ft. of floor area.

(Ord. No. 7500, § 8.1(G), 8-19-91)

Sec. 34-378. Parking for disabled persons.

(a) *Provision of spaces.* Parking spaces for disabled persons shall be reserved and posted in all commercial and industrial zoning districts and in any other zoning districts where use is open to the public.

(b) *Location of spaces.* Parking spaces for disabled persons shall be conveniently located near entrances. Ramps to sidewalks shall be provided and conveniently located in relationship to parking spaces.

(c) *Number of spaces.* The required number of parking spaces for disabled persons shall be as follows:

Total No. of Spaces	No. of Accessible Spaces Required
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
Over 1,000	20
Plus 1 per each 100 over 1,000	

Provided, however, when parking spaces are leased at such parking facilities, the number of parking spaces for disabled persons shall be increased or decreased based on demonstrated and documented need. A minimum of four (4) parking spaces for disabled persons shall be provided at a physical restoration rehabilitation center or hospital.

(Ord. No. 7500, § 8.1(H), 8-19-91)

Sec. 34-379. Off-street loading space requirements.

(a) *Number of spaces.* Uses which normally require the receipt or distribution of a large volume of materials or merchandise by vehicles, including but not limited to hospitals, institutions, motels, commercial, wholesale, industrial or similar uses, shall provide off-street loading spaces in the following amounts:

Floor Area (square feet)	Minimum Number of Spaces
5,000--20,000	1

20,001--50,000	2
50,001--80,000	3
80,001--125,000	4
125,001--175,000	5
175,001--225,000	6
225,001--280,000	7
Per additional 60,000	1

(b) *Location and size of spaces.* Each off-street loading space shall have direct access to an alley or street and shall have the following minimum dimensions: Length--forty (40) feet; width--twelve (12) feet; height (if space is covered)--fourteen (14) feet.
(Ord. No. 7500, § 8.1(I), 8-19-91)

Secs. 34-380--34-390. Reserved.

DIVISION 2.

SUPPLEMENTAL STANDARDS

Sec. 34-391. General requirements for yards.

(a) *Obstructions.* Every part of a required yard shall be open from its lowest point to the sky, as measured from the exterior bearing or non-bearing walls, columns or supports to the property line except for the projection of chimneys, flues, eaves or architectural embellishments, provided, however, that none of the above projections shall encroach into the required setback more than twenty-four (24) inches or in the case of eaves, thirty (30) inches.

(b) *Double frontage (through) lots.* On double frontage (through) lots, the required front yard shall be provided on each street.

(c) *Fire escapes, stairways and balconies.* Fire escapes, stairways and balconies shall not intrude into required yards.
(Ord. No. 7500, § 8.2(A), 8-19-91)

Sec. 34-392. Accessory uses and structures.

Accessory uses and structures are permitted in all zoning districts provided that such uses and structures are customarily incidental and clearly subordinate to a permitted use and, unless otherwise provided, are located on the same lot (or contiguous lot in the same ownership) as the permitted use. Where a building or portion thereof is attached to a building or structure containing such principal use, such building or portion thereof shall be considered as a part of a principal building and not an accessory building. Accessory uses shall not involve operations or structures not in keeping with the character of the zoning district where they are located and shall be subject to the following requirements.

(1) *Setbacks.* Detached accessory structures shall observe the following setback requirements from adjacent property lines:

- a. *Generally.* Detached accessory structures excluding temporary structures may be located in a required rear yard but shall be no closer than five (5) feet from any interior lot line. Street side and front yard setbacks shall be maintained on corner lots for the full length and width of the lot. Air conditioning compressors or other equipment designed to serve the main structure may be located in any required side or rear yard, but shall not project more than three (3) feet into any required yard in a residential district.
 - b. *Oceanfront lots.* A detached accessory building may be constructed in the required setback area of the front yard of any oceanfront lot provided that the following conditions are met:
 1. The accessory building shall not extend beyond the width of the principal building.
 2. The accessory building shall not exceed fifteen (15) feet in height above grade.
 3. A landscape buffer strip with a minimum width of fifteen (15) feet from the front or rear property line shall be established and maintained, exclusive of required walks and driveways.
- (2) *Household pets.* Household pets, along with related doghouses and pens, are a permitted accessory use to residential uses in all zoning districts, provided the number of such pets over six (6) months in age shall not exceed three (3), and the keeping of four (4) or more dogs, six (6) months of age or older, shall be considered a kennel.
- (3) *Residential accessory uses.* Accessory uses and structures in any residential zoning district shall include non-commercial greenhouses, gardens, detached garages and carports, piers, docks, and boat houses or shelters, utility sheds and workshops, swimming pools, tennis courts, private golfing facilities, barbecue pits, non-commercial antenna structures for television and radio, children's playhouses or play equipment, and similar uses or structures which:
- a. Do not exceed fifteen (15) feet in height,
 - b. The combined ground floor area of all enclosed, detached accessory use buildings shall not exceed six hundred twenty-five (625) square feet,
 - c. Do not involve the conduct of business of any kind;
 - d. Are of a nature not likely to attract visitors in larger numbers than would normally be expected in a residential neighborhood; and
 - e. Do not involve operations or structures not in keeping with the character of the residential neighborhood.
- (4) *Pools.* Private swimming pools, as regulated herein, shall be any pool, lake or open tank located either above or below the existing finished grade of the site, not located within a completely

enclosed building, and exceeding one hundred fifty (150) square feet in surface area and two (2) feet in depth, designed, used or intended to be used for swimming or bathing purposes.

- a. *General.* A private swimming pool shall be allowed in any residential zoning district as an accessory use only if it fully complies with the following standards:
 1. The pool shall be used solely for the enjoyment of the occupants of the principal use on the property or their guests.
 2. The pool shall be located, designed, operated, and maintained so as not to interfere with the rights of the adjoining properties.
 3. The pool shall be located no closer than five (5) feet from any property line, provided, however, that it shall not be located in any required front yard nor encroach into any required side yard.
 4. The pool shall be constructed and enclosed in compliance with the requirements set forth in the Standard Swimming Pool Code as adopted or amended by the city.
 - b. *Oceanfront lots.* Below ground swimming pools and a related pump house no more than fifteen (15) feet in height may be constructed in the required front and rear yards if a landscape buffer strip is provided and maintained, with a minimum width of fifteen (15) feet from the property line, exclusive of required walks and driveways.
 - c. *Screen enclosures.* A screen enclosure constructed around and over a swimming pool shall be considered a part of the principal structure and shall comply with the standards with the dimensional standards and requirements of section 34-336 et seq., of the LDC, except that the screen enclosure, whether attached to or detached from the principal structure, may be constructed to within five (5) of the rear property line.
- (5) *Communications antennae on structures in C-1, CBD and RM-2 zoning districts.* Communications antennae and related equipment may be located as accessory structures on principle structures in commercial, limited: C-1, Central business district: CBD, and Residential, multiple-family: RM-2 zoning districts including, but not limited to, buildings, water towers, and essential public utility structures, subject to the following conditions:
- a. No portion of the communications facility, including all antenna and equipment components, may extend more than twenty (20) feet above the structure on which it is located.
 - b. Facility components shall be located, designed, and screened or otherwise treated to blend with the existing natural or built surroundings so as to reduce visual impacts to the extent feasible considering the technological requirements of the proposed communications service and the need to be compatible with neighboring uses and the character of the community.

- c. Proof, in writing, must be submitted with building permit application materials that the facility conforms with regulations of the Federal Communications Commission (FCC) and Federal Aviation Administration (FAA), and that the existing structure is structurally capable to accept the proposed facility.
- d. No communications facility shall be designed and or sited such that it poses a potential hazard to humans, on-site improvements, or surrounding properties.

(Ord. No. 7500, § 8.2(B), 8-19-91; Ord. No. 97-7714, § 1, 8-4-97; Ord. No. 2004-7880, § 1, 7-19-04)

Sec. 34-393. Alcoholic beverage establishments.

Alcoholic beverage establishments shall be subject to the following supplementary standards.

- (1) *Proximity to churches and schools.* An establishment, where permitted, which provides for the consumption of alcoholic beverages on the premises shall not be located within five hundred (500) feet of a school or church measured from main entrance to main entrance (portal to portal) by the most direct pedestrian route. Hotels with one hundred (100) or more rooms and restaurants with a seating capacity of one hundred fifty (150) or more may be located closer than five hundred (500) feet to a school or church.
- (2) *Proximity to other alcoholic beverage establishments.* An establishment whose primary activity involves the consumption of alcoholic beverages on the premises shall not be located within five hundred (500) feet of a similar existing establishment, measured from main entrance (portal to portal) by the most direct route. Hotels with one hundred (100) or more rooms, restaurants with seating capacities of one hundred fifty (150) or more and businesses wherein the sale of alcoholic beverages is only incidental to the principal use may be located closer than five hundred (500) feet to another establishment serving alcoholic beverages for consumption on the premises.

(Ord. No. 7500, § 8.2(C), 8-19-91)

Sec. 34-394. Compatibility setbacks.

Where a commercial or industrial zoning district is adjacent to the side yard of a residential zoning district, the side yard adjacent to the residential zoning district shall not be less than the minimum side yard requirement of the adjoining residential zoning district. Where a commercial or industrial zoning district is adjacent to the side yard of a residential zoning district, the front yard of the commercial or industrial zoning district shall not be less than that of an adjacent residential zoning district for a distance of three hundred (300) feet from the common property line or the termination of the block, whichever is less.

(Ord. No. 7500, § 8.2(D), 8-19-91)

Sec. 34-395. Corner visibility.

On a corner lot in all zoning districts, no fence, wall, hedge, planting, or structure shall be erected, placed, planted, or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2 1/2) feet and eight (8) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines twenty (20) feet from the point of

intersection. In addition to these requirements, landscaping within sight visibility triangles shall be governed by the standards of section 34-425(h).
(Ord. No. 7500, § 8.2(E), 8-19-91)

Sec. 34-396. Child day care services.

Child day care services, including day nurseries, kindergartens and child care centers, shall be subject to the following conditions:

- (1) *Lot area.* The minimum lot area shall be not less than seven thousand five hundred (7,500) square feet except for lots of record platted prior to the adoption of the LDC.
- (2) *Outdoor play area.* A fenced outdoor play area, which complies with all applicable state requirements, shall be provided in the rear yard.
- (3) *Compliance with state standards.* All facilities, operation and maintenance shall meet all applicable city and state regulations for such use.
- (4) *Capacity.* An application for a conditional use shall state the maximum number of children to be accommodated, and in no case shall the number of children approved for the conditional use be exceeded.

(Ord. No. 7500, § 8.2(F), 8-19-91)

Sec. 34-397. Essential public services.

Essential public services may be permitted by conditional use in any zoning district where they are not otherwise permissible. Essential public services include duly organized fire/rescue units and are otherwise limited to certain installations of water, sewer, gas, telephone or electrical systems. This division shall not be deemed to permit the location in a zoning district of such major installations as electrical or gas generating plants, sewage treatment plants, water pumping or aeration facilities and other similar major installations, unless such facilities were constructed or actual physical construction was started prior to the adoption of the LDC. The following supplementary standards shall apply to such uses:

- (1) This division shall not be deemed to permit the erection of structures for commercial activities such as sales of related merchandise or collection of bills in zoning districts from which such activities would otherwise be prohibited.
- (2) Within the limits of their proposed function, the architecture and landscaping shall be harmonious with the surrounding neighborhood.

(Ord. No. 7500, § 8.2(G), 8-19-91)

Sec. 34-398. Height limit exemptions.

The zoning district height limitations contained in Article VII, Zoning Districts, do not apply to spires, belfries, cupolas, flag poles, antennas, water tanks, fire towers, cooling towers, ventilators, chimneys, radio and television towers, elevator hoistways, not intended for human occupancy.

(Ord. No. 7500, § 8.2(H), 8-19-91; Ord. No. 2005-7899, § 9, 4-4-05)

Sec. 34-399. Home occupations.

(a) *Purpose.* It is the intent of this division to allow for and regulate the establishment of a home occupation in a residential neighborhood. It is also the intent of this division that the operation will be regulated in a manner to ensure that the average neighbor will be unaware of its existence.

(b) *General.* There shall be two (2) types of home occupations permitted by the city: Type I and Type II, home occupations.

(c) *Home occupations--Type I.*

(1) *Procedure.*

a. *Application for permit.* Prior to initiation of a Type I home occupation, an application for a Type I home occupation permit shall be submitted to the director of planning and development, along with a nonrefundable application fee which is established from time to time by the city council to defray the actual cost of processing the application. The application shall be in a form established by the director of planning and development and made available to the public.

b. *Determination of sufficiency.* The planning and development director shall determine if the application is sufficient within five (5) working days of its receipt.

1. If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied.

2. When the application is determined sufficient, the planning and development director shall notify the applicant in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this division.

c. *Review and decision.* Within ten (10) working days after the application is determined sufficient, the planning and development director shall review the application and make a determination on whether to issue the permit for home occupation Type I. The planning and development director shall approve, approve with conditions or deny the application based on whether the intended use is a Type I home occupation based on the standards in section 34-399(e).

(d) *Home occupations--Type II.* Prior to initiation of a Type II home occupation, an application for a Type II home occupation permit shall be submitted to the director of planning and development, and reviewed and approved, approved with conditions, or denied as a conditional use pursuant to section 34-221 et seq., and the standards in section 34-399(e).

(e) *Standards.*

- (1) *Limitation on the amount of floor space.* For Type I and Type II, home occupations, no more than twenty-five (25) percent of the gross floor area of the dwelling shall be permitted to be devoted to the home occupation use. Garages and accessory structures are not permitted to be used for home occupation uses.
- (2) *Nonresident employees.* The individual primarily responsible for the home occupation must permanently reside in the dwelling. Only for a Type II home occupation, one (1) employee in addition to the residents is permitted.
- (3) *Storage display or sale of merchandise.* The storage, display or retail sale of merchandise on the premises is prohibited, except that for a Type II home occupation, one (1) unilluminated sign not exceeding one (1) square foot in area may be approved that provides exterior evidence of the conduct of the occupation.
- (4) *Use of electrical equipment.* The use of electrical equipment that is not normally found in the home and used for domestic purposes is prohibited.
- (5) *Advertising.* All newspaper, radio, TV, or telephone directory advertising of the home occupation cannot include the specific address of the home occupation use. Post office boxes are acceptable.
- (6) *Client traffic.* No traffic shall be generated in greater volumes than would normally be expected in the zoning district in which the use takes place.
- (7) *Commercial vehicles.* Commercial vehicles owned in connection with a home occupation are prohibited from parking in the open on-site. Commercial vehicles may be garaged, provided they are totally hidden from view.
- (8) *Parking.* For a Type II home occupation only, parking may be provided off-street which accommodates both the parking needs of the dwelling and home occupation.
- (9) *Character.* The home occupational use must remain secondary or incidental to the residential use.

(Ord. No. 7500, § 8.2(I), 8-19-91)

Sec. 34-400. Junk and salvage yards.

Junk and salvage yards shall be screened from any public road and from any residential zoning district pursuant to section 34-425(e). Any storage or dismantling of vehicles or machinery shall be conducted in a manner that does not pollute surface or ground water resources.

(Ord. No. 7500, § 8.2(J), 8-19-91)

Sec. 34-401. Mobile home parks.

Mobile home parks shall comply with the following supplemental standards.

- (1) *Minimum site size.* Mobile home parks shall have a minimum area of ten (10) acres and minimum width of two hundred (200) feet.
- (2) *Maximum density.* The maximum density of any mobile home park shall not exceed eight (8) mobile home units an acre.
- (3) *Minimum lot size and setbacks.* Each mobile home lot or space shall have a minimum area of four thousand (4,000) square feet with the following setbacks:
 - a. *Front yard:* Fifteen (15) feet.
 - b. *Side yard:* Ten (10) feet.
 - c. *Rear yard:* Ten (10) feet.
- (4) *Paved area.* Each mobile home space shall be provided with two (2) paved off-street parking spaces and a paved patio with a minimum area of one hundred twenty (120) square feet.
- (5) *Recreation area.* A recreation area comprising not less than five (5) percent of the gross land area of the mobile home park shall be provided.
- (6) *Buffers and screens.* A landscape buffer at least ten (10) feet in width containing an opaque screen at least six (6) feet in height shall be maintained along the perimeter of the mobile home park.
- (7) *Drainage lakes.* If in order to satisfy drainage requirements, use of a lake is anticipated, the lake shall be maintained in an attractive manner, free from smell.
- (8) *Mobile home separation.* There shall be a minimum separation of twenty (20) feet between mobile homes.
- (9) *Landscaping and skirts.* There shall be mandatory landscaping planted and maintained around each mobile home skirting in an amount necessary to hide skirting from view.
- (10) *Streets.* All streets within mobile home parks shall be constructed according to standards in Article IX, Subdivision Standards.
- (11) *Drainage.* All drainage plans for the mobile home park must be approved by the city engineer.
- (12) *Skirting and support structures.* Each mobile home shall be placed on supports or pillars which rest on concrete pads. Prior to occupancy, skirts around each mobile home and approved tie-downs pursuant to the Standard Building Code shall be installed.
- (13) *Service buildings and facilities.* Mobile home parks shall be provided with a management office

and such service buildings or facilities as are necessary to provide for mail distribution, storage space for supplies, maintenance materials and equipment and laundry facilities.

- (14) *Lighting.* Adequate lighting shall be provided for safe circulation within the mobile home park.
 - (15) *Signs.* Mobile home parks shall be permitted to display one (1) identifying sign at each entrance. An identifying sign shall not exceed thirty-two (32) square feet and shall be lighted by an indirect lighting source which does not create an uncomfortably harsh glaring effect.
 - (16) *Fences and walls.* Fences and walls shall be constructed in accordance with section 34-406.
 - (17) *Retail uses.* One (1) convenience type retail store building, of not more than two thousand (2,000) square feet, exclusive of porches, with a set back not less than one hundred (100) feet from the nearest boundary, may be provided within the mobile home park. No other facilities for commercial sales shall be permitted. However, the owner or operator of a mobile home park may engage in the business of dealing in mobile homes, but shall not be permitted to maintain a sales lot within the park.
 - (18) *Use of mobile homes.* Mobile homes located within a mobile home park shall not be used for any other use other than dwelling purposes, except that at the option of the developer, owner or operator, mobile home units may be used for auxiliary buildings within the mobile home park. However, the convenience store provided subject to section 34-401(17). must be of conventional construction or be a prefabricated steel building. Also, prefabricated steel buildings may be used for any other auxiliary buildings in the mobile home park.
 - (19) *Water, sewer and electrical service.* Mobile home parks shall be provided with water, sanitary sewer and electrical systems. In addition, a fire hydrant of a type and capacity approved by the fire department, shall be provided within two hundred (200) feet of each mobile home.
 - (20) *Additions to mobile homes.* Additions to mobile homes, such as porches, carports and rooms, shall require a building permit.
 - (21) *Construction specifications.* Mobile homes shall be constructed in accordance with the Federal Mobile Home Construction Safety Standards, 42 USC 5401 and 5402, and 24 CFR 3282 and 3283 and shall bear an insignia issued by the United States Department of Housing and Urban Development attesting to that fact. Construction of foundations, piers, tie-downs, and municipal service connections shall be subject to the municipal permitting and inspection process.
 - (22) *Development plan.* An application for a permit to develop a mobile home park shall be accompanied by a development plan which meets the requirements of section 34-221 et seq.
- (Ord. No. 7500, § 8.2(K), 8-19-91)

Sec. 34-402. Parking of heavy vehicles in RS-1, RS-2, RS-3, RM-1, and RM-2 zoning districts, or residential uses in RD or PUD zoning districts.

For the dual purpose of preserving attractive residential areas within the city and promoting safe,

unimpeded traffic circulation throughout such areas, the following supplemental parking restrictions shall apply:

- (1) *Within a street right-of-way.* The following vehicles shall not be parked or stored on any public street right-of-way or approved private street easement contiguous to a residentially zoned property or residentially used property in an RD or PUD district:
 - a. Any boat or boat trailer.
 - b. Any hauling trailer.
 - c. Any of the following recreational vehicles: Travel trailers, motor homes and camping trailer.
 - d. Any semi-trailer truck or cab.
 - e. Any commercial vehicle which measures in excess of twenty (20) feet in total body length, seven (7) feet in total width or seven (7) feet in total height, including appurtenances, equipment or cargo.
- (2) *Within the setback area from a street right-of-way.* The following vehicles shall not be parked or stored, in whole or part, within the required setback area from a street right-of-way or approved private street easement on residentially zoned property or residentially used property in an RD or PUD district:
 - a. Any boat which measures in excess of twenty (20) feet in length.
 - b. Any hauling trailer (except trailers mounted with boats twenty (20) feet or less in length.
 - c. Any of the following recreational vehicles: Travel trailers, motor homes and camping trailers.
 - d. Any semi-trailer truck or cab.
 - e. Any commercial vehicle which measures in excess of twenty (20) feet in total body length, seven (7) feet in total width or seven (7) feet in total height, including appurtenances, equipment or cargo.
- (3) *On any residentially zoned property or residentially used property in an RD or PUD district.* No garbage truck, pump-out truck, chemical truck, gasoline truck, fuel oil truck or similar vehicle designed to transport wastes or hazardous or noxious materials shall be parked or stored in any residentially zoned property or residentially used property in an RD or PUD district.
- (4) *Occupation.* The trailer or camper shall not be occupied, except for the purpose of repair or maintenance, at any time during the parking or storage, except by permit which has been issued in accordance with section 34-402(6). The term "occupied" for the purpose of this division shall

include but not be limited to electrical connections (permanent or drop cord), water and sewer connections (flexible or permanent hose), telephone connections (permanent or extension) or personal occupancy of any kind (day or night).

- (5) *Removal of wheels.* The wheels of the trailer shall not be removed, except for repair or maintenance, at any time during such storage or parking, but the body of a truck type camper may be removed from the truck or other vehicle.
- (6) *Permit required for temporary occupancy of travel trailer, motor home or camping trailer.* Any owner desiring to temporarily occupy any travel trailer, motor home or camping trailer which has been or is to be stored or parked as permitted in section 34-402(2) must apply to the code enforcement inspector for a city permit for temporary occupancy. No such permit for temporary occupancy shall be issued for a period in excess of thirty (30) consecutive calendar days and in no event shall such permit be issued for a total in excess of thirty (30) calendar days during any calendar year for the same property. Permits for temporary occupancy shall be issued only for trailers or campers stored or parked on unoccupied property which is owned by the owner of the trailer or camper being stored or parked. Such permit shall be valid only for the term stated on the permit.
- (7) *Enforcement.* The preceding parking restrictions shall be enforced in accordance with the terms of Article XIII and the following:
 - a. The parking restrictions shall not apply to commercial vehicles during the actual performance of a service at the premises where it is parked.
 - b. The parking restrictions shall not apply to the loading, unloading or cleaning of vehicles provided such act is fully completed in twenty-four (24) hours.
 - c. The parking of vehicles, boats and trailers in residentially zoned property or residentially used property in an RD or PUD district shall be subject to these parking restrictions regardless of the date such parking commenced, and shall not be deemed an allowable nonconforming use within the meaning of section 34-522 of this LDC.

(Ord. No. 7500, § 8.2(L), 8-19-91; Ord. No. 2004-7881, § 1, 7-19-04)

Sec. 34-403. Service stations and gasoline sales.

The following regulations shall apply to the location, design, construction, operation and maintenance of automotive service stations and other gas dispensing and sales facilities.

- (1) *Development plan.* A development plan which meets the requirements of section 34-251 et seq., shall be required to be submitted prior to the approval of any service station or gasoline dispensing use.
- (2) *Lot frontage.* A service station or gas dispensing facility site shall be of adequate width and depth to meet any setback requirements, and in no case shall minimum frontage on a street be less than one hundred twenty-five (125) feet.

- (3) *Lighting.* All lights and lighting shall be designed and arranged to prevent any source of light from causing glare or being uncomfortably harsh when viewed from any residential window in a residential zoning district.
- (4) *Structure, pump, and storage tank setbacks.* No main or accessory building, gasoline pump or storage tank shall be located closer than twenty-five (25) feet from any land that is in a residential zoning district. The main service station building shall conform to all street frontage setbacks applicable to the zoning district. Gasoline pumps, tanks and pump islands shall be located no closer than fifteen (15) feet to the street property line. Pumps, tanks, vents, pump islands and pump island canopies shall conform to side and rear setback requirements for other structures in the zoning district in which the station is located, provided no such pumps, tanks, vents, pump islands or pump island canopies shall be located closer than twenty-five (25) feet to any side or rear property line.
- (5) *Storage tanks.* Storage tanks shall be located below grade.
- (6) *Access driveways and curb cuts.* No more than two (2) curb cuts per one hundred twenty-five (125) feet of street frontage shall be permitted for service station and gas dispensing facilities. Curb cuts shall not exceed thirty (30) feet in width, exclusive of curb returns and shall be located no closer than thirty (30) feet from the right-of-way lines of any intersection. Curb cuts shall not be closer than fifteen (15) feet from any other property line. Any two (2) driveways providing access to a single street shall be separated by an island with a minimum width of twenty (20) feet.
- (7) *Limitations.* The permissible uses at a service station shall not include major mechanical and body work, straightening of body parts, painting, welding, storage of inoperable vehicles or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations. A service station is not a repair garage or a body shop.
- (8) *Buffers.* Where lots which are to be used for service stations or gas dispensing facilities abut any property which is in a residential zoning district or used for residential purposes, a solid, concrete block wall with a cap shall be installed on all property lines other than street lines. The wall shall have a minimum height of six (6) feet in height and shall be continuous and unpierced, except that no wall or other obstruction shall be permitted to exceed four (4) feet in height within fifteen (15) feet of a street line.

