CITY OF BROOKSVILLE
REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS
201 HOWELL AVENUE

AGENDA

October 3, 2011 **7:00 P.M.**

A. CALL TO ORDER

B. INVOCATION AND PLEDGE OF ALLEGIANCE

C. CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS

1. Proclamation for Fire Prevention Week October 9 – 15th
Presentation of a Proclamation honoring Fire Prevention Week October 9-15, 2011.

Presentation: Mayor

D. CITIZEN INPUT

E. CONSENT AGENDA

1. Code Enforcement Hearing Officer/Special Master Agreement Extension
Consideration of Addendum for the second and final 1-year extension of agreement with Kenneth Warnstadt as conditioned by all terms and provisions contained in the original agreement.

CONSENT AGENDA APPROVAL (√)

Recommendation:	Approval of Consent Agenda
Action:	Motion to Approve
Attachments:	1) Memo from Director of Community Development dated 09/19/11, Addendum, Original Agreement

F. PUBLIC HEARINGS

- Entry of Proof of Publication into the Record

1. Alcoholic Beverage Location Permit & Resolution No. 2011-08
Consideration of Category "A" Permit for the Quarry Golf Course located at 800 John Gary Grubbs Boulevard and Resolution amending Parks & Recreation Rules and Regulations.

a) Resolution No. 2011-08

Presentation:	Director of Parks, Facilities & Recreation
Recommendation:	Approval of Resolution No. 2011-08 upon roll-call-vote
Attachments:	Memo from Director of Community Development and Director of Parks, Facilities & Recreation dated 10/03/11, Resolution

b) Permit Application

Presentation:	Director of Community Development
Recommendation:	Approval of Permit
Attachments:	Memo from Director of Community Development and Director of Parks, Facilities & Recreation dated 10/03/11; Permit Application

G. REGULAR AGENDA

1. Ordinance No. 826 – Land Development Code Amendment

Consideration of an ordinance amending the City's Land Development Code.

Presentation:	Director of Community Development & City Planner
Recommendation:	Approval of **First Reading** of Ordinance No. 826 upon roll-call-vote
Attachments:	Memo from the Director of Community Development & City Planner dated 10/03/11, Ordinance

2. Resolution No. 2011-12 to Florida Dept. of Transportation (FDOT) – Annual Christmas Parade Route

Consideration of approval of resolution supporting annual Kiwanis Christmas Parade route and closing of SR50/Jefferson St. & US41/Broad St., with authorization for Police Chief and Mayor to sign FDOT permit application.

Presentation:	City Clerk
Recommendation:	Approval of Resolution No. 2011-10 upon roll-call-vote
Attachments:	Memo from City Clerk dated 10/03/11; Proposed Resolution, FDOT Permit, Map

3. Sensys America Traffic Infraction Detection and Enforcement Program

Consideration to approve a contract with Sensys America to move forward with the reinstatement of the Traffic Infraction Detection and Enforcement Program piggybacking on the City of Deland.

Presentation:	Chief of Police
Recommendation:	Approval or Direction to Staff
Attachments:	Memo from Chief of Police dated 09/26/11; Agreement

4. **Council Board Positions**
Consideration for Council members to fill the vacancies of four boards in need of Council representation.

Presentation:	City Clerk
Recommendation:	Approval
Attachments:	Memo from City Clerk dated 09/21/11; Boards

H. CITIZEN INPUT

I. ITEMS BY COUNCIL

J. ADJOURNMENT

CORRESPONDENCE TO NOTE

Meeting agendas and supporting documentation are available from the City Clerk's office, and on line at www.cityofbrooksville.us. Persons with disabilities needing assistance to participate in any proceedings should contact the City Clerk's office 48 hours in advance of the meeting at 352/540-3853.

Any person desiring to appeal any decision with respect to any matter considered at this meeting, may need a record of the proceedings including the testimony and evidence upon which the appeal is to be based, and therefore must make arrangements for a court reporter to ensure that a verbatim record of the proceedings is made.

AGENDA ITEM NO. C-1
10/3/11

City of Brooksville

Proclamation

WHEREAS, Fire Prevention Week was established to commemorate the Great Chicago Fire of 1871 that tragically killed more than 250 people, left 100,000 homeless, destroyed more than 17,400 structures and burned more than 2,000 acres; and,

WHEREAS, this event changed the way firefighters and public officials thought about fire safety; and,

WHEREAS, The President of the United States has signed a proclamation pronouncing a national observance during that week every year since 1925; and,

WHEREAS, the City of Brooksville is committed to ensuring the safety and security of all those living in and visiting our city; and,

WHEREAS, City of Brooksville firefighters are dedicated to reducing the occurrence of structure fires and related injuries through fire prevention and public safety education; and,

WHEREAS, the 2011 theme, "It's Fire Prevention Week, Protect Your Family From Fire!" focuses on keeping your family, and your community safer from fire, and encourages everyone to become educated on the leading causes of home fires, and how to protect your home and families with life-saving technologies and home escape planning.

NOW, THEREFORE, ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE, FLORIDA, I, FRANKIE BURNETT, MAYOR, do hereby proclaim October 9-15, 2011, as

Fire Prevention Week

and, urge all citizens in the City of Brooksville and surrounding communities to protect their homes and families by heeding the important safety messages of Fire Prevention Week 2011, and to support the many public safety activities and efforts of Brooksville Fire Department.

IN WITNESS WHEREOF, we have hereunto set our hand and caused to be affixed the seal of the City of Brooksville this 3rd day of October, 2011.

CITY OF BROOKSVILLE

_____
Frankie Burnett, Mayor

_____
Joseph E. Johnson, III, Vice Mayor

_____
Joe Bernardini, Council Member

_____
Lara Bradburn, Council Member

_____
Kevin Hohn, Council Member

ATTEST: _____
Janice L. Peters, CMC, City Clerk

AGENDA ITEM NO. E-1
10/3/11

AGENDA ITEM
MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCILMEN

VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER

FROM: BILL GEIGER, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: CONTRACT EXTENSION FOR THE CITY HEARING OFFICER

DATE: SEPTEMBER 19, 2011

GENERAL SUMMARY/BACKGROUND: On October 19, 2009, the City of Brooksville entered into an agreement for Professional Services for Code Enforcement Hearing Officer/Special Master with Kenneth L. Warnstadt, Esquire.

The term of the agreement was for one (1) year from October 19, 2009. Article 5 of the agreement provides the City with an option of extending the term for two (2) additional one (1) year periods. The agreement was extended for one (1) year and expires on October 19, 2011.

Code Enforcement and the City Police department have recommended continuing with a contract extension. Kenneth L. Warnstadt, Esquire has been contacted and desires to extend the contract as written with no changes.

The City has three options:

1. Extend the contract as written for one (1) year.
2. Extend the contract for one (1) year with changes (none proposed).
3. Open a formal Bid process and request RFP's to replace the current Hearing Officer.

BUDGET IMPACT: Funding would be provided through user Department's Line Item Accounts throughout the term of the Contract. The proposed contract is for $150.00 per hour, as reflected in the original Contract.

LEGAL REVIEW: The City Council has Home Rule Authority (Art. VIII, 2(b), Fla. Const./Section 166.011, F.S.) to consider matters of fiscal benefit. The Code of Ordinances, City of Brooksville, Chapter 2, Article III, Division 4, Sec. 2-192, provides for the creation of a code enforcement hearing officer.

STAFF RECOMMENDATION: Consideration to authorize the City Manager to coordinate and execute the necessary paperwork with Kenneth L Warnstadt, Esquire to enable the City to enter into the second one (1) year extension utilizing the existing contract specifying the same terms as those negotiated/executed in the original agreement dated October 19, 2009.