(Ord. No. 7500, § 8.2(M), 8-19-91)

Sec. 34-404. Temporary structures and offices.

Temporary structures and offices shall be subject to the following standards, and shall be reviewed and approved by the planning and development director:

- (1) *Construction office and storage.* A mobile home, trailer, portable building, or storage structure may be permitted in any zoning district when used as a temporary office or shelter for materials or tools incidental to construction or development of the premises upon which the temporary

office or shelter is located, provided appropriate permits for such construction have been issued and development has been diligently pursued. Such use of a temporary office or shelter shall not be permitted for more than one (1) month after the completion of construction or development. It cannot be used as permanent office space or for residential use.

- (2) *Public use.* Any agency of local, municipal, state or federal government may utilize a mobile home, trailer or portable building for temporary public purposes in any zoning district, provided such use shall not include a residential use.
- (3) *Sales office.* A mobile home may be used as a sales office on a mobile home sales lot in any zoning district permitting such use.

(Ord. No. 7500, § 8.2(N), 8-19-91)

Sec. 34-405. Travel trailer parks and campgrounds.

Travel trailer parks and campgrounds shall be subject to the following supplementary standards.

- (1) *Permitted uses.* Spaces in travel trailer parks and campgrounds are available for all types of recreational vehicles, tents, and similar uses, and shall be rented or leased exclusively for temporary occupancy. Permanent occupancy for dwelling purposes is prohibited. Spaces shall be rented by the day or week or month with length of stay not to exceed ninety (90) days.
- (2) *Park size.* Travel trailer parks and campgrounds must have a minimum site area of five (5) acres.
- (3) *Location and access.* A travel trailer park or campground shall not discharge traffic into any residential zoning district from an entrance or exit. A travel trailer park or campground fronting on a public street shall have a minimum of one hundred fifty (150) feet of frontage.
- (4) *Design of access to park.* All entrances and exits to the park shall be approved by the planning and development director to ensure the safe and convenient movement of traffic between the highway and the park.
- (5) *Park buffer.* The boundaries of a travel trailer park or campground shall be screened by a natural or artificial barrier with a minimum height of six (6) feet, except at approved entrances or exits. The barrier shall be set in a buffer with a minimum width of twenty-five (25) feet. The planning and development director shall approve the suitability of the natural or artificial barrier.
- (6) *Individual space size and park densities.* All individual spaces be not less than thirty (30) feet in width and contain a minimum area of one thousand five hundred (1,500) square feet and shall be provided at a density not to exceed twelve (12) spaces per acre.
- (7) *Yard requirements.* Front, rear and side yards with a minimum width of ten (10) feet shall be provided and maintained for each site in the travel trailer park or campground.
- (8) *Relation of spaces to exterior streets.* Any space intended for occupancy for sleeping purposes shall not be located within twenty-five (25) feet of the required buffer adjacent to any exterior

right-of-way.

- (9) *Streets.* All individual spaces shall abut an interior drive which meets the following requirements. One-way drives shall have a minimum unobstructed travel-way width of twenty (20) feet. Two-way drives not abutting individual spaces shall have a minimum width of twenty-five (25) feet. Two-way drives abutting individual spaces shall have a minimum width of thirty (30) feet.
- (10) *Central facilities.* A central service building containing the necessary toilet and other plumbing fixtures shall be provided in a travel trailer parking area which provides parking spaces for travel trailers and other camping facilities needing service hookups to water and sewer utilities.
- (11) *Compliance with state regulations.* All travel trailer parks and campgrounds shall comply with F.A.C. Rule 10D-26, and all other applicable state and city regulations.
- (12) *Development plan.* A development plan which meets the requirements of section 34-251 et seq., shall be required to be submitted prior to the approval of any travel trailer park or campground use.

(Ord. No. 7500, § 8.2(O), 8-19-91)

Sec. 34-406. Fences.

(a) *Material; use of barbed wire.* Fences shall be constructed of wood, masonry, chain link wire or other aesthetically desirable materials approved by the planning and development director. Barbed wire shall not be permitted in residential zoning districts. When permitted, barbed wire shall be located at the top of the fence, being not less than six (6) feet in height. If installed so that the barbed wire inclines outward, no portion may encroach into an adjacent property.

(b) *Height restrictions.*

- (1) Except as provided for in this division or as modified by the other provisions of the LDC, all fences in and around the front yard of any lot shall not exceed four (4) feet. A fence in the rear yard of any oceanfront lot in an RS-1 zoning district shall not exceed three and one-half (3 1/2) feet in height.
- (2) An eight-foot, nonopaque chainlink fence may be erected along the property line of any recreational facility owned or leased by a school, church, or unit of government.
- (3) Chainlink fences for public or private tennis courts shall not be required to comply with height regulations. Windscreens may be installed provided that visibility at intersections of public rights-of-way is not impaired. Fences for private tennis courts shall be constructed within the required setbacks for accessory uses in the particular zoning district in which the fence is located.
- (4) A fence located in a side or rear yard, except rear yards of oceanfront lots in the RS-1 zoning district, may be constructed at a height not to exceed eight (8) feet provided that the following requirements are met:

- a. All fences installed pursuant to this subsection shall be constructed of wood, masonry, or other aesthetically pleasing material. In no case shall fences constructed of chainlink wire fabric be permitted to exceed six (6) feet in height.
- b. Any portion of said fence in excess of six (6) feet in height shall be constructed in a manner which provides openings to allow the free flow of air through that portion of the fence. The openings shall be evenly distributed with the pertinent portion of the fence and shall equal not less than twenty-five (25) percent of the aggregate surface area of the portion of the fence which exceeds six (6) feet in height.

(5) *Security fences.*

- a. An eight-foot high security fence may be installed in the front, side and rear yard of any government use or essential public service facility in any zone, provided that a clear sight distance as required by sections 34-395 and 34-425(h) is maintained. Any barbed wire shall be located at the top of the fence. If installed so that the barbed wire inclines outward, no portion may encroach into an adjacent property.
- b. A six-foot high non-opaque chainlink fence may be installed for security purposes in the front yard of any lot which is not located in a developed area. As a condition to receipt of a permit, any fence constructed in accordance with the provisions of this paragraph shall be removed after the block or tract is seventy-five (75) percent developed.

(c) *Impairment of visibility at intersections prohibited.* Clear sight distance shall be maintained at the intersections of streets, alleys, and curbcuts in accordance with section 34-425(h).

(d) *Enclosure of swimming pool.* All swimming pools shall be enclosed by a fence of not less than four (4) feet in height equipped with a gate which shall have a self-closing and self-locking device for keeping the gate securely closed at all times when not in actual use. The fence and gate shall not be required if entry to the pool by any person other than those residing or renting sleeping quarters on the property containing the pool is prevented by a wall, buildings, structures, or any other substitute devices so long as the degree of protection is not less than the protection afforded by the fence, gate, and latch described herein.

(e) *Enclosure of pits and excavation.* All borrow pits and similar excavations shall be completely enclosed with a fence not less than six (6) feet in height and constructed so as to prevent entry by the general public.

(f) *Approval by the planning and development department required.* All fences are to be approved by the planning and development director.

(g) *Fences to be maintained and repaired.* All fences shall be maintained in a good state of repair and structurally sound condition, including but not limited to, painting and repainting; replacement of missing, decayed, corroded, or damaged component parts, and keeping in plumbing. Failure to so maintain and repair said fence may result in the fence being declared a nuisance and abated in accordance with the provisions of Chapter 19 of the Jacksonville Beach Code.

(Ord. No. 7500, § 8.2(P), 8-19-91; Ord. No. 2002-7827, § 1, 3-4-02)

Sec. 34-407. Outdoor restaurants and bars.

In addition to the standards applicable to all conditional uses, as stated in section 34-231, and in addition to the regulations of the zoning district in which the restaurant or bar is located, outdoor restaurants and bars which are permitted or allowed in any zoning district shall be subject to the following limitations and conditions:

- (a) The unenclosed portion of the restaurant or bar shall be accessory to or under the same ownership or control as the restaurant or bar which is operated within a totally and permanently enclosed building located on the same lot.
- (b) The area of unenclosed, outdoor customer service area of a restaurant or bar shall not exceed twenty (20) percent of the first three thousand (3,000) square feet of total enclosed area of the restaurant or bar, plus ten (10) percent of the enclosed area over three thousand (3,000) square feet in area.
- (c) Required parking spaces shall be provided for the total customer service area outside of the building at the same ratio as required for the enclosed area of the restaurant or bar.
- (d) Except when located in the Central Business District: CBD, unenclosed customer service area shall be located at least one hundred fifty (150) feet from any residential or lodging use which is not located on the same lot as the outdoor restaurant or bar where there is an intervening structure having at least one thousand five hundred (1,500) square feet of floor area. Where there is no intervening structure having at least one thousand five hundred (1,500) square feet of floor area, the unenclosed customer service area shall be located at least three hundred (300) feet from any residential use which is not located on the same lot as the outdoor restaurant or bar. The minimum separation between the outdoor restaurant or bar and the residential use shall be measured from the edge of the outdoor seating area to the nearest property line of the residential use. There shall be no minimum distance from residential uses for approved outdoor restaurant or bar areas located within the Central Business District: CBD.
- (e) The outdoor customer service area shall not be used to compute the minimum seating or customer service area required to qualify for a special restaurant (SRX) alcoholic beverage license.
- (f) There shall be no use, operation, or playing of any musical instrument, loudspeaker, sound amplifier, or other machine for the production or reproduction of sound within an approved outdoor restaurant or bar seating area.
- (g) The planning commission is authorized to establish hours of operation for outdoor restaurant and bar seating areas as a means to ensure their compatibility with surrounding land uses.
- (h) If an approved outdoor restaurant or bar area violates any of the standards set forth in this section, or any other conditions placed on their approval by the planning commission, the

violation shall be referred to the code enforcement board for a hearing. Upon finding that such a violation exists, the code enforcement board may apply penalties as provided by law, including revocation of the conditional use approval for that outdoor seating area. Whenever the approval for a conditional use outdoor bar or restaurant seating area is revoked for a particular establishment, a conditional use application for outdoor bar or restaurant seating shall not be considered for any portion of that establishment for a period of two (2) years after the date of revocation.

(Ord. No. 2002-7828, § 1, 3-4-02; Ord. No. 2006-7918, § 1, 6-19-06)

Secs. 34-408--34-420. Reserved.

DIVISION 3.

SITE CLEARING AND LANDSCAPE STANDARDS

Sec. 34-421. Purpose and intent.

The purpose and intent of this division is to promote the health, safety, welfare and general well being of existing and future residents of Jacksonville Beach through the establishment of minimum standards for the preservation of natural plant communities, the installation of landscaping and the protection of trees on public and private property within the City of Jacksonville Beach. The specific objectives of this division are as follows:

- (1) To promote and improve the aesthetic integration of natural and manmade environments in order to reduce the harmful effects of development and use on vegetation, and thereby improve the quality of life through the abatement of noise, glare, dust and air pollution;
- (2) To promote the conservation of energy through the preservation and planting of trees, thereby reducing heat gain in or on buildings or paved areas by shading and by removal of heat from the air through evapotranspiration; and
- (3) To promote the conservation of limited freshwater resources by encouraging the preservation and planting of natural or uncultivated areas and by increasing permeable areas which contribute to groundwater recharge and stormwater runoff retardation.

(Ord. No. 7500, § 8.3(A), 8-19-91)

Sec. 34-422. Applicability.

This division shall apply to all development within the City of Jacksonville Beach unless specifically exempted by the provisions of this division. The provisions of this division shall also apply to the expansion of any existing development, including all land in government use, when the value of the total expansion is equal to fifty (50) percent of the assessed value of the existing use, according to the Duval County Property Appraiser, or when total square footage of a structure is increased by fifty (50) percent or more.

(Ord. No. 7500, § 8.3(B), 8-19-91)

Sec. 34-423. Exemptions.

The following development shall be exempt from the standards of this division:

- (1) *Vehicular use areas within or on top of a building.* Vehicular use areas consisting exclusively of parking areas entirely within or on top of a building shall be exempt from the provisions of this division.
- (2) *Bona fide agricultural production.* Bona fide agricultural production activities shall be exempt from the provisions of this division.

(Ord. No. 7500, § 8.3(C), 8-19-91)

Sec. 34-424. Site clearing and tree protection standards.

(a) *Site clearing and tree protection requirements.* No person, directly or indirectly, shall engage in site clearing or cut down, remove, damage or destroy, or authorize the removal, damage or destruction of any protected tree as defined in the LDC or shall commit or authorize any act which physically causes the clearing of a site or destruction of any protected tree, such as damage inflicted upon the root system by heavy equipment or by changes to the existing grade, without first having obtained a site clearing and tree removal permit pursuant to section 34-424(d).

(b) *Exemptions to site clearing and tree protection standards.* The following protected trees are exempt from the site clearing and tree protection requirements of section 34-424(a):

- (1) Any of the following species or sub-species of trees are not protected trees under this division:

Pine, except cedar trees.

Palm trees, unless planted to meet a requirement of an approved landscape plan.

(2) Any of the following species or sub-species of trees are not protected trees under this division and may be removed, provided that a permit is first obtained and the specie type is verified by inspection before its removal:

Australian pine	<i>casuarina cunninghamiana</i>
Australian pine thicket	<i>casuarina glauca</i>
Bischofia	<i>bischofia javanica</i>
Brazilian pepper	<i>schinus terebinthifolius</i>
Camphor tree	<i>cinnamomum camphora</i>
Carolina laurelcherry	<i>prunus caroliniana</i>
Carrotwood	<i>cupaniopsis anacardioides</i>
Castor bean	<i>ricinus communis</i>
Catclaw mimosa	<i>mimosa pigra</i>
Chinaberry tree	<i>melia azedarach</i>
Chinese tallow	<i>sapium sebiferum</i>
Chinese wisteria	<i>wisteria sinensis</i>
Climbing cassia	<i>senna pendula</i>
Earleaf acacia	<i>acacia auriculiformis</i>
Guava	<i>psidium guayava</i>
Jambolan	<i>syzygium cimini</i>
Laurel fig	<i>ficus microcarpa</i>

Lead tree	<i>leucanea leucocephala</i>
Melaleuca tree	<i>melaleuca quinquenervia</i>
Mimosa tree	<i>albizia julibrissin</i>
Orchid tree	<i>baubhinia variegata</i>
Schefflera	<i>schefflera actinophylla</i>
Seaside mahoe	<i>thespesia populnea</i>
Shoebuttton ardesia	<i>ardisia elliptica</i>
Strawberry guava	<i>psidium cattleianum</i>
Woman's tongue	<i>albizia lebbeck</i>

- (3) Any tree located in botanical gardens or in state approved or government nurseries and groves which are grown for sale or public purpose.
- (4) Any tree that poses imminent danger to the public health, welfare, or safety; any tree that is diseased or weakened by age, weather, storm, fire, or act of God; or any tree which is likely to cause injury or damage to persons, buildings, or other improvements. The planning and development director may require a written certification of the need to remove such a tree or trees from a person having the expertise to provide the same prior to authorizing such removal.

(c) *Temporary suspension of site clearing and tree protection requirements.* During a period of emergency, such as a hurricane, flood or other natural disaster, the requirements of this division may be temporarily waived by the planning and development director, so that private or public work to restore the city will in no way be hampered.

(d) *Site clearing and tree removal permits.* Prior to the issuance of any permit for construction, improvement, paving or surfacing under the provisions of the LDC, a site clearing and tree removal permit must be applied for at the planning and development department and approved by the planning and development director pursuant to the procedures and standards of this division.

- (1) *Application contents.* In addition to the information required for a development plan submitted pursuant to section 34-221 et seq., of the LDC, the plans submitted with the site clearing and tree removal permit application shall include the following information:
 - a. A survey showing the location and identification by common name and DBH of protected trees to be removed, relocated, or retained, including any trees being preserved for credit under the provisions of section 34-424(f) and a listing of protected trees by type and size which provides a summary of the removal and replacement proposal. Inclusion of the botanical names of the protected trees on the survey is desirable, but is not required.
 - b. In preserve areas where groups of trees are to remain and no soil is to be disturbed, the trees may be identified by general species.
 - c. A statement explaining why any protected trees are to be removed or relocated.
 - d. The plans submitted with the site clearing and tree removal permit application shall overlay the development plan and show the location of sources of water within seventy-

five (75) feet of any planting areas.

- e. Site clearing and tree removal plans for developments of all types, except construction of a single-family residential dwelling on a lot less than one-half (1/2) acre in size, shall be prepared by persons qualified by license or other certification to do so under Florida law. Site clearing and tree removal plans and permit applications for single-family residential construction on lots of less than one-half (1/2) acre in size may be prepared by the owner.
- (2) *Inspections.* Compliance with the intent of this division shall be verified by inspections prior to development plan approval, during construction and following installation of landscaping.
- (3) *Standards for issuance of permits.* The issuance of a site clearing and tree removal permit by the planning and development director shall be based on consideration of the following standards.
- a. The necessity to remove trees which pose a safety hazard to pedestrian or vehicular traffic or threaten to cause disruption to public services or which pose a safety hazard to buildings.
 - b. The necessity to remove diseased trees or trees weakened by age, weather, storm, fire or acts of God or which are likely to cause injury or damage to people, buildings or other improvements on a lot or parcel of land;
 - c. The extent to which tree removal is likely to result in damage to the property of other owners, public or private, including damage to lakes, ponds, streams or rivers, through runoff or erosion;
 - d. The proposed landscaping, including plans whereby the applicant has planted or will plant perennial vegetative cover to replace those trees or natural landscape areas which are proposed to be cleared;
 - e. The topography of the site and the effect of tree removal on erosion, soil retention and the diversion or increased flow of surface water;
 - f. The necessity to remove trees in order to construct proposed improvements to allow access around the proposed structure for construction equipment, access to the building site for construction equipment, or essential grade changes;
 - g. The land use and natural vegetative ground coverage of surrounding property;
 - h. The extent of any damage or hardship to the applicant resulting from a denial of the requested permit;
 - i. The species and size of the trees proposed for removal, and whether the tree to be removed is an exceptional specimen tree.

(e) *Tree removal and trimming on public property.*

(1) *Permits required.* Any person who intends to remove, prune, or otherwise disturb any protected tree on a public easement or right-of-way shall first obtain a permit from the planning and development director. All work shall be conducted in strict accordance with the National Arborist Association Pruning Standards for Shade Trees and The American National Standards for Tree Care Operations (ANSI #Z133.1).

(2) *Annual permits.* Any department or division of the City of Jacksonville Beach, any independent authority or agency of the city, and any provider of utility service may obtain an annual permit to trim or remove protected trees for maintenance purposes, for the installation of new facilities, or to maintain a proper clearance on existing facilities upon the submission of an operational manual, including procedures and/or standards subject to the approval of the planning and development director.

(f) *Replacement of protected trees.* Protected trees which are identified for removal on a site clearing and tree removal permit application shall be replaced with new planted trees or transplanted trees, all called replacement trees. The following standards shall govern replacement of protected trees.

(1) *Tree replacement formula.* The total caliper inches of replacement trees required to be planted shall equal one-third (1/3) the total DBH inches of the protected trees removed.

(2) *Replacement credit for preserved trees.* Existing protected trees may be used to satisfy the tree replacement requirements of section 34-424(f) and the landscape requirements of section 34-425, provided that the protected trees satisfy the following conditions.

a. An area within the dripline of the tree or trees at least one (1) foot in diameter for each one (1) inch of DBH shall be preserved in a pervious state.

b. All trees shall be protected in accordance with tree and landscape protection standards of section 34-424(g), and shall be healthy and free of damage and insect infestations potentially lethal to the tree.

c. The number of inches of DBH of existing protected trees which may be removed without a requirement that they be replaced shall be computed on the ratio of one (1) inch of DBH of existing protected tree allowed to be removed for each one (1) inch of DBH of protected trees retained.

(3) *Replacement tree species and size.* Replacement trees shall meet the tree and landscape material standards of section 34-425(e). If multi-trunked trees are used as replacement trees, the total caliper of the two (2) largest trunks shall equal the re- placement caliper.

(4) *Dead, diseased and deteriorated trees.* No replacement will be required for removed protected trees which are determined to be dead or deteriorated as a result of age, insects, disease, storm, fire, lightning or other natural acts. Written notification of such determination by a certified tree expert must be provided prior to any action.

(5) *Tree protection trust fund.* If the planning and development director determines that the site cannot accommodate the total required replacement trees because of insufficient planting area, then the applicant shall provide an equitable contribution to the landscape and tree protection trust fund to compensate for those replacement trees which cannot be accommodated. Such contributions shall be used to fund public tree planting projects, such as Adopt-A-Tree programs. For every two (2) inches, or fraction thereof, of replacement trees requiring compensation, the contribution shall be the retail price of a two (2) inch caliper oak as determined by the planning and development department, based on written information obtained by the applicant from a nursery which is licensed by the State of Florida.

(g) *Protection of trees during construction.* All protected trees, preserved understory vegetation, and trees retained for tree credit pursuant to section 34-424(f)(2), shall be protected from injury during any land clearing and construction process in the following manner:

- (1) A temporary barrier shall be constructed to prevent disturbance of the soil a minimum of six (6) feet from the trunk at any point or an area equal to fifty (50) percent of the area within the drip line. The barriers shall remain in place throughout construction.
- (2) The developer shall not cause or allow the cleaning of equipment, storage or disposal of materials or waste materials such as paints, solvents, asphalt, concrete, mortar, or any other material that may endanger the health of trees or vegetation within the drip line of protected trees.
- (3) The protected area shall be maintained at its original grade with no trenching or cutting of any roots, and there shall be no storage of fill or compaction of soil. In no event shall motorized vehicles or equipment be allowed to park on or traverse that area within the drip line of protected trees, nor shall any dirt or other materials be stored within the barriers.
- (4) No attachment, wires (other than protective guy wires), signs or permits shall be fastened to a tree.
- (5) Developers shall post signs governing tree removal. The sign shall be not less than two (2) feet by two (2) feet in size and shall contain the following:

PROTECTED TREES

ALL TREES MARKED TO BE SAVED ARE PROTECTED BY CITY OF JACKSONVILLE BEACH LAND DEVELOPMENT CODE. ANY PERSON DAMAGING ANY MARKED TREES WILL BE SUBJECT UP TO A FINE OF UP TO \$250.00 PER DAY AND A STOP WORK ORDER.

- (6) Standards for protection of trees on disturbed sites are contained in the publication: Tree Protection Manual for Builders and Developers, published by the Florida Department of Agriculture and Consumer Services, Printing Date February 1986 and available through the Florida Department of Agriculture, Division of Forestry.

(Ord. No. 7500, § 8.3(D), 8-19-91; Ord. No. 2006-7919, § 1, 4-3-06)

Sec. 34-425. Landscape standards.

(a) *Tree planting and preservation requirements.* The following tree planting and preservation standards shall apply to all development. They may be used to satisfy, in whole or in part, the landscape requirements for off-street parking and vehicular use area landscape buffers (section 34-425(b)), the landscape requirements for the interior of parking and vehicular use areas (section 34-425(c)) and any of the other special landscape requirements of this division.

- (1) *Residential lot.* One (1) shade tree shall be planted or preserved for every three thousand (3,000) square feet of a residential lot or fraction thereof. No more than ten (10) new trees shall be required to be planted on any residential lot that is to be developed for one (1) single-family dwelling or one (1) duplex residential structure as a result of this provision.
 - (2) *Oceanfront areas.* Oceanfront residences shall comply with the tree planting and preservation requirements of section 34-425(a)(1). Salt tolerant landscaping and trees shall be used.
 - (3) *Nonresidential lot.* One (1) tree shall be planted or preserved for every six thousand (6,000) square feet of a nonresidential lot or fraction thereof. Fifty (50) percent of all trees required to be planted or preserved in nonresidential zoning districts shall be shade trees. Pervious landscaped area shall be maintained in all zoning districts in accordance with the minimum requirements for the zoning district. In those zoning districts where it is required, the front and corner side yard setbacks shall include a ten-foot landscaped strip. The hedge requirement in the ten-foot landscaped strip is optional unless the ten (10) foot strip separates a parking area from a public right-of-way, in which case, the hedge is mandatory.
- (b) *Off-street parking and vehicular use area landscape buffers.*
- (1) *Landscape buffers adjacent to public rights-of-way.* A landscaped area at least five (5) feet in width shall be located between off-street parking areas and abutting rights-of-way. Wheel stops or curbing shall be used to assure that this five (5) foot strip is not overhung by car bumpers. This landscaped area shall include one (1) shade tree for every twenty-five (25) linear feet of frontage. In addition, a hedge of at least two (2) feet in height upon planting shall be placed along the parking lot side of the landscaped strip. If a barrier of non-living materials is used in lieu of a hedge to satisfy the landscape buffer requirements of section 34-425(d)(1), such barrier shall not exceed four (4) feet in height. One (1) shrub or vine for every four (4) linear feet of barrier shall be planted abutting all barriers. Required shrubs or vines may be clustered rather than spaced evenly. Required shrubs or vines shall be planted along the street side of such barrier within the required landscape buffer. The remainder of the required landscape buffer shall be landscaped with grass, ground cover, or other landscape treatment. Turf grasses shall not comprise more than forty (40) percent of the pervious area.
 - (2) *Landscape buffers adjacent to residential uses.* When multifamily or nonresidential off-street parking areas or other vehicular use areas abut single-family residential uses or properties, that portion of such area not entirely screened by an intervening structure shall be separated by a

landscaped buffer at least seven (7) feet in width. The landscape buffer shall contain an opaque screen composed of either living plant materials or durable non-living materials, such as fences or walls. Required screens or barriers shall have a minimum height of six (6) feet and shall be located on the parking lot side of the landscape buffer. When located on side lot lines, such screen shall be reduced to four (4) feet in height within ten (10) feet of its intersection within the street right-of-way line.

- a. *Visual barriers.* All living plant materials within landscape buffers adjacent to residential uses shall be planted in a manner which will form a visual barrier with a minimum height of at least thirty (30) inches upon planting. Such barriers shall attain the required height of six (6) feet within twenty-four (24) months under normal growing conditions. A barrier shall be accented with one (1) shrub or vine for every five (5) linear feet of barrier and shall be planted on the residential side of the barrier.
 - b. *Trees.* A minimum of one (1) tree shall be planted for every twenty-five (25) linear feet of landscape buffer adjacent to a residential use. Each such tree shall be planted in at least twenty-five (25) square feet of planting area with a minimum dimension of at least five (5) feet. Grouping of trees in larger, naturally landscaped islands is encouraged.
- (3) *Screening of dumpster/solid waste container areas.* All solid waste containers, including, but not limited to, compactors and dumpsters, shall be located and designed so as not to be visible from the view of adjacent streets and properties. If screening is required to eliminate the visibility of a container from adjacent streets and properties, then the type of screening used shall be determined based on the proposed location of the solid waste container, existing site conditions, and the type and amount of existing vegetation on the site. All solid waste containers shall meet the following standards:
- a. All solid waste containers shall be enclosed so as not to be seen off-site and shall be enclosed with solid gate(s) to contain windblown litter.
 - b. The enclosure shall be at least two (2) feet taller than the highest point of the trash containment device.
 - c. The enclosure shall be made of a material that is opaque at time of installation and compatible with design of the principal building. The preferable material is masonry with solid metal gate(s); however, wood and other similar material may be used provided that interior bollards are installed to protect the enclosure from damage caused by unloading the solid waste container.
 - d. All solid waste containers shall be placed on a concrete pad large enough to provide for both adequate support and positive drainage.
 - e. The enclosure shall contain gate(s) to allow for access and security. Gates must be maintained in good working order.
- (c) *Interior landscaping of parking and vehicular use areas.* Off-street parking and vehicular use

areas containing more than ten (10) parking spaces or more than two thousand (2,000) square feet of surface area shall provide pervious interior landscape area equal to at least ten (10) percent of the total paved area.

- (1) *Landscape islands.* Each separate interior landscaped area shall contain a minimum of one hundred (100) square feet of area and shall be at least five (5) feet in width. A minimum of one (1) shade tree shall be planted for every one hundred (100) square feet of interior landscaping. The remainder of the required landscape area shall be planted with shrubs, ground cover or other approved tree and landscape materials.
 - (2) *Curbing and wheel stops.* All interior landscaping shall be protected from vehicle encroachment by curbing or wheel stops.
 - (3) *Location of landscape areas.* Interior landscape areas shall be located in a manner which will divide or interrupt the broad expanse of paving within parking and vehicular use areas. Landscaped areas shall subdivide parking areas into parking bays containing a maximum of twenty (20) spaces, provided that no more than ten (10) spaces shall be in an uninterrupted row.
 - (4) *Modification of interior landscape requirements.* In vehicular use areas where the strict application of this subsection would seriously limit the function of said area, the required landscaping may be located near the perimeter of the paved area. Such required interior landscaping which is relocated shall be in addition to the perimeter landscaping requirements.
- (d) *Compatibility landscape buffers.*
- (1) *Applicability.* A compatibility landscape buffer shall be required to be installed in the following areas.
 - a. *Protection of single-family uses.* A compatibility landscape buffer shall be installed adjacent to the property line of a multifamily, commercial or industrial site where the property line abuts an RS-1, RS-2 or RS-3 zoning district or a developed single-family or two-family land use and such zoning districts or land uses are not separated by an intervening street or alley.
 - b. *Screening of junkyards and outdoor theaters.* A compatibility landscape buffer shall be installed adjacent to the property line of a junkyard or outdoor theater site where the property line abuts a residential zoning district or land use and such zoning districts or land uses are not separated by an intervening street or alley, and along the street frontage of a junkyard or outdoor theater site.
 - (2) *Compatibility buffer standards.* A compatibility landscape buffer shall consist of a landscape buffer strip with a minimum width of seven (7) feet, and an opaque screen with a minimum height of six (6) feet shall be installed within the landscape buffer area to create a visual barrier.
 - a. *Hedges and living barriers.* If a hedge is planted as a screen, plantings shall be of a size and type which will ensure complete visual screening for a height of six (6) feet within twenty-four (24) months of the date of planting.

- b. *Non-living barriers.* If a non-living barrier is used to satisfy the screening requirements of this subsection, a minimum of one (1) shrub or vine shall be installed for every five (5) linear feet of barrier and shall be planted on the residential or street side of the barrier.
- (e) *Tree and landscape material standards.*
- (1) *Tree and plant quality.* Plant materials used to satisfy the provisions of this division shall conform to or exceed the minimum standards for Florida Number 1, as provided in the most current edition of Grades and Standards for Nursery Plants, Parts I and II, prepared by the State of Florida Department of Agriculture and Consumer Services. Another accepted standard may be used if it equals or exceeds the quality of Florida Number 1.
- Trees and plants used in landscape design pursuant to this division shall, to the greatest extent possible, be drought tolerant; appropriate for the ecological setting in which they are to be planted; have non-invasive growth habits; encourage low-maintenance and high-quality landscape design; be commercially available; and be otherwise consistent with the purpose and intent of this division.
- (2) *Tree and plant species list.* A list of suitable tree species is contained in the booklet entitled Recommended Trees for Home Planting in Your Area-Florida Division of Forestry Districts 1--9, published by the Florida Department of Agriculture, Division of Forestry, January 1984, which is available for inspection in the planning and development department offices.
- (3) *Tree crown.* Trees used to satisfy the requirements of this division shall be species having an average mature spread of crown of fifteen (15) feet or more. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping trees to create the equivalent of a fifteen-foot crown spread.
- (4) *Tree diameter and height.* All newly planted trees used to satisfy the requirements of this division shall have a minimum two (2) inch DBH and a minimum height of ten (10) feet immediately upon planting.
- (5) *Palm trees.* Each group of three (3) palms shall be considered one (1) tree for the purpose of these regulations. In the case of species of palms which characteristically grow in clumps, each clump shall be considered to be one (1) tree. Palm trees used to satisfy the requirements of this division shall have a minimum height of eight (8) feet from ground level to base of palm fronds.
- (6) *Shrubs and hedges.* Shrubs required for screening off-street parking areas from adjacent properties shall be no less than three (3) gallon container grown or equivalent balled and burlap material of a variety which has a minimum mature height between four (4) to twelve (12) feet. Hedges, when required, shall be planted and maintained to form a continuous, unbroken, solid visual screen within a maximum of one (1) year after time of planting. All other shrubs and dwarf shrubs used as an accent ground cover may vary in size depending on the type of plant material and the desired effect.

- (7) *Vines.* Vines shall be evergreen and shall have a minimum of four (4) stems twenty-four (24) inches in height immediately after planting and may be used in conjunction with fences, screens or swales to meet physical barrier requirements as specified.
- (8) *Mulch.* Mulch shall be temporarily applied to areas not immediately covered by ground cover. Mulch may be used as a permanent ground treatment in those landscape designs where ground cover or grass is inappropriate, such as preservation areas. Where mulch is intended to be installed permanently, it shall be renewed and maintained as required.
- (9) *Ground cover.* Ground cover used in lieu of grass shall be planted to present a finished appearance and reasonably complete coverage within three (3) months after planting. Low maintenance ground cover materials are encouraged in lieu of grasses.
- (10) *Grass.* Grass may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales or other areas subject to erosion. Where seed is sown during its dormant season, a winter grass shall be sown for immediate effect and protection until coverage is achieved. Grass sod shall be clean and reasonably free of weeds and noxious pests or disease.
- (11) *Earthwork.* Earth berms shall be of variable height and slope. Swales and ponds shall be permitted for on-site retention of stormwater provided they are approved by the city's planning and development director.

(f) *Maintenance of landscaped areas.* Maintenance and upkeep of all landscaping and landscaped areas required by this division shall be the responsibility, jointly and severally, of owners, tenants, or agents, if any. Landscaping and landscaped areas shall present a neat, healthy, and orderly appearance and shall be kept free from refuse and debris. Dead or dying plant materials shall be removed and replaced by materials meeting the requirements of the original landscaping plan as approved.

(g) *Irrigation.* Adequate irrigation of landscaped areas shall be provided for the first full growing season and continue thereafter as necessary to maintain required vegetation in good and healthy condition. Irrigation systems shall conform to following standards.

- (1) All landscaped areas shall be provided with a readily available water supply with at least one (1) outlet within seventy-five (75) feet of the plants to be maintained. The use of non-potable water for irrigation purposes shall be encouraged.
- (2) Irrigation systems shall be continuously maintained in working order and shall be designed so not to overlap water zones or to water impervious areas.
- (3) No irrigation system shall be installed or maintained abutting any public street which causes water from the system to spurt onto the roadway or to strike passing vehicular traffic.
- (4) The use of grey or re-used water and irrigation quality effluent shall be encouraged as a means of irrigation wherever possible.
- (5) No irrigation system shall be required for an area set aside for native vegetation.

(h) *Landscaping near corners and intersections.* Trees and landscaping shall comply with the corner visibility triangle requirements of section 34-395 in addition to the following requirements.

- (1) When a driveway or accessway intersects a public right-of-way, clear unobstructed cross visibility shall be provided within the sight triangle formed by such intersection. The sight triangle shall be measured from the point of intersection, ten (10) feet along the driveway and then ten (10) feet along the right-of-way, with the third side being a line connecting the two (2) points. Cross visibility within the sight triangle shall be unobstructed between the height of two and one-half (2 1/2) feet and eight (8) feet measured from the top of the nearest curb or edge of the road- way, whichever is closer to the visibility triangle. Trees within such areas shall have their limbs and foliage trimmed in a manner that no limb or foliage will extend into the cross visibility area.
- (2) To ensure proper visibility at the intersection of driveways with public rights-of-way, only properly trimmed trees as previously stated, ground cover type plants or dwarf plants which do not exceed twenty-four (24) inches in height, utility poles, street lights and sign standards or supports shall be allowed within the sight triangle.

(Ord. No. 7500, § 8.3(E), 8-19-91; Ord. No. 99-7768, § 1, 8-2-99)

Secs. 34-426--34-440. Reserved.

DIVISION 4.

SIGN STANDARDS

Sec. 34-441. Purpose and intent.

The provisions of this division shall govern the number, size, location, character, and maintenance of permitted signs within the City of Jacksonville Beach. Increased numbers and sizes of signs, as well as certain types of lighting can be distracting to the motoring public and create potential traffic hazards. Haphazard location, construction, and maintenance of signs seriously detract from the natural beauty of the city, and, in turn, negatively affect the economic well-being of the community. It is the intent of this division to regulate the number, size and location of signs without unduly interfering with motorists, causing unsafe conditions, and without adversely affecting the value of property.

(Ord. No. 7500, § 8.4(A), 8-19-91)

Sec. 34-442. General.

The regulations contained in this division shall apply to all signs and all zoning districts unless otherwise indicated.

- (1) *Permits.* All applications for a sign permit shall be filed in the office of the building official upon forms furnished by the building official. The application shall include detailed plans and specifications in duplicate showing the location, exact construction details, stress diagrams or plans as required under applicable provisions of the Standard Building Code. The building

official shall act upon the application for a permit with plans as filed, or as amended, without unreasonable or unnecessary delay. A permit shall be construed as a license to proceed with the work and shall not be construed as authority to violate, alter, cancel, or set aside any of the provisions of this division. All signs for which a permit is required shall be plainly marked with the name of the person, firm or corporation responsible for maintaining the sign; the permit date and permit number.

- (2) *Design.* Sign work shall be performed in a professional manner, with all the letter strokes plumb, or properly slanted, and with alignment true and level.
- (3) *Mounting.* No sign of any classification shall be installed, erected or attached in any form, shape or manner against a building, which would prevent ingress and egress through any door or window required or designed for access to any building, nor shall any sign or other street graphic obstruct a fire escape or any door or window giving access to any fire escape.
- (4) *Temporary signs.* No temporary sign shall be placed on the front or face of a building or on any premises, except as expressly provided in this division.
- (5) *Illumination.* The following regulations and standards shall apply in establishing the type of illumination which may be used for signs.
 - a. Indirect lighting of all types of signs is permitted.
 - b. The light from any illuminated sign shall be shaded, shielded, or directed so that the intensity or brightness will not be disruptive to residential property or create a distraction to a motorist.
 - c. Exposed reflective-type bulbs, incandescent lamps, or other illuminating devices which exceed twenty-five (25) watts shall expose the face of the bulb, light, or lamp to any street or adjacent property.
 - d. Only indirectly or internally lighted signs shall be allowed in residential zoning districts.
 - e. Internally lighted signs up to an area of forty (40) square feet per face may be fully illuminated. Signs greater than forty (40) square feet, up to a maximum area of one hundred (100) square feet per face may be fully illuminated; however, the copy must be of a color lighter than the background. Illuminated signs over one-hundred (100) square feet per face must have an opaque background.
 - f. Individual letter illumination by neon or similar type lighting is permitted.
 - g. It shall be unlawful for any person to continue operation or erect any attraction device or sign which contains a beacon of any type and/or contains a spot or strobe light providing direct illumination to the public.

(Ord. No. 7500, § 8.4(B), 8-19-91)

Sec. 34-443. Prohibited signs.

It shall be unlawful for any person to erect, place or use any of the following signs within the City of Jacksonville Beach.

- (1) Billboard.
- (2) Snipe sign.
- (3) Any signs using flashing lights, rotating lights or beacons, or signs which employ any parts or elements which revolve, rotate, whirl, spin, or otherwise make motion to attract attention, except signs or portions of signs having ten (10) square feet or less of total area indicating the time and/or temperature only.
- (4) Any sign which by color, working, design or location, or illumination, resemble or conflict with any traffic control device or with the safe and efficient flow of traffic.
- (5) Signs on or projecting into the public right-of-way.
- (6) Off-premises signs.
- (7) Any sign making use of the words "STOP", "LOOK", "DANGER", or any other words, phrase, symbol, or character that might interfere, mislead, or confuse traffic.
- (8) Mobile signs, portable signs, or temporary signs at any location where any nonconforming sign or signs exist.
- (9) Signs placed on or affixed to vehicles and/or trailers, which are parked on the public right-of-way, public property, or private property so as to be visible from the public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property. This is not in any way intended to prohibit signs placed on or affixed to vehicles or trailers, such as lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer.
- (10) [*Reserved.*]
- (11) Flags, banners, and pennants; including inflatable representations of products, figures, or symbols, except as provided in section 34-425(b)(1)d., temporary event signs.
- (12) Any other type or kind of sign that does not comply with the terms, conditions, and provisions contained in this section and amendments thereto.

(Ord. No. 93-7579, § 1, 10-4-93)

Sec. 34-444. Signs not requiring a permit.

The following signs shall be permitted without a permit.

Type of Sign	Maximum Size
Temporary window or door sign, including decals	20 percent of window or door area
Signs wholly within a building and not observable from points external to the building	None
Memorial tablets, signs, or plaques; or building name and date of erection when a fixed part of a building	None
Professional or occupational nameplates	
In R Zones	1 square foot
All other zones	3 square feet
Real estate signs	
R zones for sale or rent	4 square feet
All other zones for sale or rent	32 square feet
R zones for sale or rent, 5 or more acres	32 square feet
"Open house" when salesperson is present	4 square feet
"Sold" sign for 5 days after the sale	4 square feet
Real estate development information other than offer to sell or rent	32 square feet
Traffic, legal notice, directional, danger, and temporary emergency or nonadvertising signs, erected and maintained pursuant to and in discharge of any governmental function, or required by the city, county, state, or federal authorities	None
Vacancy/no vacancy signs	108 square inches
No trespassing, private property, or other private property warning signs	108 square inches
On-premises public, charitable, or religious organization bulletin boards	15 square feet
Political campaign signs located on private property	4 square feet

(Ord. No. 7500, § 8.4(D), 8-19-91)

Sec. 34-445. Signs requiring a permit.

All signs over four (4) square feet in area which are erected or altered shall require a permit issued by the building official. No signs other than those enumerated in section 34-444 or those listed below shall be erected in any zoning district except in conformance to the following provisions.

(1) *Residential zoning districts.*

- a. *Multifamily.* Signs for multiple-family residential development, including two-family, townhouse, condominium, apartment, and similar units shall be regulated as follows.
 1. *Development having a single principal structure:* One (1) wall-mounted sign not exceeding sixteen (16) square feet in area and bearing the name of the development only.
 2. *Development with two (2) or more principal structures:* One (1) ground sign not exceeding sixteen (16) square feet in area and six (6) feet in height and bearing the name of the development only. One (1) additional ground sign may be permitted for a multiple-family development having frontage on and access to more than one (1) abutting street.
- b. *Residential subdivisions and planned unit developments.* Residential subdivision and planned unit developments shall be allowed one (1) ground sign only for each point of access to the project from an existing public street. Such signs, not exceeding sixteen (16) square feet in area and six (6) feet in height, shall bear the name of the subdivision or planned unit development.
- c. *Ground signs.* A permitted ground sign for residential development shall be located in a protected area, i.e. a landscaped island or lawn area protected from vehicular contact; and not encroaching into any corner sight visibility triangle required pursuant to section 34-395. The maximum square footage allowed for the single permitted sign may be divided among not more than two (2) signs mounted on entry features located on private property on either side of the point of access from an existing public street.

(2) *Commercial and industrial zoning districts.*

- a. *Outdoor advertising display signs.* Signs installed at each premise classified as assembly, business, educational, factory, industrial, institutional, mercantile or storage occupancy shall be permitted in accordance with the following requirements.
 1. *Ground-mounted monument signs.* A listed occupancy shall be limited to one (1) freestanding, double-faced ground-mounted monument sign having a maximum size of one hundred (100) square feet calculated on the basis of one (1) square foot of area for each linear foot of lot frontage on the street toward which the sign is oriented. The ground-mounted monument sign shall not exceed ten (10) feet in height. The maximum width of a ground-mounted monument sign shall be twelve (12) feet.
 2. *Wall, roof or projecting signs.* A listed occupancy may install wall, roof, or projecting signs having a maximum of two hundred fifty (250) square feet of area (excluding any square footage used for any ground or monument sign on the

premises) calculated on the basis of one (1) square foot of area for each linear foot of building frontage on the street toward which the sign is oriented.

- i. No wall, roof, or projecting sign shall be installed so that the highest point of the sign exceeds the highest point of the building, except as may be required by the Federal aviation authorities.
 - ii. No wall, roof, or projecting sign shall be erected or maintained on a face of a building so as to project more than two (2) feet, including those projecting from the face of any theater, hotel, or motel marquee.
- b. *Shopping centers.* Signs installed at any premise classified as a shopping center shall be permitted signs in accordance with the following requirements.
1. *Ground-mounted monument signs.* A shopping center shall be limited to one (1) freestanding, double-faced ground-mounted monument sign. The ground sign may bear the name of the shopping center only, the name of the center and major tenants, or a grouped directory of all occupants of the center at the discretion of the owner or developer of the center. If the owner or developer chooses to install a grouped directory of occupants, the design of the individual signs and the support components shall be coordinated to provide an attractive and unified grouping.
 - i. The total square footage permitted for a freestanding ground-mounted monument sign shall be calculated as follows: One (1) square foot for each linear foot of lot frontage on the street toward which the sign is oriented for the first one hundred (100) feet of frontage plus one-fourth (1/4) square foot for each linear foot of lot frontage in excess of one hundred (100) feet, up to a maximum allowable sign area of two hundred (200) square feet.
 - ii. The height of the freestanding ground-mounted monument sign shall not exceed sixteen (16) feet. The maximum width of a ground-mounted monument sign shall be twelve and one-half (12.5) feet.
 2. *Wall, roof, or projecting signs.* Each store, business, or professional office in a shopping center shall be entitled to a total outdoor advertising display of one (1) square foot for each linear foot of building frontage on the street toward which the sign is oriented up to a maximum of two hundred fifty (250) square feet of total sign area per individual occupant. No wall, roof, or projecting sign in a shopping center shall be installed so that the highest point of the sign exceeds the highest point of the building, except as may be required by the Federal aviation authorities.
 3. *Permanent window or door signs.* No permanent window or door sign, visible from any public or private street, shall occupy more than twenty (20) percent of the window or door surface. No permit shall be required nor shall such permanent

window or door sign count in the total sign area allowed for the business.

4. *Temporary special event signs.* Temporary displays of flags, banners, and pennants; including inflatable types, may be permitted for the purpose of announcing a campaign, drive, activity, or event of a civic, philanthropic, educational, or religious organization for noncommercial purposes subject to the following conditions.
 - i. Such signs shall be permitted in the following zoning districts only RM-1, RM- 2, CPO, C-1, C-2, CBD, CS, PUD (commercial only) and RD.
 - ii. Temporary special event signs may be erected and maintained for a period not to exceed twenty-one (21) days prior to the date of which the campaign, drive, activity or event is scheduled to occur and shall be removed within three (3) days of the termination of such campaign, drive, activity or event.
 - iii. The permitted number, area, height, location and construction of the temporary event sign shall be determined by the planning and development director with consideration given to the public safety and the signage reasonably necessary and appropriate for the intended purpose.
 - iv. A permit for the temporary special event signs shall be required, but no fee shall be charged.

(3) *Directional signs.*

- a. *On-site traffic direction signs.* Private traffic direction signs ("motel parking," "one way," "in," "out," "entrance," "exit," etc.) may be located on the premises for which the directions are indicated, subject to the following requirements.
 1. Not more than one (1) such sign, not exceeding four (4) square feet in size or three (3) feet in height shall be permitted at each point of ingress and egress from a public or approved private street to the premises.
 2. The copy on such signs shall be limited to the directional information plus the name and/or logo of the business.
 3. Permits for private traffic directional signs may be issued for an entire development when applied for at the same time as other signs and, in no case, shall the size of the private traffic directional signs be applied to the maximum square footage of signs allowed on-site.
- b. *Off-site directional signs.* Directional signs of any religious, charitable, fraternal, nonprofit, or civic organization operated within the city, having a meeting place, clubhouse, or other site within the city may be installed for the purpose of indicating the

place where such clubhouse, meeting place or site is located within the city, in accordance with the following requirements.

1. Such off-site directional signs shall not be located within the public right-of-way.
2. The signs shall not exceed three (3) feet by four (4) feet in size and not more than ten (10) feet in height.