ATTACHMENTS:
1. Addendum for One (1) Year Extension
2. Original Agreement for Professional Services

Attachment 1

Addendum

THIRD ADDENDUM TO AGREEMENT FOR PROFESSIONAL SERVICES FOR CODE ENFORCEMENT HEARING OFFICER/SPECIAL MASTER

This Third Addendum to the Agreement for Professional Services for Code Enforcement Hearing Officer/Special Master (the "Agreement") is made as of this ____ day of _____, 2011 by and between the City of Brooksville, Florida, a municipal corporation duly organized under the laws of the State of Florida, by and through its duly authorized representative (the CITY) whose address is 201 Howell Avenue, Brooksville, Florida 34601 and KENNNETH L. WARNSTADT, Esquire, (the ATTORNEY), whose address is PO Box 594, Brooksville, Florida, 34605-0594.

WHEREAS, the City Council has entered into that certain Agreement for Professional Services for Code Enforcement Hearing Officer/Special Master (the "Agreement") dated October 19, 2009;

WHEREAS, the City Council approved the first addendum to the Agreement (the "First Addendum") on April 5, 2010 authorizing the Special Master to serve as Conflict Counsel;

WHEREAS, the original term of the Agreement was for one year with the option of extending the term for two (2) additional one (1) year periods;

WHEREAS, the City Council approved the second addendum to the Agreement (the "Second Addendum") on September 20, 2010 authorizing a one year extension of the Agreement such that the Agreement is set to expire as of October 19, 2011; and

WHEREAS, the parties desire to extend the term of the Agreement in accordance with Article 5 of the Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, the receipt and sufficiency of which is hereby acknowledged, the CITY and the ATTORNEY (collectively, the PARTIES) agree as follows:

EXTENDED TERM. Pursuant to Article 5 of the Agreement, the PARTIES agree to extend the term of the Agreement for one year such that the term of the Agreement will expire as of October 19, 2012.

IN WITNESS WHEREOF, the Parties hereto, **KENNETH L. WARNSTADT** and the **CITY OF BROOKSVILLE, FLORIDA**, respectively, have executed and attested this Agreement, and caused their seals to be affixed hereto, effective as of the day and year first written above, for the purposes herein expressed, and with the intent that both they and their respective successors and assigns shall be hereby bound.

ATTEST:

_____
Witness

By: _____
KENNETH L. WARNSTADT

_____
Witness

Date signed: _____

ATTEST:

(Seal)

By:_____
JANICE PETERS, CMC, City Clerk

Date signed: _____

Approved as to legal form for the reliance of the City of Brooksville.

By: _____
Thomas S. Hogan, Jr., City Attorney
Date signed: _____

CITY OF BROOKSVILLE, a political subdivision of the State of Florida

By: _____
FRANKIE BURNETT, Mayor

Date signed: _____

Attachment 2

Original Agreement

AGREEMENT FOR PROFESSIONAL SERVICES FOR CODE ENFORCEMENT HEARING OFFICER/SPECIAL MASTER

This Agreement made as of this 19th day of October, 2009 by and between the City of Brooksville, Florida, a municipal corporation duly organized under the laws of the State of Florida, by and through its duly authorized representative, (the "CITY"), whose address is 201 Howell Avenue, Brooksville, Florida 34601 and KENNETH L. WARNSTADT, Esquire, (the "ATTORNEY"), whose address is Post Office Box 594, Brooksville, Florida, 34605-0594.

In consideration of the mutual promises and covenants herein contained, the receipt and sufficiency of which is hereby acknowledged, the CITY and the ATTORNEY (collectively, the "PARTIES") agree as follows:

ARTICLE 1 – SCOPE OF SERVICES

The ATTORNEY'S responsibility under this Agreement is to serve as the Code Enforcement Hearing Officer/Special Master ("Special Master") pursuant to Fla. Stat. 162, (Special Master shall be synonymous with "Special Magistrate") and pursuant to the terms of the City's Code of Ordinances, as they may be amended from time to time, including but not limited to Ordinance Nos. 674, 703, 730 and 758. The Special Master shall have the right to adopt procedures for the conduct of hearings, subpoena violators and witnesses, address admission of evidence, hold hearings, take testimony under oath, consider and decide appeals, decide charged code violations, and issue findings of fact and conclusions of law and draft orders and such other services as are appropriate to implement the responsibilities of a Special Master. The Special Master shall not participate as attorney for the City in any appeal or petition for writ of certiorari of any decision of the Special Master.