(4) *Signs on public transit stop benches or shelters.* Signs on public transit stop benches or shelters may be permitted when authorized by written agreement approved by action of the city council pursuant to the provisions of F.S. § 337.407(2). When so authorized, the following standards shall apply:

- a. Signs on public transit stop benches shall be permitted only on benches or shelters at public transit stops designated by the Jacksonville Transportation Authority. Such placement shall be subject to review by the city so that no bench or shelter shall be permitted to cause a public sidewalk to be closed to pedestrian passage or to create a hazard or to otherwise be detrimental to the public safety. A permit for each such bench or shelter sign shall be required, but no permit fee shall be charged.
- b. No bench shall be more than forty-three (43) inches high nor more than seventy-four (74) inches long nor more than twenty-eight (28) inches wide. Benches must be constructed of concrete and wood or equivalent materials. Bus shelters shall be no larger than the size necessary to accommodate a bus bench of the maximum allowable size.
- c. No bench or shelter shall be placed so that the angle of its long dimension in relation to the curb line or edge of pavement shall be greater than thirty (30) degrees, and no bench or shelter may be placed so that it is closer than thirty-six (36) inches to the face of the curb or edge of the pavement.
- d. Not more than one (1) bench or shelter displaying a commercial message or intended for the display of a commercial message shall be permitted at a particular location.
- e. Display space on benches shall be restricted to the backrest area of the bench and shall not be greater than six (6) feet in length and two (2) feet in height. No commercial message displayed thereon shall appear other than on the front or rear surface of such backrest area. Display space on shelters shall be limited in location and size to the side or rear wind screen panels. Should any message be deemed objectionable in the judgment of the city reasonably exercised, then, upon notice to the sponsoring organization, such message shall forthwith be caused to be removed by the sponsoring organization.
- f. Should any bench or shelter or bench or shelter sign fail to conform to the above standards; or should a property owner object to the presence of a bench or shelter abutting his property, then the city may order the sponsoring organization to remove such bench or shelter and, that failing, may remove the same at the expense of the sponsoring organization.

(Ord. No. 7500, § 8.4(E), 8-19-91; Ord. No. 93-7579, § 2, 10-4-93; Ord. No. 2006-7920, § 2, 4-3-06)

Sec. 34-446. Special requirements for marquee, mobile and temporary signs.

The following signs shall be permitted in accordance with any applicable special requirements.

- (1) *Theater marquee signs.* Theater marquee signs consisting of an opaque, single-faced sign with a maximum area of two hundred fifty (250) square feet shall be permitted for the purpose of advertising the theater or events in a building constructed for theater purposes. Such signs shall require a sign permit.
- (2) *Mobile or portable signs.* Mobile or portable signs shall be permitted subject to the following requirements.
 - a. *Permits.* A mobile or portable sign shall not be placed, parked, or otherwise utilized for display purposes on any site or premises unless a sign permit and an electrical permit as required by the building code have previously been issued therefor for each installation of each sign on each site or premises.
 - b. *Duration.* No site or premises shall be occupied by a mobile sign for more than thirty (30) days during any one hundred eighty-day period. Thirty-day permits shall not run concurrent.
 - c. *Location.* Mobile or portable signs shall not be located or maintained:
 1. At a location where a permanent sign exists, or
 2. In any street right-of-way or on any publicly owned property, or
 3. In any zoning district not permitting advertising structures, or
 4. Within ten (10) feet of any property line or within twenty (20) feet of the intersection at any two (2) street right-of-way lines; or
 5. Within five (5) feet of any pole, guy wire or line of any electric, telephone or other utility.
 - d. *Size and height.* A mobile or portable sign shall not exceed forty (40) square feet in area per display face and shall not exceed eight (8) feet in height to the top thereof above the existing ground level.
 - e. *Anchors.* Mobile or portable signs shall be adequate to withstand wind loads the same as ground signs and shall be anchored at each installation so as to prevent sliding or overturning resulting from such loads. Where cables or other flexible anchoring materials are used, turnbuckles or other tightening devices shall be provided to keep the cables snug.

- f. *Electrical.* Electrical connections to mobile signs may be made through type SO or STO flexible 12/3 cords not more than two hundred (200) feet in length and supplied by an approved grounded weatherproof exterior electrical outlet on a circuit with a capacity of not less than twenty (20) amperes.
1. Electrical cords shall not be extended through doors, windows or other openings into buildings and shall not be laid on driveways, sidewalks, pavement or any area subject to pedestrian or vehicular traffic.
 2. Electrical sign transformers and ballast in mobile signs shall be of high-power factor type and an approved accessible means of disconnecting electrical current shall be provided.
 3. Mobile or portable signs which include electrical lighting or equipment shall have been approved and labeled by Underwriters' Laboratories or shall have been certified by a certified master electrician to be in compliance with electrical regulations and this division.

- (3) *Temporary signs.* A permit shall be required for all temporary signs over four (4) square feet. The building official may issue a temporary permit to any licensed person whose business necessitates the use of such a temporary sign at the location where business of a temporary nature is being conducted or expected to be conducted. No temporary sign shall be erected at a location where a permanent sign exists. Temporary signs must be removed after sixty (60) days. A mobile (portable) sign is not a temporary sign.

(Ord. No. 7500, § 8.4(F), 8-19-91)

Sec. 34-447. Sign construction specifications.

(a) *Standard building code.* Construction and erection of signs shall be in accordance with the structural requirements set forth in the Standard Building Code.

(b) *National Electrical Code.* Signs having electrical connections of any kind shall be wired in accordance with the National Electrical Code, and shall be equipped with a suitable disconnect on or within the sign.

(c) *Inspections.* Any sign having an electrical connection shall be permitted, inspected and approved by the electrical inspector prior to its completion. All sign structures shall be inspected and approved by the building official. The inspection point shall be selected by the building official. All excavations for concrete sign support bases shall be inspected and approved by the building official prior to the pouring of concrete.

(Ord. No. 7500, § 8.4(G), 8-19-91)

Sec. 34-448. False or misleading advertising.

It shall be unlawful for any person to display untrue, false or misleading statements upon signs, billboards or other public places, which are calculated to mislead the public as to anything sold, any services to

be performed or information disseminated. The fact that any such sign or display shall contain words or language sufficient to mislead an ordinary person in reading same shall be prima facie evidence of a violation of this division by persons displaying such signs or permitting the same to be displayed at their residence, establishment, or place of business.
(Ord. No. 7500, § 8.4(H), 8-19-91)

Sec. 34-449. Revocation of permit and removal of signs.

(a) *Grounds for revocation.* All permits issued under this division are revocable for violations of this division and for reasons of safety of persons or property, faulty construction, lack of maintenance or unsightly appearance including all surfaces which are to be painted and maintained in good condition or in cases where the need no longer exists.

(b) *Repair/removal time frame.* Any sign for which a permit has been revoked must be repaired or removed within twenty (20) days after receiving due notice. In case the objectionable sign is not removed, the city shall then have the right to enter upon the property, remove the sign and assess such cost against the property.

(c) *Abandoned signs.* Any abandoned sign shall be removed within thirty (30) days from the date of its abandonment. Any such sign not removed within the required period shall constitute a nuisance and shall be subject to abatement under the provisions of Chapter 19 of the City's Code of Ordinances.

(d) *Unsafe signs.* Unsafe signs shall be removed in accordance with the provisions of the city's standard building code.

(e) *Change in ownership or tenancy.* No new occupational license shall be issued nor shall any current occupational license be transferred for any business or occupation under new ownership or tenancy at a location where any nonconforming sign exists.

(f) *Zoning approvals.* Upon approval of any change in zoning of property or properties occupying less than five (5) percent of the total land area of the city, conditional uses, or variances pursuant to Article VI of the LDC, all signs located on the property shall be made to conform with the requirements of this division.

(g) *Building permits.* No building permits shall be issued for additions, alterations, or improvements valued at more than fifty (50) percent of the fair market value of the structure or building for work at locations where any nonconforming sign exists.

(h) *Removal pursuant to state law.* The city may at any time remove any sign or outdoor advertising display in accordance with the provisions of Chapter 479, Section 479.15, Florida Statutes.
(Ord. No. 7500, § 8.4(I), 8-19-91; Ord. No. 2006-7920, § 3, 4-3-06)

Sec. 34-450. Nonconforming signs.

All signs or outdoor displays which are lawfully in existence or are lawfully erected and which do not conform to the provisions of this division are declared nonconforming signs. It is the intent of this division to recognize that the eventual elimination of nonconforming signs as expeditiously and fairly as possible is as

much a subject of health, safety, and welfare as is the prohibition of new signs that would violate the provisions of this division. It is also the intent of this division that any elimination of nonconforming signs shall be effected so as to avoid any unreasonable invasion of established property rights.

- (1) *Continuance restrictions.* Any sign lawfully existing on the effective date of this division which does not conform to one (1) or more provisions of this division may be continued in operation and maintained indefinitely as a legal, nonconforming sign, provided that:
 - a. No structural alteration, enlargement, or extension shall be made to a legal, nonconforming sign unless the alteration, enlargement, or extension will result in the elimination of the nonconforming features of the sign.
 - b. No sign shall be moved in whole or in part to any other location where it would remain nonconforming.
 - c. If a legal, nonconforming sign is damaged or destroyed by any means to the extent of fifty (50) percent or more of its replacement value at the time of the damage, the sign may not be rebuilt or used thereafter unless it conforms to all of the provisions of this division. In the event the damage or destruction is less than fifty (50) percent of its replacement value at the time, the sign may be rebuilt to its original condition.
 - d. Normal maintenance of legal, nonconforming signs, including necessary non-structural repairs and incidental work which does not extend or intensify the nonconforming features of the sign, shall be permitted. Normal maintenance, nonstructural repairs, and incidental alterations shall not include changing the sign face.
- (2) *Abandonment.* Abandonment of a nonconforming sign shall immediately terminate the right to maintain such sign. Any nonconforming sign shall be removed or brought into compliance with this division immediately upon a change in principal use of the site.

(Ord. No. 7500, § 8.4(J), 8-19-91)

Sec. 34-451. Severability.

- (a) *Generally.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division.
- (b) *Severability where less speech results.* Without diminishing or limiting in any way the declaration of severability set forth above in subsection (a), above, or elsewhere in this division, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

(c) *Severability of provisions pertaining to prohibited signs.* Without diminishing or limiting in any way the declaration of severability set forth above in subsection (a), above, or elsewhere in this division, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division that pertains to prohibited signs, including specifically those signs and sign-types prohibited and not allowed under section 34-443 of this division. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 34-443 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 34-443, thereby ensuring that as many prohibited sign-types as may be constitutionally prohibited continue to be prohibited.

(d) *Severability of prohibition on billboards.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division and/or any other Code provisions and/or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on billboards as contained in this division or Code.
(Ord. No. 2006-7921, § 1, 4-3-06)

Secs. 34-452--34-465. Reserved.

DIVISION 5.

ENVIRONMENTAL STANDARDS

Sec. 34-466. Stormwater management.

(a) *Purpose and intent.* The purpose of this division is to manage stormwater drainage within of the City of Jacksonville Beach in order to maintain and enhance the public health, safety, and welfare through the control of runoff volume and treatment of stormwater runoff for the protection of surface water and groundwater quality, and the control and prevention of erosion, sedimentation, and flooding by providing standards for the design, construction, and operation of stormwater management systems in conformance with best overall management practices.

This division is intended to implement the goals, objectives, and policies of the comprehensive plan of the City of Jacksonville Beach, and to be consistent with the applicable policies and regulations of regional, state and federal agencies regarding stormwater management. It is also intended to allow landowners reasonable use of their property while promoting the following objectives:

- (1) Protecting the quality and quantity of ground and surface waters.
- (2) Perpetuating recharge of the groundwater system;

- (3) Reducing erosion loss of topsoil and subsequent sedimentation of surface water bodies.
- (4) Preventing loss of life and property damage due to runoff from any foreseeable rainfall event.

(b) *Applicability.* This division shall apply within the incorporated area of the City of Jacksonville Beach, Florida. A permit will be required only for new stormwater discharge facilities as defined herein. This provision shall not effect the city's authority to require corrective action whenever a stormwater management facility causes or contributes to violations of water quality and flood control standards.

(c) *Procedures.*

- (1) No person may subdivide land, initiate construction activity, make any substantial change in land contour lines, alter drainage or stormwater runoff, or construct a stormwater management system without first satisfying the requirements contained in this division and applicable regional, state and federal regulations, and obtaining approval from the public works director. The following activities may potentially alter or disrupt existing stormwater runoff patterns, and as such, will, unless exempt pursuant to section 34-466(e), require a permit prior to initiation of any development.
 - a. Clearing and/or draining of land for development purposes;
 - b. Clearing and/or draining of nonagricultural land;
 - c. Converting undeveloped lands to nonagricultural uses;
 - d. Subdivision of land where road improvements are required;
 - e. Alteration of land and/or the construction of a structure or a change in the size of one (1) or more structures.
 - (2) Development plans submitted for approval shall show all areas retained in a pervious condition and their past development treatment. All structured drainage shall be shown in sufficient detail to enable a determination to be made of their holding capacity and all pipe runs shall be shown with details concerning material direction of slope (degree of fall) and point of connection to off-site drainage systems. Capacity and/or throughput potential must meet the requirements of section 34-466(e)(1)a. through d.
 - (3) The planning and development director will certify compliance with these provisions upon receipt of approval by the public works director.
 - (4) No connection shall be made to off-site drainage systems until approval has been received from the owner of the system (either city, county, or state government).
- (d) *Exemptions.* The following development shall be exempt from the terms of this division.
- (1) The construction, replacement, alteration, or maintenance of a single-family or two-family

residence and accessory structures, where clearing and drainage does not adversely impact adjacent properties by diverting runoff.

- (2) The clearing of land which is to be used solely for conservation, recreation, agriculture, or open space provided no disruption of natural surface waters or impoundment of surface water will result. This exemption will not apply where clearing and drainage may directly or indirectly impact areas defined as conservation/protected areas pursuant to the comprehensive plan.

(e) *Standards for stormwater management.*

(1) *General.*

- a. The general design and performance requirements of this division shall meet all of the standards of the following documents, unless stricter standards are stated herein. These documents are incorporated herein as part of the LDC by reference:
1. Drainage Manual, Florida Department of Transportation.
 2. Chapter 17-25, Florida Administrative Code, Rules of the Department of Environmental Regulation.
 3. Chapter 40C, Rules of the St. Johns River Water Management District.
 4. National Pollution Discharge System rules of the U.S. Environmental Protection Agency.
- b. Innovative approaches to stormwater management shall be encouraged and the concurrent control of erosion, sedimentation and flooding shall be mandatory. The public works director reserves authority in approving alternate methods of meeting the objectives of these guidelines and regulations on a demonstration by the applicant that similar results can be achieved by the proposed alternate method.
- c. All stormwater management systems constructed or reconstructed under development orders issued by Jacksonville Beach authorities shall be in accordance with the following:
1. Major outfall facilities (trunk storm sewers, canals, waterways, natural drainage features and culverts of major outfalls) shall be designed and constructed to accommodate a twenty-five-year, twenty-four-hour frequency storm.
 2. Major components of storm drainage systems in new residential subdivisions shall be designed and constructed to accommodate a twenty-five-year, twenty-four-hour frequency storm.
 3. Stormwater management systems for development other than new residential subdivisions shall be designed and constructed to accommodate a ten-year, twenty-four-hour frequency storm.

4. In existing developed areas where stormwater facilities are retrofitted, and in which standard treatment methods are impractical, appropriate Best Management Practices, as described in the Florida Land Development Manual: A Guide to Sound Land and Water Management (DER, 1988), shall be utilized.
5. Stormwater treatment shall be provided for a volume equivalent to either retention or detention with filtration, of the run-off from the first one (1) inch of rainfall; or as an option, for facilities with a drainage area of less than one hundred (100) acres, the first one-half (1/2) inch of run-off pursuant to Chapter 17-25, Florida Administrative Code. No discharge from any stormwater facility shall cause or contribute to a violation of water quality standards as provided in Section 17.302 of the Florida Administrative Code.

(2) *Minimum information required for plan review and permitting.* The application shall be in a form established by the planning and development director and made available to the public. In addition to the information and exhibits to be provided pursuant section 34-256 of the LDC, the applicant shall provide the city with sufficient information to ensure compliance with this division and the LDC, and shall include the following information:

- a. A map of the development that shows the following information:
 1. Existing topography of the development at one (1) foot contour intervals and existing spot elevations so that the existing drainage patterns can be clearly established. Additional off-site topographical information may be needed to adequately identify drainage patterns. Also identified on this plan shall be the identification of the classification of the receiving basin, name of the water body and/or stream to which the development contributes;
 2. The drainage boundary of the area of any lands outside the development limits contributing runoff to the development;
 3. Soil types on-site, including soil conservation service hydrologic classification;
 4. Proposed construction phase(s) of the development (if applicable);
- b. Engineering calculations and methodologies along with a description of the proposed stormwater management plan, including basin locations, conveyance type and functional description (retention, detention, combination, etc.).
- c. Proposed development drainage boundaries showing direction of flows, areas of each basin, percentage of each of soil classifications with boundaries, and off-site drainage areas that will contribute flow to the site.
- d. Locations of stormwater retention/detention facilities, including size, design capacity, high water elevation, side slopes, depth of pond and retained/detained runoff volumes;

- e. Off-site easements for stormwater management facilities that will be required when either of the following conditions exist:
 - 1. The discharge is into any built facility for which the City of Jacksonville Beach does not have either drainage easement or right-of-way;
 - 2. The discharge is into a natural system such that the rate or character (i.e., sheet flow versus concentrated flow) of the flow at the property line has been changed. The easement will be required to a point at which natural conditions are duplicated;
- f. Location and size of internal storm drainage facilities;
- g. Detailed grading plan with sufficient spot elevations to determine the direction of flow;
- h. Inlet locations and corresponding contributing watershed boundaries;
- i. Erosion and sedimentation control plan;
- j. Pre-development and post-development runoff characteristics, including runoff curve numbers or runoff coefficients;
- k. Soil reports that includes borings, water table encountered and estimation of the seasonal high water table. The soils analysis must be submitted by a qualified geotechnical engineer, professional geologist, or soil scientist. Soil borings must be performed to a depth of at least ten (10) feet below the proposed basin bottom;
- l. Stage-storage discharge relationships of any storage areas, such as, retention or detention facilities used;
- m. Drawdown curve of calculations for retention or detention facilities to substantiate design;
- n. Identify any temporary construction that may affect the on-site and/or offsite stormwater management system prior to completion of the development;
- o. A statement designating the entity that will be responsible for the operation and maintenance of the stormwater management system. A copy of the restrictive covenants for the establishment of a Homeowner's Association must be submitted, if applicable.
- p. A certification signed by the engineer, licensed in the State of Florida, responsible for the design that will read as follows:

"I hereby certify that the design of the Stormwater Management System for the development known as _____ (development name) meets all of the requirements and

has been designed substantially in accordance with the City of Jacksonville Beach Stormwater Management Regulations, section 34-466 of the City of Jacksonville Beach Land Development Code."

q. A maintenance plan for the stormwater management system must be submitted with the construction plans and is subject to approval of the public works director. This plan must be incorporated in the restrictive covenants.

(3) *Alternatives to on-site control.* Improvements to city stormwater management facilities may be provided by an applicant in lieu of on-site storage upon recommendation by the public works director and approval of the city council, particularly in areas where individual properties cannot meet the established standards on-site because of soil limitations or other constraints that may exist.

(4) *Erosion and sedimentation control.*

a. All stormwater management facilities which are open and unpaved shall be stabilized with either grass or sod. The following minimum requirements shall be met:

1. All dry basin bottoms must be seeded and mulched. The seeding mix must provide both long term vegetation and rapid growth seasonal vegetation. Side slopes steeper than 3:1 must have the sod stapled or pegged. Basin side slopes flatter than 3:1 may be seeded and mulched or sodded.
2. Erosion protection at the outlet of all drainage structures must be provided. For outlet velocities greater than three (3) feet per second an energy dissipation device must be installed; such as riprap, baffles or stilling basins.
3. A strip of sod must be placed around the perimeter of all headwalls, endwalls, and mitered end installations.
4. During construction, provision must be made to minimize disturbance to and compaction of basin bottoms.

b. Special design standards for residential development stormwater management systems: Drainage basins must be located within common areas, or recreation areas and not within platted building lots, and reasonable access to drainage basins must be provided. This access must be identified as common area or easement with a minimum width of twelve (12) feet.

(Ord. No. 7500, § 8.5(A), 8-19-91)

Sec. 34-467. Flood hazard area.

(a) *Purpose and intent.*

(1) *Findings of fact.*

- a. The flood hazard areas of the City of Jacksonville Beach 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.
- b. 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, flood-proofed, or otherwise unprotected from flood damages.

(2) *Statement of purpose.* It is the purpose of this division to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a. 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;
- b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- d. Control filling, grading, dredging and other development which may increase erosion or flood damage, and;
- e. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(3) *Objectives.* The objectives of this division are:

- a. To protect human life and health.
- b. To minimize expenditure of public money for costly flood control projects.
- c. To minimize the need for rescue and relief efforts associated with flooding generally undertaken at the expense of the general welfare.
- d. To minimize prolonged business interruptions.
- e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodplains.

- f. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blighted areas.
- g. To insure that potential home buyers are notified that property is in a flood area.

(b) *Applicability.* This division shall apply to all areas of special flood hazard within the jurisdiction of the City of Jacksonville Beach. The basis for establishing the areas of special flood hazard are the areas of special flood hazard identified by the federal emergency management agency in its flood insurance study, dated April 17, 1989, with accompanying maps and other supporting data, and any revision thereto, which are adopted by reference and declared to be a part of the LDC.

(c) *Procedures.*

(1) *General provisions.*

- a. *Receipt of development permit.* A development permit shall be required in conformance with the provisions of this division prior to the commencement of any development activities.
- b. *Compliance.* No structure or land shall be developed or structurally altered without full compliance with the terms of this division.
- c. *Warning and disclaimer of liability.* The degree of flood protection required by this division is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This division does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This division shall not create liability on the part of Jacksonville Beach or by an officer or employee thereof for any flood damages that result from reliance on this division or any administrative decision lawfully made thereunder.
- d. *Abrogation and greater restrictions.* This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- e. *Interpretation.* In the interpretation and application of this section all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the governing body; and
 - 3. Deemed to neither limit nor repeal any other powers granted under state statutes.

(2) *Administration.*

- a. *Designation of the planning and development director.* The planning and development director shall administer this division.
 - b. *Procedure.* Application for a development permit shall be made to the planning and development director on forms furnished by the planning and development director prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
 1. *Application stage.* Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures; elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed; certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure will meet the flood-proofing standards in section 34-467(d)(2)b., and description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 2. *Construction stage.* Provide a floor elevation or flood-proofing certification after the lowest floor is completed, or in instances where the structure is subject to the regulations applicable to coastal high hazard areas. After 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 planning and development director a certification of the elevation of the lowest floor, flood-proofed elevation, or the 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. Said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The planning and development director shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required shall be cause to issue a stop-work order for the development.
- (3) *Planning and development director.* Duties and responsibilities of the planning and development director shall include, but not be limited to:
- a. Review of all development permits to assure that the permit requirements of this division have been satisfied;
 - b. Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.

- c. Notify adjacent communities and the DCA prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
 - e. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with section 34-467(c)(2)b.2.
 - f. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with section 34-467(c)(2)b.2.
 - g. In coastal [high] hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is designed to be securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.
 - h. In coastal high hazard areas, the planning and development director shall review plans for adequacy of lattice or screening in accordance with section 34-467(d)(2)e.2.
 - i. When flood-proofing is utilized for a particular structure, the planning and development director shall obtain certification from a registered professional engineer or architect, in accordance with section 34-467(d)(2)b.
 - j. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the planning and development director shall 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 division.
 - k. When base flood elevation data or floodway data have not been provided in accordance with section 34-467(b) then the planning and development director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of section 34-467(d).
 - l. All records pertaining to the provisions of this division shall be maintained in the office of the planning and development director and shall be open for public inspection.
- (d) *Standards for flood hazard reduction.*
- (1) *General.* In all areas of special flood hazard, the following provisions are required:

- a. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
 - b. 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.
 - c. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - d. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - e. 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.
 - f. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
 - h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;
 - i. Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this division, shall meet the requirements of "new construction" as contained in this division.
 - j. Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provisions of this ordinance shall be undertaken only if said nonconformity is not furthered, extended or replaced.
- (2) *Specific.* In all areas of special flood hazard where base flood elevation data have been provided, as set forth in section 34-467(b) or section 34-467(c)(3)k., the following provisions are required:
- a. *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated no lower than the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of section 34-467(d)(2)c.
 - b. *Nonresidential construction.* New construction or substantial improvement of any

commercial, industrial, or non-residential structure shall have the lowest floor, including basement, elevated no lower than the level of the base flood elevation. Structures located in all A-zones may be flood-proofed in lieu of being elevated provided that all areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 34-467(c)(2)b.2.

c. *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

1. Designs for complying with these requirements must either be certified by a professional engineer or architect or meet the following minimum standards:
 - i. Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one (1) foot above grade; and
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
2. Electrical, plumbing, and other utility connections are prohibited below the base flood elevation;
3. 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
4. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

d. *Standards for manufactured and mobile homes and recreational vehicles.*

1. Manufactured or mobile homes to be placed or substantially improved within Zones #1--30, AH, and AE on the City of Jacksonville Beach's FIRM on sites:

- (i) Outside of a mobile home park;
 - (ii) In a new mobile home park;
 - (iii) In an expansion to an existing mobile home park; or
 - (iv) In an existing mobile park on which a manufactured or mobile home has received substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured or mobile is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
2. Manufactured or mobile homes to be placed or substantially impact on sites in an existing mobile home park within Zones A1--30, AH, and AE on the City of Jacksonville Beach's FIRM that are not subject to the provisions of paragraph (d)(1)b. of section 34-467, above, shall be elevated so that either:
- (i) The lowest floor of the manufactures home is at or above the base flood elevation, or
 - (ii) The manufactured or mobile home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
3. All recreational vehicles placed on sites must either:
- (i) Be fully licensed and ready for highway use, or
 - (ii) The recreational vehicle must meet all of the requirements for new construction, including anchoring and elevation requirements of section 34-467(d)(2)(d)(i) and (iii), above.

Recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and have no permanently attached structures.

- e. *Floodways.* Located within areas of special flood hazard established in section 34-467(b), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:
- 1. Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting

technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;

2. If section 34-467(d)(2)d.1. is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of section 34-467(d).
 3. Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on lot in an existing manufactured home park or subdivision provided that anchoring standards of section 34-467(d)(1)b. and the elevation standards of section 34-467(d)(2)a. are met.
- f. *Coastal high hazard areas (V zones).* Located within the areas of special flood hazard established in section 34-467(b) are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash, therefore, the following provisions shall apply:
1. All buildings or structures shall be located fifty (50) feet west of the bulkhead.
 2. All buildings or structures shall be elevated so that the bottom of the lowest supporting horizontal 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 decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with section 34-467(d)(2)e.8.;
 3. All buildings or structures shall be securely anchored on pilings or columns;
 4. All pilings and columns and the 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. The anchoring and support system shall be designed with wind and water loading values which equal or exceed the one hundred-year mean recurrence interval (one (1) percent annual chance flood). Wind loading values shall be in accordance with the Standard Building Code, 1991 edition.
 5. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in section 34-467(d)(2)e.2. through 4. of this division.
 6. 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 planning and development director 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:

- i. Particle composition of fill material does not have a tendency for excessive natural compaction;
 - ii. Volume and distribution of fill will not cause wave deflection to adjacent properties; and
 - iii. Slope of fill will not cause wave run-up or ramping.
7. There shall be no alteration of sand dunes which would increase potential flood damage;
8. Lattice work or decorative screening shall be allowed below the base flood elevation provided they are not part of the structural support of the building and are designed so as to breakaway, 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:
 - i. No solid walls shall be allowed, and;
 - ii. Material shall consist of lattice or mesh screening only.
9. If aesthetic lattice work or screening is utilized, such enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.
10. Prior to construction, plans for any structures that will have lattice work or decorative screening must be submitted to the planning and development director for approval;
11. Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided for in section 34-467(d)(2)e.8. and 9.;
12. Prohibit the placement of mobile homes, except in an existing mobile home park. A replacement mobile home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of section 34-467(d)(1)b., and the elevation standards of section 34-467(d)(2)a. are met.
13. Prohibit the placement of recreational vehicles within V zones.

- (3) *Standards for streams without established base elevations and/or floodways.* The following provisions apply within the areas of special flood hazard established in section 34-467(b) where small streams exist but where no base flood data have been provided or where no floodways have been provided:
- a. No encroachments, including fill material or structures shall be located within twenty (20) feet of each side from top of bank unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - b. New construction or substantial improvements of structures shall be elevated or flood-proofed to elevations established in accordance with section 34-467(c)(3)k.
- (4) *Standards for subdivision.*
- a. All subdivisions shall be consistent with the need to minimize flood damage;
 - b. All subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - c. All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards, and;
 - d. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty (50) lots or five (5) acres.
- (5) *Standards for areas of shallow flooding (AO zones).* The following provisions apply within the areas of special flood hazard established in Article 3, Section B***, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.
- a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least two (2) feet above the highest adjacent grade.
 - b. All new construction and substantial improvements of nonresidential structures shall:
 1. Have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement shall be elevated at least two (2) feet above the highest adjacent grade, or;

2. Together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. For construction of, or substantial improvements to, structures on slopes in areas of shallow flooding, area adjacent to said structure or improvement shall be graded in a manner such that water is guided away from the structure(s).

(Ord. No. 7500, § 8.5(B), 8-19-91; Ord. No. 95-7617, § 3, 3-6-95)

Sec. 34-468. Wellfield protection.

(a) *Purpose and intent.* The purpose and intent of this section is to protect the health and welfare of the residents and visitors of Jacksonville Beach by providing standards for regulating deleterious substances and contaminants, and by regulating the design, location and operation of activities which may impair existing and future public potable water supply wells.

(b) *Applicability.* This section shall apply within the incorporated area of the City of Jacksonville Beach. The provisions shall set restrictions, constraints and prohibitions to protect existing and future public potable water supply wells from degradation by contamination from deleterious substances.

(c) *Regulated area maps.* The official zoning atlas shall illustrate existing and future public potable water supply wells and their zone of protection and shall be reviewed and, if necessary, updated annually to include any amendments, additions, or deletions which are adopted by the city council. The official zoning atlas will be consistent with the cone of influence designations shown on the existing land use map in the future land use element of the comprehensive plan. Any entity that operates a well protected by this section shall assist the city in preparing the official zoning atlas by delivering to the planning and development director a location sketch for each public potable water supply well.

(d) *Exemptions.* The following shall be exempt from the requirements of this section to the extent indicated.

(1) *Previous approvals.* Development projects which are exempt from the provisions of the LDC pursuant to section 34-5. General approval for uses authorized within specific zoning districts shall not, however, constitute authorization for specific uses.

(2) *Continuous transit.* The transportation of any regulated substance through regulated areas shall be exempt from the provisions of this section provided that the transporting vehicle is in continuous transit.

(3) *Vehicular fuel and lubricant use.* The use of any regulated substance solely as operating fuel in a vehicle or as a lubricant in that vehicle shall be exempt from the provisions of this section.

(4) *Pesticides, herbicides, fungicides and rodenticides.* The application of substances used as

pesticides, herbicides, fungicides and rodenticides in recreation, agriculture, pest control and aquatic weed control activities shall be exempt from the provisions of this section provided that:

- a. In all regulated areas the application is in strict conformity with the use requirement as set forth in the substances' EPA registries as is indicated on the containers in which the substances are sold; and
 - b. In all regulated areas the application is in strict conformity with the requirements as set forth in F.S. Chs. 482 and 487, and F.A.C. Chs. 5E-2 and 5E-9. This exemption only applies to the application of pesticides, herbicides, fungicides and rodenticides.
- (5) *Retail sales activities.* Retail sales establishments in regulated areas that store and handle regulated substances for resale in their original unopened containers shall be exempt from the prohibitions as set forth in this section.
- (e) *Prohibited activities within regulated areas.*
- (1) *Regulated substance.* Nonresidential activities, other than retail sales exempted by section 34-468(d)(5), which store, handle, produce or use any regulated substance within the zone of protection shall be prohibited.
 - (2) *Septic tanks.* Septic tanks shall not be located within two hundred (200) feet of a public potable water supply well.
 - (3) *Stormwater retention/detention areas.* Stormwater retention/detention areas (wet), as defined by the St. Johns River Water Management District, shall not be located within three hundred (300) feet of a public potable water supply well.
 - (4) *Wastewater effluent discharges.* Wastewater treatment plant effluent discharges, including but not limited to, percolation ponds, surface water discharge, or drainfields, shall not be located within five hundred (500) feet of a public potable water supply well.
 - (5) *Nonresidential use of regulated substances.* If a nonresidential building proposes to contain, use, handle or store regulated substances and is located partially within a protection zone, then the entire building shall be governed by the restrictions applicable to that zone or to the more restrictive zone.
 - (6) *Negative water supply impacts.* No development shall be approved that negatively impacts the water resources of adjoining property owners, wetlands or lakes. Impacts shall include potential supply limitations by excessive drawdown, salt-water contamination or other quality problems.
- (f) *Restrictions on issuance of permits and licenses for new activities.*
- (1) Every application for a development permit shall indicate whether or not the property, or any portion thereof, lies within a protection zone.

(2) Every application for development permit which involves property located wholly or partially within a protection zone shall be reviewed by the planning and development director. The planning and development director shall then issue a notice as to whether or not the proposed use or activity meets the requirements of this section.

(3) No development order for any activity regulated by this section shall be issued that is contrary to the restrictions and provisions provided in this section. A development order issued in violation of this section shall confer no right or privilege on the grantee and such invalid permit will not vest rights.

(g) *Protection of future public water supply wells.* The prohibitions and restrictions set forth in this section and any regulations promulgated pursuant hereto, shall apply to any future public potable water supply well sites adopted by the city council by resolution.

(h) *Procedural requirements.* The following shall be submitted by the applicant concurrent with any plans for development located within regulated areas:

(1) Source of water for irrigation.

(2) Existing and proposed wells for potable or irrigational use on all plans submitted for review.

(3) A demonstration that potable and/or non-potable wells will not cause saltwater intrusion or adverse impacts to wetlands, lakes or other wellfields by performing a computer model analysis of the groundwater in the surficial aquifer. This shall include a simulation of the drawdown of all the proposed wells pumping during a ninety-day drought period.

(4) Nature and extent of proposed water conservation measures.

(i) *Inspections.*

(1) City personnel or designated inspectors are hereby authorized and empowered to make inspections at reasonable hours of all land uses or activities regulated by this section including nonresidential buildings, structures and land within wellfield protection zones in the city in order to determine if applicable provisions of the City Code relating to wellfield protection are being followed.

(2) Any person subject to this section shall be liable for any damage caused by a regulated substance present on or emanating from the person's property, for all costs of removal or remedial action incurred by the city, and damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss resulting from the release or threatened release of a regulated substance. Such removal or remedial action by the city may include, but is not limited to, the prevention of further contamination of ground water, monitoring, containment and clean-up or disposal of regulated substances resulting from the spilling, leaking, pumping, pouring, emitting or dumping of any regulated substance or material which creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

- (3) A notice to cease a land use or activity or an exemption issued under this section, shall not relieve the owner or operator of the obligation to comply with any other applicable federal, state, regional or local code, regulation, rule, ordinance or requirement. Nor shall said notice or exemption relieve any owner or operator of any liability for violation of such codes, regulations, rules, ordinances or requirements.

(Ord. No. 7500, § 8.5(C), 8-19-91)

Sec. 34-469. Conservation of land.

- (a) *Purpose.* The purpose of this section is to conserve, manage, and protect natural resources, and maintain and enhance the natural balance of ecological functions in Jacksonville Beach, through the regulation of conservation-protected lands and conservation-restricted lands.
- (b) *Applicability.* This section shall apply to all development within the City of Jacksonville Beach.
- (c) *Determination of boundaries.*
 - (1) The location of conservation-protected lands and conservation-restricted lands, and policies regarding their future development, are addressed in the future land use, coastal management, and conservation elements of the comprehensive plan and incorporated herein by reference.
 - (2) Any owner of land within Jacksonville Beach may request a determination of the general boundaries of conservation-protected or conservation-restricted lands on their property by submitting a request for determination of boundaries to the planning and development director. The purpose of this general indication of the presence of conservation-protected or conservation-restricted lands within the boundaries of a particular parcel is advisory in nature and shall not substitute for the specific determination of the boundaries pursuant to section 34-469(c)(4).
 - (3) The request must, at a minimum, set forth an adequate description of the land, the nature of the ownership or control of the land, and other information needed to make the determination.
 - (4) A determination of the specific boundaries of conservation-protected or conservation-restricted lands on a parcel or tract shall be made by a person qualified to make such a determination under the applicable federal, state or regional agency regulations.
- (d) *Development of conservation-protected lands.*
 - (1) *Procedure.* Prior to the approval of the development of any conservation-protected lands, as part of the consideration of a development plan pursuant to section 34-251 et seq., the following standards shall be met for the proposed development.
 - (2) *Standards for conservation-protected lands.* No development activity shall be undertaken on conservation-protected lands, except as provided herein.
 - a. *Conservation-protected estuarine wetlands.*

1. No net loss of estuarine wetlands shall be permitted without mitigation, preferably on-site.
 2. All undeveloped areas of natural vegetation within a fifty-foot strip landward of the salt marsh shall be designated conservation-protected lands and shall remain as an undisturbed buffer region providing habitat adjacent to the marsh.
 3. All new marshfront development located adjacent to the Pablo Creek estuarine system shall utilize natural vegetation within the fifty-foot conservation-protected buffer area to filter runoff, thereby approximating a natural hydrological regime.
 4. Conservation-protected wetlands shall be protected from physical and hydrologic alteration.
- b. *Conservation-protected beach and dune systems.*
1. The integrity of any approved beach renourishment project shall not be compromised by any development activity.
 2. Construction seaward of the coastal construction control line (CCCL) shall be limited to that permitted under state and federal regulations.
 3. Wind erosion of the beach shall be controlled through stabilization of the berm.
 4. Undeveloped lands within the coastal high hazard area, as indicated on the future land use map, shall be regulated as conservation-protected lands and zoned accordingly.
- c. *Permissible activities in conservation-protected areas.* Certain activities are presumed to have an insignificant affect on the function of conservation-protected lands. These activities may be undertaken unless it is shown by competent and substantial evidence that the specific activity would have a significant adverse effect on the conservation-protected lands.
1. Scenic, historic, wildlife, or scientific preserves.
 2. Minor maintenance or emergency repair to existing structures or improved areas.
 3. Cleared walking trails having no structural components, and clearing of shoreline vegetation waterward of the mean high water mark (MHW) to create walking trails having no structural components, not to exceed five (5) feet in width. Provision for handicap access exceeding this standard may be made for public uses upon approval by the planning and development director.
 4. Timber boardwalks, docks, and trail bridges that do not exceed five (5) feet in

width, provided that no filling, flooding, excavating, dredging, draining, ditching, and tilling is done, except limited filling and excavating necessary for the installation of pilings. Provision for handicap access exceeding this standard may be made for public uses upon approval by the city council.

5. Commercial or recreational fishing or hunting.
 6. Constructing fences where no fill activity is required and where navigational access will not be impaired by construction of the fence.
 7. Developing an area that no longer functions as a wetland where it can be demonstrated that the water regime has been permanently altered, either artificially or naturally prior to the adoption of the LDC and not in violation of any rule, regulation, statute, or the LDC, in a manner to preclude the area from maintaining surface water of hydroperiodicity necessary to sustain wetland structure and function. If the water regime of a wetland has been artificially altered but wetland species remain the dominant vegetation of the area, a determination of the feasibility of restoring the altered hydrology shall be made prior to approval of any alternative development proposal. If the wetland can be restored at a cost that is reasonable in relation to the benefits to be derived from the restored wetland, a condition in the development order shall require restoration of the wetland.
- d. *Designated water dependent activities.* Designated water dependent activities that are otherwise prohibited may be allowed if the applicant demonstrates that the public benefits of the activity substantially outweigh the adverse environmental effects on a conservation-protected wetland area; and no practicable alternative to placement in the conservation-protected lands exists.
1. The following are permissible water dependent activities.
 - i. Developments not exceeding ten thousand (10,000) cubic yards of material placed in or removed from watercourses, water bodies or wetlands.
 - ii. All docks and slips, if they meet the requirements of applicable state and federal regulations.
 - iii. New riprap or similar structures (not including seawalls, bulkheads, or the like) not exceeding fifty (50) feet of shoreline.
 - iv. Installation of buoys, aids to navigation, signs, and fences.
 - v. Performance of maintenance dredging for ten (10) years from the date of the original permit.

- vi. Installation of subaqueous transmission and distribution lines for water, wastewater, electricity, communication cables, oil or gas.
- vii. Construction of foot bridges and vehicular bridges.
- viii. Replacement or widening of bridges on pilings or trestles where the effects of pollutants discharged into open waters are minimized.
- ix. Construction of artificial reefs.

2. *Standards for water dependent activities.* Water dependent activities shall be designed, constructed, maintained and undertaken in a way that minimizes the adverse impacts on the beneficial functions of the affected conservation-protected area. The following standards shall apply to special uses allowed in wetland conservation-protected areas.

- i. The development shall be designed to allow the movement of aquatic life requiring shallow water; maintain existing flood channel capacity; and assure stable shoreline embankments.
- ii. Development that encroaches on wetland conservation-protected areas shall not be located on unstable shorelines where water depths are inadequate to eliminate or minimize the need for foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach feeding, and other river, lake, and channel maintenance activities; in areas where there is inadequate water mixing and flushing; or in areas which have been identified as hazardous due to high winds or flooding.
- iii. Access roads, parking lots, and similar structures shall be located on upland sites.
- iv. Non-developed portions of wetland conservation-protected areas that are damaged during construction shall be restored or replaced through replanting of vegetation, restocking of fish, shellfish, and wildlife, reestablishment of drainage patterns, and similar activities to return the damaged areas to pre-development conditions. To the maximum extent possible, the restored areas shall match their prior ecological functioning.

(e) *Development of conservation-restricted lands.*

(1) *Procedure.* Prior to the approval of the development of any conservation-restricted lands, and as part of the consideration of a development plan pursuant to section 34-251 et seq., the following standards shall be met for the proposed development.

(2) *Standards for conservation-restricted lands.*

- a. *Floodplains.* Except as expressly provided in section 34-467 of the LDC, no development activity shall be undertaken on conservation-restricted floodplains.
- b. *Palustrine or upland wetlands.* No new development on any land identified as being located in a conservation-restricted palustrine or upland wetland shall be approved unless all applicable requirements of federal, state and regional agencies having jurisdiction over the proposed development have been met.

(f) *Mitigation.*

- (1) Compensatory mitigation by which environmentally sensitive lands are purchased, created, enhanced and/or restored to compensate for the loss of such lands will be required whenever a special use is allowed under section 34-469(d)(2)c.
- (2) The purchased, created, enhanced, or restored environmentally sensitive land must be of the same type as that destroyed or degraded.
- (3) Compensatory mitigation shall not be the basis for approving a development that could not otherwise be approved.
- (4) A developer of a compensatory mitigation plan shall grant a conservation easement under F.S. § 704.06, on the newly purchased, created, or enhanced or restored environmentally sensitive lands to protect them from future development.

(5) For wetland conservation-protection areas, the compensatory wetland mitigation shall require that the amount of wetlands purchased, created, enhanced, or restored be large enough to assure that the amount of wetlands destroyed or degraded will be completely and successfully replaced. The following ratios of replacement to destroyed wetlands shall be presumed to provide reasonable assurances for type-for-type mitigation.

Swamp Hammock	2.0	to	1.0
Hardwood Swamp	2.0	to	1.0
Bayheads and Bogs	2.0	to	1.0
Riverine Cypress	1.5	to	1.0
Cypress Pond	1.5	to	1.0
Wet Prairie	1.0	to	1.0*
Freshwater Marsh	1.0	to	1.0*
Salt Marsh	1.0	to	1.0*

* If wetland creation proposed depends extensively on natural recolonization, the ratio may be 2.5 to 1. (Ord. No. 7500, § 8.5(D), 8-19-91)

Secs. 34-470--34-489. Reserved.

ARTICLE IX.

SUBDIVISION STANDARDS

DIVISION 1.

IN GENERAL

Sec. 34-490. Purpose and intent.

The purpose of this article is to establish the minimum standards for the division of land and improvement of that land in the City of Jacksonville Beach in order to protect the public health, safety, and general welfare. Specifically, these minimum subdivision standards are designed to:

- (1) Establish reasonable and equitable procedures and standards for the subdivision of land that fosters community stability, creates and maintains healthful living environments, preserves natural resources and aesthetic qualities, and appropriately safeguards natural resources.
- (2) Require the provision of safe and convenient vehicular and pedestrian traffic circulation.
- (3) Ensure that public facilities are available to serve development.
- (4) Conserve and manage the natural resources of Jacksonville Beach in order to preserve the productivity, equilibrium, and aesthetic qualities of its land and water.
- (5) Prevent and reduce air and water pollution and the degradation of land.
- (6) Provide for open space and recreational land through efficient and appropriate subdivision design.
- (7) Guide the future growth and development of Jacksonville Beach consistent with the comprehensive plan and other provisions of the LDC.
- (8) Maintain and improve safety from fire, flood and other potential disasters.
- (9) Provide adequate light, air, and privacy for land uses.

(10) Ensure that the subdivision of lands is recorded with proper legal descriptions and monuments.
(Ord. No. 7500, § 9.1(A), 8-19-91)

Sec. 34-491. Authority.

The city council has the authority to subdivide land pursuant to Fla. Const. Art. VIII. Sec. 2, the Jacksonville Beach Charter, F.S. § 166.01 et seq., F.S. § 163.3161(8), and F.S. § 177.01 et seq.
(Ord. No. 7500, § 9.1(B), 8-19-91)

Secs. 34-492--34-500. Reserved.

DIVISION 2.

PROCEDURES

Sec. 34-501. General applicability.

Prior to the division or transfer of three (3) or more parcels of land within the City of Jacksonville Beach, it shall receive an approval for a final plat for subdivision pursuant to the procedures and standards of this article.

(Ord. No. 7500, § 9.2(A), 8-19-91)

Sec. 34-502. General description of subdivision.

All land, unless exempted pursuant to this article, shall be required to gain approval of a concept plan for plat, development plan for plat, and a final plat pursuant to the procedures and standards of this article.

(Ord. No. 7500, § 9.2(B), 8-19-91)

Sec. 34-503. Concept plan for plat.

If a proposed development is subject to the terms of this article and has not received a development order for a preliminary development plan for PUD zoning district classification or a preliminary plan for RD zoning district classification, it shall be required to receive approval of a concept plan for plat pursuant to the procedures and standards of this division.

- (1) *Submission of application.* An application for a concept plan for plat shall be submitted to the planning and development director along with a nonrefundable application fee which is established from time to time by the city council to defray the actual cost of processing the application.
- (2) *Contents of application.* The application shall be submitted in a form established by the planning and development director and made available to the public that contains the following information:
 - a. The name, address and telephone number of the owner of record of the land proposed for the concept plan for plat.
 - b. The name, address, and telephone number of the developer, if different from the owner, and an explanation of the difference. Written authorization from the landowner shall also be submitted if the application is being submitted by a person other than the landowner.
 - c. The name, address, and telephone number of the agent for the application, if there is an agent.
 - d. The name, address, and telephone number of all land use, environmental, engineering, economic, or other professionals that are assisting in the application.
 - e. The street address and legal description of the land proposed to be platted.

- f. A concept plan of the proposed plat, which includes the lot and block layout, and the proposed traffic circulation system.
- (3) *Determination of sufficiency.* Within five (5) working days after receipt of the application, the planning and development director shall determine if the application is sufficient.
- a. If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the deficiencies. No action shall be taken on the application until the deficiencies are remedied.
 - b. When the application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to this division.
- (4) *Review and report by planning and development director.* Within ten (10) working days after the application is determined sufficient, the planning and development director shall review the application, and prepare a staff report recommending approval, approval with conditions, or denial based on the standards in section 34-403(6). The planning and development director shall mail a copy of the staff report to the applicant by mail on the day the staff report is completed, along with written notification of the time and place the application will be considered by the planning commission at a hearing.
- (5) *Decision by planning commission.* After receipt of the staff report on the application for concept plan for plat, the application shall be considered at the next available public hearing. At the public hearing the planning commission shall consider the application, staff report, and public testimony. After the close of the public hearing the planning commission shall approve, approve with conditions, or deny the concept plan for plat based on the standards in section 34-403(6).
- (6) *Standards.* A concept plan for plat shall comply with the following standards.
- a. *Consistency with comprehensive plan.* It shall be consistent with the goals, objectives and policies of the comprehensive plan.
 - b. *Compatible with surrounding land uses.* It shall be compatible with surrounding land uses.
 - c. *Design and layout.* It shall be adequately designed so that the general layout of the proposed development will be compatible with surrounding land uses and not be at such variance with other development so as to cause a substantial depreciation in property values.

(Ord. No. 7500, § 9.2(C), 8-19-91)

Sec. 34-504. Development plan for plat.

Within one (1) year of receipt of a concept plan for plat, a development order for a development plan for

plat shall be submitted pursuant to the procedures and standards of section 34-251 et seq., or the concept plan for plat shall become null and void.
(Ord. No. 7500, § 9.2(D), 8-19-91)

Sec. 34-505. Final plat.

(a) *Submission of application.* Within one (1) year of the approval of a development plan for plat pursuant to the procedures and standards of section 34-251 et seq., an application for a final plat shall be submitted to the planning and development director, along with a nonrefundable application fee which is established from time to time by the city council to defray the actual cost of processing the application.