ARTICLE 2 – HEARING SCHEDULE

The ATTORNEY shall preside at either of two types of hearings which shall be scheduled on a regular and recurring basis to be held downtown at City Hall in the City Council Chambers, 201 Howell Avenue, Brooksville, Florida. The date and times for the hearings shall be scheduled by the CITY after consultation with the ATTORNEY, City Attorney, and the Code Enforcement Department. All notices required to be mailed, delivered, posted or served for a code enforcement hearing or a citation appeal shall be prepared and mailed, delivered, posted or served by the CITY. In the event that a scheduled hearing date is cancelled, the CITY shall provide no less than forty-eight (48) hours notice to ATTORNEY.

ARTICLE 3 – CONFLICT OF INTEREST/PROFESSIONAL RESPONSIBILITY

ATTORNEY shall not be prohibited from handling privately retained cases in his or her private practice so long as it does not otherwise interfere with the Special Master obligations under this Agreement. ATTORNEY shall promptly notify CITY of any ethical conflicts that may arise or if for some reason ATTORNEY feels it would be inappropriate for him or her to hear and deliberate any given individual's alleged violation. The ATTORNEY agrees and covenants that he or she shall perform the legal services described herein while at all times complying with the requirements of the Code of Professional Responsibility and the Disciplinary Rules of The Florida Bar. Any actions by the ATTORNEY or his agents that do not comport with the Code of Professional Responsibility and the Disciplinary Rules of the Florida Bar shall be the sole responsibility and liability of the ATTORNEY.

ARTICLE 4 – COMPENSATION/PAYMENTS

The CITY shall pay to the ATTORNEY for services satisfactorily performed one-hundred fifty dollars ($150) per hour for each hour or fraction thereof with a minimum of two (2) hours for any scheduled hearing. In the event any scheduled hearing date is cancelled entirely with less than forty-eight (48) hours notice to ATTORNEY, CITY shall pay ATTORNEY a minimum charge of two (2) hours at the rate set forth in this paragraph. The ATTORNEY will invoice the CITY monthly showing time billed in one-tenths (1/10) of an hour increments. The invoice must specify the service performed, including the type of hearing and matter heard, and time spent. The invoices received from the ATTORNEY pursuant to this Agreement will be reviewed and approved by CITY MANAGER, or his or her designee, indicating that services have been rendered in conformity with the Agreement and then will be sent to the Finance Department for payment.

ARTICLE 5 – TERM, EXTENSION/RENEWAL AND TERMINATION

This Agreement shall be for a term of one (1) year from the date noted above and may be terminated at any time after execution with thirty (30) days written notice from either party to the other. Unless the ATTORNEY is in breach of this Agreement, the ATTORNEY shall be paid for services rendered to the CITY'S satisfaction through the date of termination. After receipt of a termination notice, and except as otherwise directed by the CITY, the ATTORNEY shall: (1) preside over any scheduled hearings during the thirty (30) day notice period; (2) complete all duties including, but not limited to rendering written opinions or findings of fact and conclusions of law in any case pending or heard by the Special Master prior to termination; (3) prepare and issue all orders relating to hearings heard prior to termination; and (4) transfer documentation and other material related to the hearing process to the CITY.

The CITY shall have the option of extending the term of this Agreement for two (2)

additional one (1) year periods conditioned by all the terms and provisions contained herein, and at the same rate of compensation, provided the ATTORNEY shall agree with such an extension of term. In the event an extension of term is mutually agreed to, or in that circumstance whereby the rate of compensation is renegotiated, or where any other provision or condition as stipulated herein is changed or altered in any manner, then such extension or change of provision or condition shall be memorialized by an addendum, hereto executed by the PARTIES.

ARTICLE 6 – NON-EXCLUSIVITY

This is not an exclusive contract and does not guarantee ATTORNEY will receive a minimum payment each month or that he or she will have cases to be heard each month or duties to perform. Further, CITY reserves the right to hire other individuals as Special Master during the term of this Agreement.

ARTICLE 7 - AUTHORITY TO PRACTICE

The ATTORNEY, by executing this agreement hereby represents and warrants that he or she is fully qualified to perform the function of SPECIAL MASTER as prescribed herein and as set forth in Fla. Stat. 162; and that the ATTORNEY is and will continue to be a member in good standing of The Florida Bar; and has and will maintain all licenses required to perform the services rendered under this Agreement.

ARTICLE 8 – INDEPENDENT CONTRACTOR; FEDERAL AND STATE TAX

The ATTORNEY is, and shall be, in the performance of all services and activities under this Agreement, an independent contractor, and not an employee, agent, or servant of the CITY; and no provisions of the CITY'S personnel policies shall apply to this Agreement. The ATTORNEY shall be responsible for payment of his/her own FICA and Social Security payroll taxes with respect to this Agreement. None of the benefits provided by CITY to its employees including, but not limited to, Worker's Compensation Insurance and Unemployment Insurance, are available from CITY to the ATTORNEY, or its employees, agents or servants.

ARTICLE 9 – INDEMNIFICATION

ATTORNEY shall be solely and entirely responsible for his tortious acts and for the tortious acts of his or her agents, employees, or servants during the performance of this Agreement. The ATTORNEY agrees to indemnify and hold harmless the CITY, its agents, employees and officers from and against all liabilities, claims, demands, or actions at law and equity including court costs and attorney's fees that may hereafter at any time be made or brought by anyone for the purposes of enforcing a claim on account of any injury or damage allegedly caused or occurring to any person or property in which was caused in whole or in part by any tortious, wrongful, or intentional acts or

omissions of ATTORNEY, his or her agents, or employees during performance under this Agreement. If permitted by law, the Special Master shall be allowed to partake of the benefits of sovereign immunity provided by Section 768.28, Florida Statutes, as it may be amended from time to time.

ARTICLE 10 – NOTICE

All notices, demands, and other writings either required and/or permitted under this Agreement shall be deemed to have been fully given, made, or sent when it is either: (a) prepared in writing and deposited in the United States Mail, postage pre-paid, and properly addressed to the Party to be notified at the address noted below; or (b) actually delivered by a nationally recognized courier service, with receipt thereof by the addressee being acknowledged by an authorized signature. Any notice or disclosure required and/or permitted under this Agreement, and any change of the address and/or identity of a person to be notified, shall be made in accordance with the above notice provision, and such notices shall be sent to:

If to ATTORNEY:
KEN WARNSTADT
Post Office Box 594
Brooksville, Florida 34605-0594

If to City:
City Manager
City of Brooksville
201 Howell Avenue
Brooksville, Florida 34601

With a Copy To:

City Attorney
c/o The Hogan Law Firm, LLC
20 S. Broad Street
Brooksville, Florida 34601

ARTICLE 11 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the CITY or at its expense will be kept confidential by the ATTORNEY and will not be disclosed to any other party, directly or indirectly, without the CITY'S prior written consent. Such information and data shall be and remain the CITY'S property and may be reproduced and reused at the discretion of the CITY. All documents generated by the ATTORNEY for the CITY become the property of the CITY. The CITY may require submission of any electronic file version of reports, data, or other submission of documentation produced for or as a result of the services performed under this Agreement. The CITY and the ATTORNEY shall comply with the provisions of the Florida Public Records Law.

ARTICLE 12 – ASSIGNMENT, AMENDMENT OR MODIFICATION

The ATTORNEY shall not sell, transfer, assign or otherwise dispose of the AGREEMENT or any portion thereof, or of his or her right, title, or interest therein, without prior written consent of the CITY. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by a written instrument executed by the PARTIES hereto.