(b) *Contents of application.* Ten (10) copies of the application shall be submitted in a form established by the planning and development director and made available to the public that contains the following information:

- (1) The name, address and telephone number of the owner of record of the land proposed for the final plat.
- (2) The name, address, and telephone number of the developer, if different from the owner, and an explanation of the difference. Written authorization from the landowner shall also be submitted if the application is being submitted by a person other than the landowner.
- (3) The name, address, and telephone number of the agent for the application, if there is an agent.
- (4) The name, address, and telephone number of all land use, environmental, engineering, economic, or other professionals that are assisting in the application.
- (5) The street address and legal description of the land proposed to be platted.
- (6) Date, north arrow, scale.
- (7) The unique subdivision name in bold legible letters under which should appear the City of Jacksonville Beach.
- (8) Identification of all street names.
- (9) A legal description of the final plat.
- (10) The location and names of adjacent subdivisions.
- (11) The exact dimensions (location and width) of all streets, their bearings, angle of intersection, length of arcs, radii, points of curvature and tangent bearings.
- (12) The exact location and width of all easements, whether public or private, and a statement of easement rights.

- (13) The exact length and bearings of the exterior boundaries of the land being subdivided.
 - (14) The exact dimensions of all lots.
 - (15) The exact radii of all curves and lengths of all tangents.
 - (16) The exact location and area of all land to be dedicated for public use or reserved by deed covenant for common use of all property owners with the purpose indicated thereon. All lands dedicated for public use, other than streets, shall be marked "Dedicated to the Public."
 - (17) The deed restrictions, if any, including the boundaries of each type of restrictions.
 - (18) The accurate location and material of all permanent reference monuments and bench marks.
 - (19) The certificate of the registered land surveyor preparing the plat that the plat, as presented, fully complies with the requirements of this article and the platting laws of the State of Florida, and that the plat is a correct representation of all exterior boundaries of the land surveyed, that the plat represents a survey made by him and that all monuments indicated thereon exist and their location, size and material are correctly shown, and that permanent control points will be placed accordingly.
 - (20) As built drawings of all improvements that are to be dedicated to the City of Jacksonville Beach.
 - (21) A certificate by the owner dedicating to the public and the City of Jacksonville Beach and its successors, full use of all streets and easements for drainage, utilities, and sewers.
 - (22) Certification of acceptance by the City of Jacksonville Beach accompanied by the notarized signature of the mayor prior to filing with the clerk of the Circuit Court for Duval County.
- (c) *Determination of sufficiency.* Within ten (10) working days after receipt of the application, the planning and development director shall determine if the application is sufficient.
- (1) If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied.
 - (2) When the application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this division.
- (d) *Review and report by planning and development director.* Within ten (10) working days after the application is determined sufficient, the planning and development director shall review the application. If the planning and development director finds that all the standards of section 34-505(f). have been met, the final plat shall be submitted to the city council along with a staff report for approval. If the planning and development director finds that all the standards of section 34-505(f). have not been met, and after deficiencies have been discussed and reviewed with the applicant, the applicant shall be given a period not to exceed ninety (90) days

to take corrective action on the application. If corrective action is not taken, the planning and development director shall recommend disapproval of the final plat and shall set forth its reasons for such disapproval in writing.

(e) *Decision by city council.* At the public hearing, the city council shall review the application and staff report and approve, approve with conditions, or deny the final plat based on the standards in section 34-505(f) upon approval by the city council, the seal of the city and the signatures of the mayor and the city clerk shall be affixed to the original plat. The original plat shall then be returned to the applicant. One (1) copy shall be retained in the files of the planning and development director and one (1) copy in the files of the city manager. The approved final plat shall be recorded by the applicant in the public records of the Duval County, and one (1) mylar copy of the final plat showing the certificate of the clerk of county circuit court shall be returned by the applicant to the planning and development director.

(f) *Standards.* A final plat shall comply with the following standards.

(1) *Design standards.*

- a. *General.* In addition to these regulations, a final plat shall conform to the comprehensive plan, the LDC, and any other applicable ordinances and code provisions of the City of Jacksonville Beach to ensure that future development is consistent with the goals, objectives, and policies of the comprehensive plan.
- b. *Blocks.* The length, width and shape of blocks shall be determined with regard to:
 1. The provisions of adequate building sites suitable to the particular needs of the type of use contemplated.
 2. Zoning requirements as to lot size and dimensions.
 3. Needs for convenient access, circulation, control and safety of traffic.
 4. Limitations and opportunities afforded by topography and other natural features.
- c. *Sidewalks.* Sidewalks shall be installed parallel to all arterial and collector-type streets as enumerated in the current traffic circulation element of the comprehensive plan for the City of Jacksonville Beach. Sidewalks may be required to be installed on one (1) side of all new subdivision streets which meet the definition of an arterial or collector street. Required sidewalks shall be four-inch thick monolithic concrete with a maximum slope of one-quarter (1/4) inch per foot. Detailed plans for any required sidewalks shall be submitted with the engineering plans for the proposed subdivision.
- d. *Curves.* Where a deflection angle of more than ten (10) degrees in alignment of a street occurs, a curve of reasonably long radius shall be introduced. On all streets except subdivision streets, the centerline radius of curvature shall not be less than two hundred fifty (250) feet; on subdivision streets, it shall not be less than one hundred (100) feet.

- e. *Dead-end streets.* Streets designed to have one (1) end permanently closed shall be designed as a cul-de-sac, and shall provide at the closed end a turnaround with a right-of-way radius of not less than forty-five (45) feet. A "cul-de-sac" shall not be more than one thousand two hundred (1,200) feet in length. Turnarounds consistent with paving and turning radius requirements described herein shall be provided at all temporary dead ends.
- f. *Easements and dedications.* Easements and/or rights-of-way for public utilities shall be required for poles, wires, conduits, gas and water lines, sewers, and storm drainage facilities. Easements of a greater width may be required along or across lot lines where necessary for adequate drainage. Dedication or reservation of sites or areas for schools, parks and other public areas may be required if necessary to ensure consistency with the comprehensive plan.
- g. *Lots.* Lot dimensions and setbacks shall conform to the minimum standards established for the pertinent zoning district in Article VII, Zoning Districts.
- h. *Intersections.* Streets shall be designed to intersect at right angles. Property lines adjoining street intersections shall be rounded with a radius sufficient to allow sidewalks within the street right-of-way.

i. *Streets.* Street design standards shall be based upon the intended use as specified by their functional classification as described below:

	Subdivision Street (feet)	Culs-de-Sac (feet)	Private Street (feet)
Pavement Width:			
Swale section	20	20	20
Curb and gutter	24, with 1.5-foot curb and gutter on each side	24, with 1.5-foot curb and gutter on each side	24, with 1.5-foot curb and gutter on each side
No. of lanes	2	2	2
Dedicated Right- of-Way Width:			
Swale section	60	60	60
Curb and gutter	50	50	50
Minimum Diameter of Turnaround:			
ROW	90	90	90
Pavement	60	60	60
Maximum Length of Cul-de-Sac:	1,200	1,200	1,200
Return Radius:	30	30	30

Street grades shall be determined in relation to drainage requirements. Street grades shall not exceed five (5) percent or be less than three-tenths of one (0.3) percent.

(2) *Required improvements.*

- a. *General.* Required improvements may not be indicated on the final plat; however,

conformance with these regulations in advance of any building permits is contingent upon the improvements listed in this division being accomplished by the subdivider and accepted by the city. The subdivider is also required to execute the appropriate agreements that guarantee against faulty workmanship or materials prior to approval of the final plat.

- b. *Monuments.* Permanent reference monuments (PRM's) shall be set before the recording of the final plat and shown on the plat according to F.S. § 3177.091(7), Permanent control points (PCP's) shall also be placed on the tract and designated on the plat according to F.S. § 177.91(8), The registered land surveyor for the proposed subdivision shall be responsible for furnishing the city manager and the Duval County Clerk with the dates PCPs were set in the ground.
- c. *Street names.* Proposed street names shall appear on the final plat. New streets that are extensions of existing streets shall bear the name of the existing street. In no case shall the name given to a new subdivision street duplicate an existing street name. The city reserves the right to approve and/or reject any proposed street name.
- d. *Streets and stormwater management improvements.* All construction and materials used to install streets and drainage shall conform to the latest edition of "Standard Specifications for Road and Bridge Construction of the Florida Department of Transportation." Streets and drainage improvements shall meet the following minimum specification:
 - 1. *Subgrade.* Subgrade shall be stabilized to this strength in accordance with the specification of the Florida Department of Transportation.
 - 2. *Pavement base construction.* Base construction shall utilize only Florida limerock or other approved materials.
 - 3. *Surfacing.* Surfacing for residential streets shall be either asphaltic concrete or concrete installed to acceptable design standards for residential or commercial development.

4. *Dimensions.* Minimum dimensions shall conform to the following table:

	Collector Streets	Local and Subdivision Streets	Industrial and Commercial Streets
Base thickness	9-inch	5-inch	12-inch
Pavement thickness	1 1/2-inch	1 1/4-inch	1 1/4-inch
Pavement width	(See Street Design Standards)		

- 5. *Street intersections.* Acute angles occurring between streets at their intersection alignments shall be curved so that tangents to the curves shall intersect at right angles. Radii at intersections shall be a minimum of thirty (30) feet for residential streets and forty (40) feet for streets within industrial or commercial subdivisions.

6. *Stormwater management facilities.* All stormwater management facilities shall be constructed to provide adequate conveyance, detention or retention of stormwater runoff to prevent flooding and to maintain any natural water courses consistent with the standards in section 34-466.
 7. *Floodproofing.* Where land is subject to periodic flooding, it shall comply with the standards in section 34-467.
- e. *Water supply and sewage.*
1. The subdivision's sanitary sewer collection and potable water distribution lines shall be connected to the city's system. Sanitary sewer lines excluding service connections shall be eight (8) inches in diameter unless a larger size is stipulated by the city. Service lines shall be six (6) inches in diameter. Lift stations and sewers shall be designed and constructed in accordance with acceptable engineering standards and practices and shall be approved by the director of public works.
 2. The water supply lines in the subdivision shall be designed and constructed in accordance with acceptable engineering standards and practices and shall be approved by the public works director. Lateral water lines to single-family residences shall be one (1) inch in diameter. Lines to commercial and industrial subdivisions shall be designed to the approval of the director of public works.
 3. The water distribution system shall be designed to supply the necessary fire flow in quantity and pressure as stipulated by the National Board of Fire Underwriters for classification assigned to the City of Jacksonville Beach. Fire hydrants shall be required for all subdivisions and shall be located at each intersection or no further than five hundred (500) feet apart, whichever provides the closer spacing.
 4. The city shall reimburse the developer for the additional expense of constructing water and sewer improvements having a greater capacity than required by the development alone, when necessary to provide adequate service to areas outside the subdivision.
- f. *Street name and traffic control signs.*
1. All street name and traffic control signs required for the development shall be provided and installed by the city. The cost of manufacturing or purchasing and installing the signs shall be reimbursed to the city by the developer.
 2. The design and placement of traffic signs shall follow state regulations or the requirements specified in the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the U.S. Department of Transportation.
 3. At least two (2) street name signs shall be placed at each four-way intersection,

and one (1) at each "T" intersection. Signs shall be installed under light standards wherever possible, and be free of obstruction.

- g. *Inspection of improvements.* The City of Jacksonville Beach shall provide for inspection of required improvements during construction and ensure their satisfactory completion. If the required improvements are not found to meet the standards and specifications required herein, the subdivider shall be responsible for completing the improvements satisfactorily.
- h. *Completion of improvements prior to recording of the final plat.* All improvements shall be completed to the specifications set forth herein prior to recording of the final plat. The city is hereby automatically vested with the right to inspect the construction of improvements. In addition to inspection by the city of the improvements, a certification of completion from the project engineer shall be provided to the planning and development director in order to obtain approval to record the final plat.
- i. *Warranty bond.* Accompanying the request for acceptance of subdivision improvements for maintenance, the person, seeking approval shall furnish a good and sufficient bond from a bonding company acceptable to the city in an amount equivalent to the value of the improvements contained within the subdivision. This bond is to be furnished solely as a guarantee against faulty workmanship and materials. Said bond shall be submitted by the subdivider to the city and shall remain in force for a minimum of one (1) year following date of acceptance for maintenance of the subdivision streets, drainage system and appurtenances thereto. One (1) year after the date of acceptance for maintenance by the city council of all improvements required, the city shall release the warranty bond or that portion which remains after any faulty workmanship has been corrected.
- j. *Surety bond.* The subdivider shall have the option of furnishing the city with a surety bond payable to the city from a bonding company acceptable to the city and in an amount equivalent to one hundred (100) percent of the sum of engineering and constructing the improvements required under this article. If at the end of one (1) year from the time of acceptance of the bond by the city, the improvements have not been completed and approved, then the subdivider may request a time extension of no more than one (1) year. The city council shall determine whether to grant an additional time extension for completion or to revoke construction permits requiring forfeiture of the performance bond. Upon completion of the bonded improvements, the subdivider shall submit a request to the city council for acceptance of all public improvements and release of the performance bond. The request shall be made to the planning and development director at least ten (10) days preceding the city council meeting at which action is requested.

(Ord. No. 7500, § 9.2(E), 8-19-91)

Secs. 34-506--34-520. Reserved.

ARTICLE X.

ADEQUATE PUBLIC FACILITY STANDARDS

DIVISION 1.

GENERAL

Sec. 34-521. Purpose and intent.

The purpose and intent of this article is to ensure that adequate potable water, sanitary sewer, solid waste, stormwater management, recreation and open space, and road public facilities are available to accommodate development concurrent with the impact of development on such public facilities, consistent with the LOS standards for those public facilities adopted in the comprehensive plan. This objective is accomplished by (1) establishing a management and monitoring system to evaluate and coordinate the timing and provision of the necessary public facilities to service development, and (2) by establishing a regulatory program that ensures that each public facility is available to serve development concurrent with the impacts of development on public facilities.

(Ord. No. 7500, § 10.1(A), 8-19-91)

Sec. 34-522. Authority.

The city council has the authority to adopt this article pursuant to Fl. Const. Art. VIII, Sec. 2, the Jacksonville Beach Charter, F.S. § 166.01 et seq., F.S. § 163.3161(8), F.S. §§ 163.3177(10)(h) and 163.3202(2)(g), and F.A.C. Rule 9J-5.

(Ord. No. 7500, § 10.1(B), 8-19-91)

Sec. 34-523. Exemptions.

The following shall be exempt from the requirements of this article:

- (1) *Planned unit development.* A development order for a final development plan for a planned unit development approved on or before October 15, 1990, unless it:
 - a. Expressly states otherwise; or
 - b. Expires according to its terms or any part thereof, including its timetable for development; or
 - c. Fails to comply with its timetable for development for any phase, in which case the development shall be subject to the terms of this article as it relates to that portion of the development that fails to comply with the timetable of development; or
 - d. Is amended to increase the intensity or density of development such that there is an additional impact on adopted LOS standards for public facilities; or
 - e. Is invalidated in whole or in part.
- (2) *Plat.* A development order for a final plat for subdivision approved on or before October 15,

1990, that is proceeding in good faith by developing the subject final plat for subdivision.

- (3) *Building permit.* A development order for a building permit issued prior to October 15, 1990, unless it:
 - a. Expires according to its terms or any part thereof; or
 - b. Is invalidated in whole or in part.
- (4) *Development alterations or expansion creating no impact.* Development alterations or expansions that do not create additional impact on public facilities, including but not limited to:
 - a. Construction of room additions to dwelling units; or
 - b. Construction of accessory structures to dwelling units, including swimming pools, garages and fences; or
 - c. Additions to nonresidential uses that do not create additional impact on public facilities; or
 - d. Residential docking facilities for use by the residents of the property on which the dock facilities will be located; or
 - e. Replacement of an existing dwelling unit when no additional units are created.

(Ord. No. 7500, § 10.1(C), 8-19-91)

Secs. 34-524--34-535. Reserved.

DIVISION 2.

LEVEL OF SERVICE (LOS) STANDARDS

Sec. 34-536. [Generally.]

The following LOS standards have been adopted in the comprehensive plan and shall apply in the review of development pursuant to the procedures and standards of this article.

(Ord. No. 7500, § 10.2, 8-19-91)

Sec. 34-537. Potable water facilities.

The adopted LOS standard for potable water facilities is one hundred seventy (170) gallons of potable water per capita per day of demand. Potable water is derived from raw water treated to meet federal and state water quality standards for the protection of water for public use before being distributed for public consumption.

(Ord. No. 7500, § 10.2(A), 8-19-91)

Sec. 34-538. Sanitary sewer facilities.

The adopted LOS standard for sanitary sewer facilities is one hundred (100) gallons per capita per day of wastewater generation, discharged into the city wastewater collecting system for treatment and disposal. (Ord. No. 7500, § 10.2(B), 8-19-91)

Sec. 34-539. Solid waste facilities.

The adopted LOS standard for solid waste facilities is eight and four-tenths (8.4) pounds per capita per day of solid waste generation. Solid waste means garbage, rubbish, refuse, or other discharged solid or semi-solid materials resulting from domestic, commercial, industrial, agricultural, and governmental operations (see F.A.C. Ch. 17-7.02). Solid waste which is generated within Jacksonville Beach and collected from commercial, residential and other land uses by private contractors or the city is included in this definition. All other wastes, including construction debris, hazardous waste, and radiological wastes must be disposed of in accordance with other applicable local, state and federal requirements. (Ord. No. 7500, § 10.2(C), 8-19-91)

Sec. 34-540. Park and recreation facilities.

The adopted LOS standard for the three (3) categories of parks and recreation facilities are as follows:

LOS Standards Type of Park	Average Acres/ 1,000 Residents
Neighborhood Park	2 Acres
Community Park	2 Acres

(Ord. No. 7500, § 10.2(D), 8-19-91)

Sec. 34-541. Road facilities.

The adopted LOS standard for road facilities in the city are as follows:

- (1) All road facilities under the city's control shall function at level of service "C" or better.
- (2) The minimum level of service during peak hours on roadways under the control of the Florida Department of Transportation and the City of Jacksonville shall be:

	Freeway	Principal Arterials	Minor Arterials And All Others
Constrained Facilities	Maintain	Maintain	Maintain
Backlogged Facilities	Maintain/Improve	Maintain/Improve	Maintain/Improve
Special Transportation Area	D	E	E
All Other Roadways	D	D	E

The referenced level of standards are derived from the 1988 FDOT level of service standards for the State Highway system and shall be measured using the methodologies outlined in Florida's Level of Service Standards and Guidelines Manual for Planning, FDOT, 1988, or as updated. The city shall determine

compliance with these standards for a given roadway link by comparing annual average daily traffic (ADT) data with the threshold values contained in the manual for the corresponding facility type, average signalization per mile, and the minimum acceptable level of service.

A variance from the base levels of service or the State's standard levels of service for the State Highway System shall be permitted under the following conditions.

Constrained facilities. A constrained facility will be allowed to operate at levels within ten (10) percent of the peak hour LOS "E" thresholds. No development order will be issued for a development which would significantly deteriorate the conditions of a constrained facility.

Backlogged facility. A backlogged facility may operate in the capacity deficient condition until improvements are constructed or contracted to be constructed, or as long as the facility is operating within ten (10) percent of the peak hour LOS "E" threshold. No development order will be issued for a development which would significantly deteriorate the conditions of a backlogged facility.

A constrained or backlogged facility is considered to be significantly deteriorated from its maintained condition when peak hour volumes increase by ten (10) percent or average travel speed decreases by one (1) mile per hour.
(Ord. No. 7500, § 10.2(E), 8-19-91)

Sec. 34-542. Stormwater management facilities.

The adopted LOS standard for stormwater management facilities is as follows:

- (1) Major outfall facilities (trunk storm sewers, canals, waterways, natural drainage features and culverts of major outfalls) shall be designed and constructed to accommodate a twenty-five-year, twenty-four-hour frequency storm.
- (2) Major components of storm drainage systems in new residential subdivisions shall be designed and constructed to accommodate a twenty-five-year, twenty-four-hour frequency storm and all other components of the stormwater system shall accommodate a ten-year, twenty-four-hour frequency storm.
- (3) Stormwater management systems for all other types of new development shall be designed and constructed to accommodate a ten-year, twenty-four-hour frequency storm.
- (4) Stormwater treatment shall be provided for a volume equivalent to either retention or detention with filtration, of the run-off from the first one (1) inch of rainfall; or as an option, for facilities with a drainage area of less than one hundred (100) acres, the first one-half (1/2) inch of run-off pursuant to F.A.C. Ch. 17-25. No discharge from any stormwater facility shall cause or contribute to a violation of water quality standards as provided in F.A.C. § 17.302.
- (5) In existing developed areas where stormwater facilities are retrofitted, and in which standard treatment methods are impractical, appropriate Best Management Practices, as described in the Florida Land Development Manual: A Guide to Sound Land and Water Management (DER,

1988), shall be utilized.
(Ord. No. 7500, § 10.2(F), 8-19-91)

Secs. 34-543--34-550. Reserved.

DIVISION 3.

MONITORING PROGRAM

Sec. 34-551. General.

In order to ensure that adequate potable water, sanitary sewer, solid waste, stormwater management, park, and road facilities are available concurrent with the impacts of development on such public facilities, the city shall establish the following management and monitoring practices. Their purpose is to evaluate and coordinate the timing, provision and funding of public facilities so that they are being adequately planned for and funded to maintain the LOS for such public facilities and to evaluate public facility capacity for use in the regulatory program to ensure no development order is issued unless there are adequate public facilities available to serve the development concurrent with the impact of development on the public facilities.
(Ord. No. 7500, § 10.3(A), 8-19-91)

Sec. 34-552. Annual public facilities report.

By April 15 of each year, beginning in 1992, the planning and development director shall complete an annual public facilities report. The annual report shall determine the existing conditions of all potable water, sanitary sewer, solid waste, stormwater management, recreation and open space, and road facilities, determine and summarize the available capacity of these public facilities based on their LOS and forecast the capacity of existing and planned capital improvements identified in the five-year CIE for each of the five (5) succeeding years. Forecasts shall be based on the most recently updated schedule of capital improvements for each public facility. The annual report shall also update relevant population projections, public facility inventories, unit costs and revenue forecasts. The findings of the annual report shall be fully considered in preparing any proposed amendments to the CIE, any proposed amendments to the city's annual budget for public facilities and other public facilities and review of and issuance of development orders during the next year.
(Ord. No. 7500, § 10.3(B), 8-19-91)

Sec. 34-553. Recommendations on amendments to CIE and annual budget.

Based upon analysis of the annual public facilities report, the planning and development director shall propose to the city council each year, any necessary amendments to the CIE and any proposed amendments to the city's annual budget for public facilities.
(Ord. No. 7500, § 10.3(C), 8-19-91)

Secs. 34-554--34-560. Reserved.

DIVISION 4.

REVIEW FOR ADEQUATE PUBLIC FACILITIES

Sec. 34-561. Application.

In order to ensure that adequate potable water, sanitary sewer, solid waste, stormwater management, recreation and open space, and road facilities are available concurrent with the impact of development on each public facility, Jacksonville Beach shall establish the following development review procedures to ensure there is no development order issued unless there are adequate public facilities available to serve the proposed development, or that the development order is conditioned on the availability of public facilities to serve the development concurrent with the impact of development on the public facilities.

(Ord. No. 7500, § 10.4(A), 8-19-91)

Sec. 34-562. Procedures to determine public facility adequacy.

(a) *Preliminary development order.* No application for a development permit for a preliminary development order shall be accepted without receipt of either an exemption pursuant to section 34-423, an affidavit attesting to subsequent receipt of a certificate of public facilities reservation, or an application requesting a certificate of public facilities reservation. No preliminary development order, shall be approved without either receipt of an exemption pursuant to section 34-423, a signed affidavit attesting to subsequent receipt of a certificate public facilities reservation, or a certificate of public facilities reservation.

(b) *Final development order.* No application for a development permit for a final development order shall be accepted without an exemption pursuant to section 34-423, or an application requesting a certificate of public facilities reservation. No final development order shall be approved without either an exemption or a certificate of public facilities reservation.

(Ord. No. 7500, § 10.4(B), 8-19-91)

Sec. 34-563. Procedure to obtain certificate of public facilities reservation.

(a) *Submission of application.* An application for a certificate of public facilities reservation shall be submitted to the planning and development director in a form established by the planning and development director and made available to the public, along with a nonrefundable fee established by the city council to defray application processing costs. All applications that are for a major development except those for RD zoning district classification, shall be required to submit a detailed traffic analysis.

(b) *Determination of sufficiency.* The planning and development director shall review the application within five (5) working days after its receipt, determine whether the application is complete and includes data necessary to evaluate the application.

- (1) If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the deficiencies. No further action shall be taken until the deficiencies are remedied.
- (2) If the application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this article.

(c) *Priority for public facility capacity and encumbrance.* Priority for remaining public facility capacity for an application being reviewed for a certificate of public facilities reservation shall be based upon the date the application is determined sufficient pursuant to section 34-463(b). The application with the earliest sufficiency date shall have priority for remaining public facility capacity. After the city departments determine there is adequate public facility capacity for a development, that capacity shall be encumbered until final action on the application.

(d) *Staff evaluation and recommendation.* Within fifteen (15) working days of the day the planning and development director determines the application is sufficient, it shall be forwarded to the city departments and evaluated as to whether or not adequate public facilities are available, pursuant to section 34-464.

(e) *Decision of planning and development director.* Within ten (10) working days of receipt of an evaluation from the city departments regarding an application for a certificate of public facilities reservation, the planning and development director shall review the evaluations and application, and determine if it complies with all public facility component standards in section 34-464. If the application complies with all of the public facility component standards in section 34-464, the planning and development director shall issue a certificate of public facilities reservation. If the planning and development director determines that an application fails to meet any of the public facility component standards, the applicant shall be notified of such deficiency, and may either:

- (1) Remedy the application for a certificate of public facilities reservation within sixty (60) working days, after which the application shall be reconsidered by the planning and development director and approved or denied, consistent with the standards in section 34-464; or
- (2) Request a conditional certificate of public facilities reservation, which shall be approved by the planning and development director if it is demonstrated that:
 - a. All existing available public facility capacity up to but not greater than an amount sufficient to serve the proposed development has been reserved;
 - b. There is reasonable likelihood that the balance of the public facility capital improvements identified to provide the remaining capacity necessary to accommodate the proposed development can be provided pursuant to a development agreement;
 - c. The applicant requests consideration and approval of a development agreement concurrent with the application for a development permit for which the conditional certificate of public facilities reservation is requested for the purpose of ensuring the certificate complies with the adequate public facility standards for a certificate of public facilities reservation, and;
 - d. The conditional certificate of public facilities reservation is conditioned on the concurrent approval of a development agreement and a development order for the application for development permit that complies with the adequate public facility standards for a certificate of public facilities reservation.

Prior to the city council consideration of a development agreement in conjunction with an

application for development permit, the planning and development director shall review that component of the development agreement related to the provision of adequate public facilities for the proposed development and determine if the public facility capacity standards in section 34-464 for a certificate of public facilities reservation are met if the terms of the development agreement are approved. If the planning and development director determines that the standards of section 34-464 are met if the development agreement is approved, a certificate of public facilities reservation shall be issued, conditioned on the approval of the development agreement with the express terms related to the provision of the public facilities for the proposed development. Upon approval of the development agreement consistent with the terms and conditions which the planning and development director determined would ensure compliance with the requirements of section 34-464, the certificate of public facilities reservation shall become final. If the development agreement upon which the certificate of public facilities reservation is conditionally issued is denied, then the certificate of public facilities reservation shall automatically and immediately expire.

(Ord. No. 7500, § 10.4(C), 8-19-91)

Sec. 34-564. Standards for review of certificate of public facilities reservation.

The following standards shall be used in the determination of whether to issue or deny a certificate of public facilities reservation. Before issuance of a certificate of public facilities reservation, the application shall fulfill the standards for each and every public facility component.

- (1) *Potable water facilities.* The potable water component shall be approved if any of the following conditions are met:
 - a. Potable water facilities are in place to provide the proposed development sufficient services based on the LOS for potable water facilities, and a reservation of capacity has been received from the appropriate service provider, demonstrating that capacity will be available prior to issuance of a certificate of occupancy; or
 - b. Potable water facilities are under construction that will provide the proposed development sufficient services based on the LOS for potable water facilities, and a reservation of capacity has been received from the appropriate service provider demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy; or
 - c. Potable water facilities are to be provided by the applicant that will provide the proposed development sufficient services based on the LOS for potable water facilities, pursuant to a development agreement demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy.
- (2) *Sanitary sewer facilities.* The sanitary sewer component shall be approved if any of the following conditions are met:
 - a. Sanitary sewer facilities are in place to provide the proposed development sufficient

services based on the LOS for sanitary sewer facilities, and a reservation of capacity has been received from the appropriate service provider, demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy; or

- b. Sanitary sewer facilities are under construction that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities, and a reservation of capacity has been received from the appropriate service provider demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy; or
 - c. Sanitary sewer facilities are to be provided by the applicant that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities, pursuant to a development agreement demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy.
- (3) *Solid waste facilities.* The solid waste component shall be approved if any of the following conditions are met:
- a. Solid waste facilities are in place to provide the proposed development sufficient services based on the LOS for solid waste facilities; or
 - b. Solid waste facilities are under construction that will provide the proposed development sufficient services based on the LOS for solid waste facilities and assurance has been received demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy.
- (4) *Stormwater management facilities.* The stormwater management component shall be approved if any of the following conditions are met:
- a. Stormwater management facilities are in place to provide the proposed development sufficient services based on the LOS for stormwater management and a reservation of capacity has been received from the appropriate service provider demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy; or
 - b. Stormwater management facilities are under construction that will provide the proposed development sufficient services based on the LOS for stormwater management and a reservation of capacity has been received from the appropriate service provider demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy; or
 - c. Stormwater management facilities are to be provided by the applicant that will provide the proposed development sufficient services based on the LOS for stormwater management pursuant to a development agreement demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy.
- (5) *Recreation and open space facilities.* The recreation and open space component shall be

approved if any of the following conditions are met.

- a. Recreation and open space facilities are in place to provide the proposed development sufficient services based on the LOS for recreation and open space facilities, and a reservation of capacity has been provided for the facilities demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy; or
- b. Recreation and open space facilities are under construction that will provide the proposed development sufficient services based on the LOS for recreation and open space facilities and a reservation of capacity has been provided for the facilities demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy; or
- c. Recreation and open space facilities are the subject of a binding and executed contract that will provide the proposed development sufficient services based on the LOS for recreation and open space facilities and a reservation of capacity has been provided for the facilities demonstrating that commencement of the construction of the facilities will occur within one (1) year of issuance of the development order and completion of the facilities will occur within two (2) years of permit issuance; or
- d. Recreation and open space facilities are to be provided by the applicant that will provide the proposed development sufficient services based on the LOS for recreation and open space facilities pursuant to the terms of a development agreement demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy.

(6) *Road facilities.* The road component shall be approved if any of the following conditions are met:

- a. Road facilities are in place to provide the proposed development sufficient services based on the LOS for road facilities; or
- b. Road facilities are under construction that will provide the proposed development sufficient services based on the LOS for road facilities; or
- c. Road facilities are the subject of a binding and executed contract that will provide the proposed development sufficient services based on the LOS for road facilities; or
- d. Capital improvements are in the CIE and will be initiated no later than the third year of the five-year CIE that will provide the proposed development sufficient services based on the LOS for road facilities; or
- e. Capital improvements are to be provided by the applicant that will provide the proposed development sufficient services based on the LOS for road facilities pursuant to a development agreement demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy.

(7) *Expiration of certificate of public facilities reservation.* A certificate of public facilities

reservation is valid for two (2) years from the date it is originally approved, except that a certificate of public facilities reservation for a single-family home shall be valid for five (5) years if it is part of a final plat of subdivision approved pursuant to this article.

- (8) *Effect of public facilities reservation.* Receipt of a certificate of public facilities reservation shall constitute proof of adequate public facilities to serve the proposed development. A subsequent application for a development permit for development for which a certificate of public facilities reservation has been approved, shall be determined to have adequate public facilities as long as the certificate of public facilities reservation is valid.
- (9) *Assignability and transferability.* A certificate of public facilities reservation shall be assignable within the proposed development, subject to the certificate of public facilities reservation, but shall not be assignable or transferable to other development. A certificate of public facilities reservation shall run with the land.

(Ord. No. 7500, § 10.4(D), 8-19-91)

Sec. 34-565. Transportation fair share program.

(a) *Purpose and intent.* The purpose of this program is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair-share program, as required by and in a manner consistent with § 163.3180(16), F.S.

(b) *Applicability.* The proportionate fair-share program shall apply to all developments in the city that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility listed in the city's concurrency management system (CMS), including transportation facilities maintained by the Florida Department of Transportation (FDOT) or another jurisdiction that are relied upon for concurrency determinations, pursuant to the requirements of section 34-565(d). The proportionate fair-share program does not apply to developments of regional impact (DRIs) using proportionate fair-share under § 163.3180(12), F.S., or to developments exempted from concurrency as provided in Article X, Adequate Public Facility Standards, of the City's Land Development Code.

(c) *Definitions.*

- (1) *Transportation concurrency* means transportation facilities needed to serve new development shall be in place or under actual construction within three (3) years after the local government approves a building permit or its functional equivalent that results in traffic generation.

(d) *General requirements*

- (1) An applicant may choose to satisfy the transportation concurrency requirements of the city by making a proportionate fair-share contribution, pursuant to the following requirements:

- a. The proposed development is consistent with the comprehensive plan and applicable land development regulations.

- b. The five-year schedule of capital improvements in the city CIE or the long-term schedule of capital improvements for an adopted long-term CMS includes a transportation improvement(s) that, upon completion, will satisfy the requirements of the city transportation CMS. The provisions of section 34-565(d)(2) may apply if a project or projects needed to satisfy transportation concurrency are not presently contained within the local government CIE or an adopted long-term schedule of capital improvements.
- (2) The city may choose to allow an applicant to satisfy transportation concurrency through the proportionate fair-share program by contributing to an improvement that, upon completion, will satisfy the requirements of the city's transportation CMS, but is not contained in the five-year schedule of capital improvements in the CIE or a long-term schedule of capital improvements for an adopted long-term CMS, where one of the following applies:
- a. The city adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE or long-term schedule of capital improvements for an adopted long-term CMS no later than the next regularly scheduled update. To qualify for consideration under this subsection, the proposed improvement must be reviewed by the city council, and determined to be financially feasible pursuant to § 163.3180(16)(b)1, F.S., consistent with the comprehensive plan, and in compliance with the provisions of this ordinance. Financial feasibility for this subsection means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed ten (10) years to fully mitigate impacts on the transportation facilities.
 - b. If the funds allocated for the five-year schedule of capital improvements in the city's CIE are insufficient to fully fund construction of a transportation improvement required by the CMS, the city may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair-share is calculated if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the city and governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system.

The improvement or improvements funded by the proportionate fair-share component must be adopted into the five-year capital improvements schedule of the comprehensive plan or the long-term schedule of capital improvements for an adopted long-term concurrency management system at the next annual capital improvements element update.

- (3) Any improvement project proposed to meet the developer's fair-share obligation must meet design standards of the city for locally maintained roadways and those of the FDOT for the state highway system.

(e) *Intergovernmental coordination.* Pursuant to policies in the Intergovernmental Coordination Element of the Jacksonville Beach 2010 Comprehensive Plan and applicable policies in the Northeast Florida Regional Council's Strategic Regional Policy Plan, the city shall coordinate with affected jurisdictions,

including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected local jurisdictions for this purpose. Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in § 339.155, F.S., the city may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT Transportation Regional Incentive Program (TRIP).

(f) *Application process.*

- (1) Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the proportionate fair-share program pursuant to the requirements of this section.
- (2) Prior to submitting an application for a proportionate fair-share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is under the control of the FDOT or the City of Jacksonville, these agencies will be notified and invited to participate in the pre-application meeting.
- (3) Eligible applicants shall submit an application for proportionate share mitigation of development impacts on transportation facilities in a form established by the planning and development director and made available to the public, along with a nonrefundable fee established by the city council to defray application processing costs. The application form shall include, but is not limited to, the following:
 - a. Name, address and phone number of the owner(s), developer, and agent;
 - b. Property location(s), including parcel identification numbers;
 - c. Legal description and survey of the property;
 - d. Project description, including type and amount of development
 - e. Phasing schedule, if applicable;
 - f. Description of requested fair-share method(s); and
 - g. Copy of concurrency denial.
- (4) The planning and development director shall review the application and certify that the application is sufficient, eligible and complete within ten (10) working days after its receipt. If the planning and development director determines the application is incomplete or inconsistent with the general requirements of the proportionate fair-share program as indicated in section 34-565(d), then the applicant will be notified in writing of such deficiencies. If such deficiencies are not remedied by the applicant within one-hundred twenty (120) days of receipt of such

notification, then the application shall be deemed to be abandoned. If the application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review.

- (5) Pursuant to § 163.3180(16)(e), F.S., proposed proportionate fair-share mitigation for development impacts to facilities on the Strategic Intermodal System (SIS) requires the concurrence of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.
- (6) When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the city or the applicant with direction from the city, and delivered to the appropriate parties for review no later than thirty (30) working days from the date on which the applicant received the notification of a sufficient application and no fewer than twenty (20) working days prior to the city council meeting when the agreement will be considered. A copy of the obligation and binding agreement shall be sent to the FDOT for any proposed proportionate fair-share mitigation on a SIS facility and to an affected adjacent local jurisdiction that is part of an interlocal agreement with the city for the provision of cross jurisdictional impacts of proposed development.
- (7) The city shall notify the applicant regarding the date of the city council meeting when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the city council.
- (g) *Determining proportionate fair-share obligation.*
- (1) Proportionate fair-share mitigation for concurrency impacts may include without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.
- (2) A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
- (3) The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided for in § 163.3180(12), F.S., as follows:

"The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS."

OR

$$\text{Proportionate Fair-Share} = \Sigma[(\text{Development Trips}_i) / (\text{SV Increase}_i)] \times \text{Cost}_i]$$

Where:

Development Trips_i = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the CMS;

SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment "i" per section 34-565(d);

Cost_i = Adjusted cost of the improvement to segment "i", Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

- (4) For the purposes of determining proportionate fair-share obligations, the city shall determine improvement costs based upon the actual cost of the improvement as obtained from the CIE, the First Coast Metropolitan Planning Organization (FCMPO) Transportation Improvement Program (TIP) or the FDOT Work Program. Where such information is not available, improvement cost shall be determined using one of the following methods:
 - a. An analysis by the city of costs by cross section type that incorporates data from recent similar roadway projects and is updated annually and approved by the city council or its designee. In order to accommodate increases in construction material costs, project costs shall be adjusted by the application of an annual inflation factor which has been agreed upon by the planning and development director; or
 - b. The most recent issue of FDOT *Transportation Costs*, as adjusted based upon the type of cross-section (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted FDOT Work Program shall be determined using this method in coordination with the FDOT District.
- (5) If the city has accepted an improvement project proposed by the applicant, then the value of the improvement shall be determined using one of the methods provided in this subsection.
- (6) If the city has accepted right-of-way dedication for the proportionate fair share payment, credit for the dedication of the non-site related right-of-way shall be, at the option of the applicant, valued on the date of the dedication at fair market value established by an independent appraisal approved by the city and at no expense to the city, or based upon the most recent assessed value by the county property appraiser. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the city at no expense to the city. If the estimated value of the right-of-way dedication proposed by the applicant is less than the city estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of

donations of real estate intended to be used for the proportionate fair-share, public or private partners should contact the FDOT for essential information about compliance with federal law and regulations.

- (7) The proportionate share obligation shall be adjusted for inflation based on the phase of the development for a multi-phase development order, using an annual cost inflation factor agreed upon by the planning and development director.
 - (8) Proportionate fair-share contributions shall be applied as a credit against road impact fees if enacted by the city to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the city's impact fee ordinance.
- (h) *Proportionate fair-share agreements.*
- (1) Upon execution of a proportionate fair-share agreement (agreement) the applicant shall receive a certificate of public facilities reservation pursuant to article X, division 4 of the Land Development Code. If the applicant fails to apply for a development permit within twenty-four (24) months of the execution of the agreement, the agreement shall be considered null and void, and the applicant shall be required to reapply for concurrency approval.
 - (2) Payment of the proportionate fair-share contribution is due in full prior to issuance of the final development order or recording of the final plat and shall be non-refundable. If the payment is submitted more than twelve (12) months from the date of execution of the agreement, then the proportionate fair-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to section 34-565(g) and adjusted accordingly.
 - (3) All developer improvements authorized under this section must be completed prior to issuance of a certificate of occupancy.
 - (4) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final development order or recording of the final plat.
 - (5) Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.
 - (6) An applicant may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated costs payable to the city or incurred by the city will be non refundable.
 - (7) The city may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

- (i) *Appropriation of fair-share revenues.*
- (1) Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the city CIE, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the city, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the fifty (50) percent local match for funding under the FDOT Transportation Regional Incentive Program (TRIP).
 - (2) Proportionate fair-share revenues may also be used for capital improvement projects associated with multi-modal transportation facilities and services, including bicycle and pedestrian paths, public transit facilities, "park and ride" facilities, and related multi-modal and intermodal transportation facilities.
 - (3) In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of section (d)(2)b.
 - (4) Where an applicant constructs a transportation facility that exceeds that applicant's proportionate fair-share obligation calculated pursuant to section 34-565(g), the city shall reimburse the applicant for the excess contribution in accordance with the provisions of the approved proportionate fair-share agreement using one or more of the following methods:
 - a. An account may be established for the applicant for the purpose of reimbursing the applicant for the excess contribution with proportionate fair-share payments from future applicants on the facility.
 - b. The city may compensate the applicant for the excess contribution through payment or some combination of means acceptable to the city and the applicant.

(Ord. No. 2006-7931, § 1, 12-18-06)

Sec. 34-566. Effect of development agreement with certificate of public facilities reservation.

A developer may enter into a development agreement with the city, in conjunction with the approval of a development order and a certificate of public facilities reservation to ensure adequate public facilities are available concurrent with the impacts of development on the public facilities. The effect of the development agreement shall be to bind the city and the developer pursuant to the terms and duration of the development agreement to its determination pursuant to this section that adequate public facilities are available to serve the proposed development concurrent with the impacts of the development on the public facilities. Any public facility capital improvement in the five-year schedule of capital improvements in the CIE on which such a certificate of public facilities reservation is made in conjunction with the approval of a development order and a development agreement, shall not be delayed, deferred, or removed from the five-year schedule of capital improvements in the CIE, except that any capital improvement may be deferred by one (1) year if the deferral is

identified pursuant to the terms of a development agreement.
(Ord. No. 7500, § 10.4(E), 8-19-91; Ord. No. 2006-7931, § 2, 12-18-06)

Sec. 34-567. Appeals.

(a) *General.* An applicant may appeal a decision of the planning and development director on an application for a certificate of public facilities reservation by filing a petition with the city manager within thirty (30) calendar days of the decision.

(b) *Procedure.* The city manager shall address the appeal petition within thirty (30) calendar days of its filing and consider only the record before the planning and development director at the time of the decision and testimony of the petitioner and city staff.

(c) *Standard.* The city manager shall reverse the decision of the planning and development director only if there is substantial competent evidence in the record that the application complies with the standards of this division.

(Ord. No. 7500, § 10.4(F), 8-19-91; Ord. No. 2006-7931, § 2, 12-18-06)

Sec. 34-568. Amendment of certificate of public facilities reservation.

An amendment to a certificate of public facilities reservation shall be required prior to the approval of any amendment to a development order for which a certificate of public facilities reservation has been approved, if the amendment increases the need for capacity for a public facility. The amendment of a certificate of public facilities reservation shall only require evaluation and reservation of additional public facility capacity demanded by the proposed development and reservation of increased public facility capacity demand.

(Ord. No. 7500, § 10.4(G), 8-19-91; Ord. No. 2006-7931, § 2, 12-18-06)

Secs. 34-569--34-575. Reserved.

DIVISION 5.

ADEQUATE PUBLIC FACILITIES VARIANCE

Sec. 34-576. [Generally.]

If after an appeal pursuant to section 34-381, an application for a certificate of public facilities reservation is denied by the planning and development director and that decision is affirmed by the city manager, the applicant may submit an application for an adequate public facilities variance pursuant to this division.

(Ord. No. 7500, § 10.5, 8-19-91)

Sec. 34-577. Submission of application.

An application for an adequate public facilities variance shall be submitted on a form established by the planning and development director and made available to the public, along with an application fee as established by the city council to defray application processing costs.

(Ord. No. 7500, § 10.5(A), 8-19-91)

Sec. 34-578. Determination of sufficiency.

Within ten (10) working days of receipt of an application for an adequate public facilities variance, the planning and development director shall determine whether the application is sufficient.

- (1) If the planning and development director determines the application is not sufficient, a written notice shall be mailed to the proposed applicant specifying the deficiencies. No further action shall be taken until the deficiencies are remedied.
- (2) If the application is determined sufficient, the planning and development director shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this article.

(Ord. No. 7500, § 10.5(B), 8-19-91)

Sec. 34-579. Decision by planning and development director.

When the planning and development director determines the application is sufficient, the application shall be reviewed within twenty (20) working days and approved, approved with conditions, or disapproved based upon whether it complies with the standards in this section 34-464.

(Ord. No. 7500, § 10.5(C), 8-19-91)

Sec. 34-580. Standards for adequate public facilities variance.

An adequate public facilities variance shall allow no more than one (1) dwelling unit for each two (2) acres of land or fifteen (15) percent of the permitted density under the comprehensive plan or the LDC, whichever is less, provided that:

- (1) A certificate of public facilities reservation has been denied for the proposed development and an appeal to the city manager has affirmed that decision;
- (2) All available capacity for each public facility for the proposed development has been reserved by the applicant;
- (3) A concept plan demonstrates how the proposed land will be developed at its (a) proposed density pursuant to an adequate public facility variance, and (b) allowable density under the comprehensive plan and the LDC at the time necessary public facilities are available to adequately serve the development. Any development order issued for an application for a development permit for which an adequate public facilities variance has been approved shall be consistent with the concept plan for development in this division. The review of a concept plan for development at the allowable density under this division shall in no way reserve capacity for public facilities which are not available at the time of approval of an adequate public facilities variance;
- (4) Approval of an adequate public facilities variance is subject to receipt of a certificate of public

facilities reservation within one (1) year of the time necessary public facilities are available to serve the proposed development at its allowable density; and

(5) No beneficial use of land will be provided without issuance of the variance.
(Ord. No. 7500, § 10.5(D), 8-19-91)

Sec. 34-581. Appeal.

An applicant may appeal any decision of the planning and development director on an application for an adequate public facilities variance by filing a petition to the city manager within thirty (30) calendar days of the decision. The city manager shall reverse the decision of the planning and development director only if there is substantial competent evidence in the record that the application complies with this article.
(Ord. No. 7500, § 10.5(E), 8-19-91)

Secs. 34-582--34-600. Reserved.

ARTICLE XI.

DEVELOPMENT AGREEMENTS

Sec. 34-601. Purpose and intent.

The purpose and intent of this article is accomplished by authorizing development agreements to be entered into between a developer and the City of Jacksonville Beach pursuant to the terms of this article to ensure adequate environmental protection, and the adequacy of public facilities and sound capital improvement planning, while providing certainty in the process of obtaining development permits and reducing the economic costs of development by providing greater regulatory certainty.
(Ord. No. 7500, § 11.1, 8-19-91)

Sec. 34-602. Authority.

The city council of Jacksonville Beach has the authority to adopt this article pursuant to Fl. Const. Art. VIII, Sec. 2, the Jacksonville Beach Charter, F.S. § 166.01 et seq., F.S. § 163.3161 et seq., and F.S. § 163.3202 et seq.
(Ord. No. 7500, § 11.2, 8-19-91)

Sec. 34-603. Procedure for review of development agreement.

(a) *Submission of application.* An application for a development agreement and a proposed development agreement shall be submitted to the planning and development director in conjunction with or after any application for development permit, on a form provided by the planning and development director and made available to the public. The application shall be accompanied by a fee established by the city council from time to time for the filing and processing of each application. The fee shall be non-refundable. If an application for a development agreement is submitted in conjunction with another application for development permit or an application for a certificate of public facilities reservation, the applicant may elect to have the application for a development agreement processed concurrent with the other application.

(b) *Determination of sufficiency.* Within five (5) working days of the submission of the application and the proposed development agreement, the planning and development director shall determine whether the application is sufficient and includes the data necessary to evaluate the application.

- (1) If it is determined that the application is not sufficient, written notice shall be served on the applicant specifying the deficiencies. The planning and development director shall take no further action on the application unless the deficiencies are remedied.
- (2) If the application is determined sufficient, the planning and development director shall notify the applicant in writing, of the application's sufficiency, and that the application is ready for review pursuant to the procedures and standards of this article.

(c) *Staff review and recommendation.* Within twenty (20) working days of a determination that an application is sufficient, city staff shall prepare and file with the planning and development director, a city staff report and recommendation on the application and proposed development agreement.

(d) *Report by planning and development director.* Within ten (10) working days after receiving city staff comments, the planning and development director shall review the application and the proposed development agreement, and prepare a report and recommendation to the city council as to whether the application and proposed development agreement complies with the standards of section 34-504. Upon its completion, the report and recommendation shall be mailed to the applicant by the planning and development director.

(e) *Decision by city council.*

- (1) *Two (2) public hearings.* After the planning and development director has made a recommendation on the application and proposed development agreement, the application and proposed development agreement shall be considered at two (2) public hearings. The first public hearing may be held before the planning commission or the city council at the discretion of the applicant. If the planning commission holds the first public hearing, it shall review the application, proposed development agreement, and recommendation by the planning and development director, and public testimony, and recommend its approval, approval with conditions, or denial. If the city council holds the first public hearing, it shall review the application, proposed development agreement recommendation by the planning and development director, and consider public testimony. The second public hearing shall be before the city council who, after review and consideration of the application, the proposed development agreement, the recommendations of the planning commission, if applicable, and public testimony, shall approve, approve with conditions, or disapprove the development agreement. The second public hearing shall be a minimum of seven (7) days after the first public hearing. The day, time, and place of the second public hearing shall be announced at the first public hearing.

(2) *Notice.*

- a. *General requirement.* Notice of intent to consider the application and proposed

development agreement shall be advertised by the city publishing an advertisement approximately seven (7) days before each public hearing on the application in a newspaper of general circulation and readership in Jacksonville Beach. Notice of intent to consider the application and proposed development agreement shall also be mailed by the applicant at least fifteen (15) days prior to the first public hearing on the application by certified mail, return receipt requested, to all owners of property, as reflected on the current year's tax roll, lying within three hundred (300) feet of the property directly affected by the application and proposed development agreement. The applicant shall provide proof of advertisement and the return receipts from the mailing to the planning and development director a minimum of five (5) working days before the first public hearing.

- b. *Form.* The form of the notices of intention to consider adoption of a development agreement shall specify:
1. *Time and place.* The time and place of each public hearing on the application;
 2. *Location.* The location of the land subject to the proposed development agreement;
 3. *Uses and intensities.* The development uses proposed on the property, including the proposed population densities and proposed building intensities and height;
 4. *Where copy can be obtained.* Instructions for obtaining further information regarding the application and proposed development agreement, including where a copy of the proposed development agreement can be obtained.
- (3) *Decision.* At the conclusion of the second public hearing, and based upon consideration of the application and the proposed development agreement, the recommendation of the planning and development director, and public testimony received during the public hearing, the city council shall approve, approve with conditions, or deny the proposed development agreement based upon whether it complies with the standards in section 34-504.

(Ord. No. 7500, § 11.3, 8-19-91)

Sec. 34-604. Standards of a development agreement.

A development agreement shall, at a minimum, include the following provisions:

- (1) *Legal description and owner.* A legal description of the land subject to the development agreement and the names of the legal and equitable owners.
- (2) *Duration.* The duration of the development agreement, which shall not exceed five (5) years, or the time limits which F.S. § 163.3220 et seq., the Local Government Development Agreement Act provides, whichever is greater.
- (3) *Uses, densities, intensities and height.* The development uses permitted on the land including

population densities, building intensities and height.

- (4) *Future land use designation.* The land use designation of the property under the future land use element of the comprehensive plan.
- (5) *Zoning district designation.* The current zoning district designation of the land subject to the development agreement.
- (6) *Public facility adequacy.* A description of public facilities that will service the development, including who shall provide such public facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impact of the development. Any public facilities to be designed and/or constructed by the developer shall be in compliance with all applicable federal, state, and city standards to ensure the quality of the public facilities. The standards shall include, but not be limited to, guarantees of performance and quality, and project controls (including scheduling, quality controls, and quality assurances).
- (7) *Reservation or dedication of land.* A description of any reservations or dedications of land for public purposes.
- (8) *Local development permits.* A description of all local development permits approved or needed to be approved for development of the land, specifically, to include at least the following:
 - a. Any required amendments to the comprehensive plan.
 - b. Any required amendments to the LDC.
 - c. Any required other amendments to the official zoning atlas.
 - d. Any other development permits under the LDC.
 - e. Any other required permissions from regional, state or federal governments.
- (9) *Local development permits obtained by applicant/property owner.* The development agreement shall specifically provide that all local development permits identified in section 34-504(h) shall be obtained at the sole cost of the applicant/property owner and, that in the event that any such local development permits are not received, no further development of the property shall be allowed until such time as the city council has reviewed the matter and determined whether or not to terminate the development agreement, or to modify it in a manner consistent with the public interest and the comprehensive plan.
- (10) *Consistency with comprehensive plan.* A finding that the development permitted or proposed in the development agreement is consistent with the comprehensive plan.
- (11) *Consistency with land development code.* A finding that the development permitted or proposed in the development agreement is consistent with the LDC.

- (12) *Compliance with laws not identified in development agreement.* A statement indicating that failure of the development agreement to address a particular permit, condition, term or restriction shall not relieve the applicant of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions, and that any matter or thing required to be done under existing ordinances of Jacksonville Beach shall not be otherwise amended, modified or waived unless such modification, amendment or waiver is expressly provided for in the development agreement with specific reference to the code provisions so waived, modified or amended; and
- (13) *Conditions necessary to ensure compliance with code and comprehensive plan.* Such conditions, terms, restrictions or other requirements determined to be necessary by the city council to ensure compliance with the LDC and consistency with the comprehensive plan.

(Ord. No. 7500, § 11.4, 8-19-91)

Sec. 34-605. Execution of development agreement.

A development agreement shall be executed by all persons having legal or equitable title in the land subject to the development agreement, including the fee simple owner and any mortgagees.

(Ord. No. 7500, § 11.5, 8-19-91)

Sec. 34-606. Legislative act.

A development agreement is determined to be a legislative act of Jacksonville Beach in the furtherance of its powers to plan and regulate development, and as such, shall be superior to the rights of existing mortgagees, lien holders or other persons with a legal or equitable interest in the land subject to the development agreement, and the obligations and responsibilities arising thereunder on the property owner shall be superior to the rights of said mortgagees or lien holders and shall not be subject to foreclosure under the terms of mortgages or liens entered into or recorded prior to the execution and recordation of the development agreement.

(Ord. No. 7500, § 11.6, 8-19-91)

Sec. 34-607. Recordation.

Within fourteen (14) calendar days after the city enters into a development agreement, the clerk to the city council shall record the executed development agreement in the public records of the clerk of the circuit court, Duval County. A copy of the recorded and executed development agreement shall be submitted to DCA within fourteen (14) calendar days after the development agreement is recorded. If the development agreement is amended, canceled, modified, extended, or revoked, the clerk shall have notice of such action recorded in the public records and such recorded notice shall be submitted to DCA.

(Ord. No. 7500, § 11.7, 8-19-91)

Sec. 34-608. Local laws and policies governing a development agreement.

The Jacksonville Beach laws and policies set down in the development agreement as governing the development of the land at the time of the execution of the development agreement shall govern the

development of the land for the duration of the development agreement, except that Jacksonville Beach may apply subsequently adopted laws and policies to a development that is subject to a development agreement if the city council holds a public hearing pursuant to the requirements of this article and determines any one (1) of the following:

- (1) The laws and policies are not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities or densities, in the development agreement; or
- (2) The laws and policies are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement; or
- (3) The laws and policies are specifically anticipated and provided for in the development agreement; or
- (4) It is demonstrated that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement; or
- (5) It is demonstrated that the development agreement is based on substantially inaccurate information supplied by the developer.

(Ord. No. 7500, § 11.8, 8-19-91)

Sec. 34-609. Periodic review.

(a) *Annual review.* The city council shall review the development subject to the development agreement every twelve (12) months, commencing twelve (12) months after the effective date of the development agreement.

(b) *Initiation.* The annual review shall be initiated by the developer subject to the development agreement submitting an annual report to the planning and development director. The initial annual report shall be submitted by the developer eleven (11) months after the effective date of the development agreement, and every twelve (12) months thereafter.

(c) *Compliance.* If the planning and development director finds and determines that the developer has complied in good faith with the terms and conditions of the development agreement during the period under review, the review for that period is concluded.

(d) *Failure to comply.* If the planning and development director makes a preliminary finding that there has been a failure to comply with the terms of the development agreement, the development agreement shall be referenced to the city council, who shall conduct two (2) public hearings pursuant to the requirements of section 34-503, at which the developer may demonstrate good faith compliance with the terms of the development agreement. If the city council finds and determines during the public hearings, on the basis of substantial competent evidence, that the developer has not complied in good faith with the terms and conditions of the development agreement during the period under review, the city council may modify or revoke the development agreement.

(Ord. No. 7500, § 11.9, 8-19-91)

Sec. 34-610. Amendment or cancellation of development agreement by mutual consent.

A development agreement may be amended or canceled by mutual consent of the parties to the development agreement, or by their successors in interest. Prior to amending a development agreement, the city council shall hold two (2) public hearings on the proposed amendment, consistent with the requirements of section 34-503.

(Ord. No. 7500, § 11.10, 8-19-91)

Sec. 34-611. Effect of contrary state or federal laws.

In the event that state and federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties compliance with the terms of the development agreement, such development agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws. such modification or revocation shall occur only after the notice and public hearing pursuant to section 34-503.

(Ord. No. 7500, § 11.11, 8-19-91)

Sec. 34-612. Enforcement.

Any party or any aggrieved or adversely affected person may file an action for injunctive relief in the Circuit Court for Duval County to enforce the terms of a development agreement or to challenge compliance of the development agreement with the provisions of this article and F.S. § 163.3220.

(Ord. No. 7500, § 11.12, 8-19-91)

Secs. 34-613--34-620. Reserved.

ARTICLE XII.

NONCONFORMITIES

Sec. 34-621. Purpose and intent.

Within the provisions established by the LDC, there exist uses of land, structures and lots that were lawfully established before the LDC was adopted or amended, that now do not conform to the terms and requirements of the LDC. The purpose and intent of this article is to regulate and limit the continued existence of those uses, structures and lots that do not conform to the provisions of the LDC or any amendments thereto.

It is the intent of the LDC to permit these nonconformities to continue, until they are removed, but not to encourage their survival except under the limited circumstances established in this article. It is further the intent of the LDC that changes in nonconformities shall not be permitted. The provisions of this article are designed to curtail substantial investment in nonconformities to preserve the integrity of the LDC and the comprehensive plan.

(Ord. No. 7500, § 12.1, 8-19-91)

Sec. 34-622. Nonconforming uses.

Nonconforming uses of land are declared generally incompatible with the LDC. Nonconforming uses of land may continue in accordance with the provisions of this section.

- (1) *Normal maintenance or repair.* Normal maintenance or repair of structures where nonconforming uses are located may be performed in any period of twelve (12) consecutive months, to an extent not exceeding fifteen (15) percent of the current assessed value of the structure, provided that the cubic content of the structure existing after the date it became nonconforming shall not be increased, except pursuant to the standards of this section.
- (2) *Enlargement or expansion.* A nonconforming use shall not be enlarged or expanded in area occupied, except a nonconforming use may be enlarged in any area of a structure that is manifestly designed and approved for such use, prior to the date the use became a nonconformity.
- (3) *Characteristics of nonconforming uses.* If characteristics of use such as off-street parking and loading, or other matters related to the use of land are made nonconforming, no change shall be made in such characteristics of use which increase nonconformities, provided however, changes may be made which do not increase or decrease such nonconforming uses.
- (4) *Relocation.* A structure housing a nonconforming use shall not be moved in whole, or in part, to another location on or off the parcel of land on which it is located, unless the relocation of the nonconforming use decreases the nonconformity.
- (5) *Change in use.* A nonconforming use shall not be changed to any other use, unless any new or additional use conforms to the provisions of the LDC for the zoning district in which the use is located.
- (6) *Discontinuance or abandonment.* If a nonconforming use is discontinued or abandoned for a period of more than six (6) consecutive months, whether or not the equipment or furniture are removed, then such use may not be re-established or resumed, and any subsequent use shall conform to the provisions specified by the LDC. When government action can be documented as the reason for discontinuance or abandonment, the time of delay by government shall not be calculated for the purpose of this section.
- (7) *Unsafe because of maintenance.* If a nonconforming structure or portion thereof containing a nonconforming use becomes physically unsafe or unlawful due to the lack of repairs or maintenance, and is declared by a duly authorized official of Jacksonville Beach to be an unsafe structure, it shall thereafter be rebuilt and repaired in conformance with the standards of the LDC and the building code.

(Ord. No. 7500, § 12.2, 8-19-91)

Sec. 34-623. Nonconforming structures.

A nonconforming structure devoted to a use permitted in the zoning district in which it is located at the time of its construction, may be continued in accordance with the provisions in this section.

- (1) *Normal maintenance.* Normal maintenance or repair to permit continuation of a nonconforming structure may be performed in any period of twelve (12) consecutive months, to an extent not exceeding fifteen (15) percent of the current assessed value of the structure, provided that the cubic content of the structure existing after the date it became nonconforming shall not be increased, except pursuant to the standards of this section.
- (2) *Enlargement or expansion.* A nonconforming structure shall not be enlarged or expanded in area occupied, except a nonconforming use may be enlarged in any area of a structure that is manifestly designed and approved for such use, prior to the date the use becomes a nonconformity.
- (3) *Characteristics of nonconforming structures.* If characteristics of use such as off-street parking and loading or other matters related to the use of a structure are made nonconforming, no change shall be made in such characteristics of the structure which increases nonconformities. Provided however, changes may be made which do not increase or decrease the nonconforming structure.
- (4) *Relocation.* A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless it conforms to the standards and requirements of the zoning district in which it is located.
- (5) *Damage and restoration of nonconforming structure.* No building which has been damaged by any means to an extent of more than fifty (50) percent of the fair market value of the structure immediately prior to damage, shall be restored, except in conformity with the standards of the LDC, and all rights as a nonconformity are terminated. If a structure is damaged by less than fifty (50) percent of the fair market value, it may be repaired and reconstructed and used as before the time of damage, provided that such repair or reconstruction be substantially completed within twelve (12) months after the date of such damage.
- (6) *Unsafe because of maintenance.* If a nonconforming structure, or portion thereof, or any structure or portion thereof containing a nonconforming use becomes physically unsafe or unlawful due to the lack of repairs or maintenance, and is declared by a duly authorized official of Jacksonville Beach to be an unsafe structure, it shall thereafter be rebuilt and repaired in conformance with the standards of the LDC and the building code.

(Ord. No. 7500, § 12.3, 8-19-91)

Sec. 34-624. Nonconforming lots of record.

Where a lot or parcel of land has an area or frontage which does not conform to the standards of the LDC, but it was a lot of record on the effective date of the LDC, such lot or parcel of land may be developed, provided the minimum yard standards for the zoning district in which it is located are met.

(Ord. No. 7500, § 12.4, 8-19-91)

Sec. 34-625. Nonconformities created by eminent domain proceedings.

- (a) *Authority to gain certificate of conformity.* A structure, lot, or parcel of land that is rendered or

will be rendered nonconforming because of eminent domain proceedings initiated by a governmental authority, or by the sale of a parcel of land under the threat of eminent domain proceedings shall be considered conforming under the terms of the LDC through the receipt of a certificate of conformity, pursuant to the terms of this section. A certificate of conformity may authorize the relocation of existing conforming or nonconforming structures with modifications to property development regulations.

(b) *Applicability.* Either the condemnor or condemnee may submit an application requesting a certificate of conformity, pursuant to the terms of this section.

(c) *Procedure.*

(1) *Application.* A condemnor or condemnee may submit an application requesting a certificate of conformity to the planning and development director either before or after the first negotiation/appraisal of the condemnor or the order of taking in the eminent domain proceeding, or after the sale of a parcel of land under the threat of an eminent domain proceeding. The application shall include the following:

- a. A legal description of the property subject to the eminent domain proceeding, or sold under the threat of an eminent domain proceeding;
- b. The name and address of the owner of the property;
- c. The name and address of the condemnor, and the name and address of the condemnor's representative;
- d. If relevant, proof of the actual or impending eminent domain proceeding by a notification of condemnation, demand letter, or resolution or ordinance of the condemnor;
- e. A certified survey of the property, no greater than one (1) year old, subject to the eminent domain proceeding or sold under the threat of an eminent domain proceeding that demonstrates the extent of the condemnor's acquisition, and all principal and accessory structures on the property;
- f. A site plan of the property subject to the eminent domain proceeding or sold under the threat of an eminent domain proceeding at a scale of not less than one (1) inch equals thirty (30) feet, showing: (1) the location of all structures and improvements on the property; and (2) the extent of the condemnor's acquisition;
- g. An explanation of why the certificate of conformity should be granted;
- h. Proof that notification of the application has been provided to the other party (condemnor or condemnee, whichever is relevant); and
- i. The application fee, as established by resolution of the city council.

(2) *Determination of sufficiency, review and decision.* After receipt of an application requesting a

certificate of conformity, the planning and development director shall determine whether it is sufficient within ten (10) working days. If it is determined the application is not sufficient, notice shall be served on the applicant specifying the deficiencies. The planning and development director shall take no further action on the application unless the deficiencies are remedied. Within twenty (20) working days after the application is determined to be sufficient, the planning and development director shall review and grant, grant with conditions, or deny the application, pursuant to the standards established in section 34-525(d).

(d) *Standards.* An application requesting a certificate of conformity shall be granted if the following standards are met.

- (1) *Minimization of business and severance damage.* If the condemnation action has not been decided by a court of law, the amount of severance and business damages resulting from the eminent domain proceedings are substantial, and the loss of business damages would be minimized by the issuance of a certificate of conformity;
- (2) *Site plan that minimizes nonconformities while ensuring compatibility.* A site plan can be designed for the property which is consistent with the use requirements of the LDC, minimizes to the greatest degree practicable any nonconformities of parking, loading, landscaping, lot size and yard requirements; and
- (3) *Function adequately.* The structure or lot can function adequately for its designated land use pursuant to the site plan proposed in section 34-525(d)(2).

(Ord. No. 7500, § 12.5, 8-19-91)

Secs. 34-626--34-635. Reserved.

ARTICLE XIII.

ENFORCEMENT PROCEEDINGS AND PENALTIES*

* **Editors Note:** Ord. No. 2007-7938, § 1, adopted August 6, 2007, amended art. XIII in its entirety to read as herein set out. Former art. XIII, §§ 34-636--34-640, pertained to enforcement procedures and penalties, and derived from Ord. No. 7500, §§ 13.1--13.5, adopted August 19, 1991.

Sec. 34-636. General.

The provisions of the LDC shall be enforced (1) by the special magistrates ("special magistrate") pursuant to the Article VI of Chapter 2 of this Code, (2) by the planning and development director, (3) by the city council through its authority to enjoin and restrain any person violating the code, or (4) by the City of Jacksonville Beach through the prosecution of violations in the name of the State of Florida.

(Ord. No. 2007-7938, § 1, 8-6-07)

Sec. 34-637. Planning and development director.

- (a) *Authority.* Upon determination by the planning and development director that any provision of

the LDC has been violated, the planning and development director shall send a written notification of violation to the owner of record of the land or structure involved, and to the person responsible for the violation, or request the city attorney through the city manager to initiate immediate civil actions to enjoin and restrain the violation, or both.

(b) *Notification of violation.* In addition to the requirements of Article VI of Chapter 2 of the Code of Ordinances for the City of Jacksonville Beach, the notification of violation shall include:

- (1) The section of the LDC being violated.
- (2) An order to cease such violation.
- (3) Information concerning penalties for violation of the LDC.

(c) *Notice of violation.* If any violation continues for fifteen (15) working days after receipt of a warning of violation, the planning and development director shall issue a notice of violation which shall include a reference to the particular section of the LDC that is being allegedly violated, a short plain statement of the matters asserted, and other evidence of the alleged violation.

(Ord. No. 2007-7938, § 1, 8-6-07)

Sec. 34-638. Enforcement by special magistrate.

Any violation of the LDC may be prosecuted by the special magistrate pursuant to the following standards and procedures.

- (1) *Warning of violation.* If an alleged violation of the LDC is found; the planning and development director shall notify the alleged violator and give him fifteen (15) working days to correct the violation pursuant to Article VI of Chapter 2 of the Code of Ordinances.
- (2) *Issuance of notice of violation.* Should the violation continue beyond the time specified for correction, the planning and development director shall issue a notice of violation to the alleged violator pursuant to Article VI of Chapter 2 of the Code of Ordinances.
- (3) *Notice of hearing.* Upon issuance of the violation notice, the planning and development director shall notify the appropriate clerical staff person who shall notify the special magistrate of the violation notice and shall schedule a hearing for the special magistrate on the violation. Notice of hearing shall be made in accordance with the provisions of Article VI of Chapter 2 of the Code of Ordinances, unless the planning and development director has reason to believe a violation presents a serious threat to the public health, safety and welfare.
- (4) *Correction of violation.* If the alleged violation is corrected and then recurs, the planning and development director shall issue a notice of violation and a notice of hearing to the alleged violator and schedule a hearing. The specialist magistrate shall hear the alleged violation in this instance, even if it has been corrected prior to the special magistrate's hearing and every notice shall so state.

- (5) *Procedure at hearings.* The special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The special magistrate shall take testimony from city staff, if relevant, the alleged violator, and other relevant testimony. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible. At the hearing, the burden of proof shall be upon the city to demonstrate by a preponderance of the evidence that a violation exists, or existed at the time the planning and development director issued the notice of violation.
- (6) *Action by the special magistrate.*
- a. The special magistrate may, at his/her option, issue findings of fact, based on evidence of record and conclusions of law; and may issue an order affording the proper relief consistent with powers granted in this article and in Chapter 162, Florida Statutes at the conclusion of the hearing. All such findings of fact, conclusions of law, and orders shall be issued not later than thirty (30) days from the date of the hearing. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date. The order shall have the force of law to command whatever steps are necessary to bring a violation into compliance. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the special magistrate shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.
- b. In the event that a violator has been previously determined to have violated a provision of the code within the prior five (5) years, the special magistrate may require that the violator comply with appropriate mitigation measures to the land where the violation was committed. Such measures may include, but is not limited to, landscaping, biological restoration, and requirements for posting performance bonds to ensure compliance with the order of the special magistrate.
- (7) *Notification of action.* Notification of the special magistrate's action shall be delivered by the city clerk to the violator by regular mail within ten (10) days of the hearing.
- (8) *Failure of alleged violator to appear.* If an alleged violator who has received proper notice fails to appear at the hearing, the special magistrate shall enter an order against the alleged violator requiring correction of the violation. The enforcement of such an order may be stayed if the violator files a request for a re-hearing with the appropriate clerical staff person within ten (10) calendar days from the date the order is rendered, and demonstrates good cause for such failure to appear. In such case, the violator will be rescheduled for a hearing before the special

magistrate at the next scheduled hearing. If at that hearing, the special magistrate finds that good cause existed for the violator's failure to appear, the prior order shall be rescinded and a new hearing conducted immediately. If the special magistrate fails to find good cause for the failure to appear, the previous order shall remain in effect.

- (9) *Stop work on existing approval.* The special magistrate shall, when a violation of a special magistrate order has been determined to exist, direct the planning and development director not to issue any subsequent development permit(s) for the development until the violation has been corrected and inform the violator that no further work under an existing approval may proceed until the violation has been corrected.
- (10) *Fine.* The special magistrate may order the violator to pay a fine that shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation, and shall not exceed five thousand dollars (\$5,000.00) for a violation found to be irreparable or irreversible in nature. In determining the amount of the fine, if any, the special magistrate shall consider the gravity of the violation; any actions taken by the violator to correct the violation; and any previous violations committed by the violator.
- (11) *Fine constitutes lien.* A certified copy of an order imposing a fine may be recorded in the public records of the office of the clerk of the circuit court for Duval County, Florida, and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Such lien may be enforced in the same manner as a court judgment by the sheriffs of this state, including execution and levy against personal property, but shall otherwise not be deemed a judgment of a court except for enforcement purposes. 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 this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the city, and the city may execute a satisfaction or release of lien entered pursuant to this section. After three (3) months from the filing of any such lien that remains unpaid, the city may foreclose on the lien or sue to recover a money judgment for the lien and accrued interest. No lien created pursuant to the provisions of this section may be foreclosed on real property that is a homestead under Section 4, Article X of the State Constitution. The money judgment provisions of this section shall not apply to real or personal property that is covered under Section 4(a), Article X of the State Constitution.
- (12) *Appeal.* Any aggrieved party may appeal an order of the special magistrate by certiorari proceedings in the Circuit Court of Duval County, Florida. The petition for writ of certiorari must be filed within thirty (30) days after the date of execution of the order to be appealed. The scope of review shall be limited to the record made before the special magistrate and shall not be a trial de novo.

(Ord. No. 2007-7938, § 1, 8-6-07)

Sec. 34-639. Civil remedies.

The city council or any aggrieved or interested person shall have the right to apply to the Circuit Court

of Duval County, Florida, to enjoin and restrain any person violating the provisions of the LDC, and the court shall, upon proof of the violation of same, have the duty to forthwith issue such temporary and permanent injunctions as are necessary to prevent the violation of same.

(Ord. No. 2007-7938, § 1, 8-6-07)

Sec. 34-640. Criminal remedies.

Any person violating any of the provisions of the LDC or who shall fail to abide by and obey all orders and resolutions promulgated as herein provided, shall be guilty of a misdemeanor, and shall be subject to all criminal penalties authorized by the State of Florida for such violation. Each day that the violation continues shall constitute a separate violation.

(Ord. No. 2007-7938, § 1, 8-6-07)