ARTICLE 13 - GOVERNING LAW

All questions, issues or disputes arising out of or under this Agreement, shall be governed by the laws of the State of Florida. State jurisdiction is hereby agreed by Party/Parties to be in Hernando County, Florida. Federal jurisdiction is hereby agreed by Party/Parties to be in the Middle District of Florida, and all Federal litigation shall be filed and litigated in Tampa, Hillsborough County, Florida. In the event suit is commenced to enforce this Agreement, costs of said suit including reasonable attorneys fees in all proceedings, trials, investigations, appearances, appeals and in any bankruptcy proceeding or administrative proceeding shall be paid to the prevailing party by the other party. In the event that any litigation is commenced by either party to enforce this Agreement, the action will be filed and litigated, if necessary, in a Court of competent jurisdiction located in Hernando County, Florida; and if either Party elects to bring such action in Hernando County, Florida, Party/Parties waive(s) any and all rights to have this action brought in any place other than Hernando County, Florida, under applicable venue laws. Party/Parties hereby agree(s) that the jurisdiction and venue of all disputes arising out of this Agreement lie in no Court other than those stated above.

ARTICLE 14 - GENERAL

The invalidity of any provision of this Agreement or any covenant herein contained on the part of any Party shall not affect the validity of any other provision or covenant hereof or herein contained, which shall remain in full force and effect. Party/Parties agree(s) to sign all such documents and do all such things as may be necessary or desirable to completely and effectively carry out the terms and conditions of this Agreement. Time shall be of the essence of this Agreement. In this agreement, where the singular and masculine are used, they shall be construed as if the plural or the feminine or the neuter had been used where the context or the party or parties so requires, and the rest of the sentence shall be construed as if the grammatical and the terminological changes thereby rendered necessary had been made. Paragraph headings are provided as an organizational convenience and are not meant to be construed as material provisions of this agreement. Party/Parties agree(s) that this Agreement is consummated and entered into in Hernando County, Florida.

ARTICLE 15 – SEVERABILITY

Whenever possible each provision and term of this Agreement will be interpreted in a manner to be effective and valid, but if any provision or term of this Agreement is held to be prohibited or invalid, then such provision or term will be ineffective only to the extent of such prohibition or invalidity, without invalidating or affecting in any manner whatsoever the remainder of such provision or term or the remaining provisions or terms of this Agreement.

ARTICLE 16 - ATTORNEYS' FEES

If any action is commenced to construe or enforce this Agreement or the rights and duties created hereunder, then the Party prevailing in that action shall be entitled to recover its costs and fees in that action, the cost and fees incurred in any appeal thereof, and the costs and fees incurred in enforcing any judgment entered herein.

IN WITNESS WHEREOF, the Parties hereto, **KENNETH L. WARNSTADT**, and the **CITY OF BROOKSVILLE, FLORIDA**, respectively, have executed and attested this Agreement, and caused their seals to be affixed hereto, effective as of the day and year first above written, for the purposes herein expressed, and with the intent that both they and their respective successors and assigns shall be hereby bound.

Witness

Witness

By: _____
KENNETH L. WARNSTADT
Date signed: 10/21/2009

ATTEST:
(Seal)

By: _____
JANICE PETERS, CMC
As its City Clerk
Date signed: 10/21/09

City Of Brooksville, a municipal corporation of the State of Florida

By: _____
JOE BERNARDINI, As its Mayor
Date signed: 10/21/09

Approved as to legal form for the reliance of the City of Brooksville.

By: _____
Thomas S. Hogan, Jr., City Attorney
Date signed: 10/21/09

AGENDA ITEM NO. F-1
10/3/11

AGENDA ITEM
MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL

VIA: T. JENNENE NORMAN-VACHA
CITY MANAGER

FROM: BILL GEIGER, COMMUNITY DEVELOPMENT DIRECTOR &
MIKE WALKER, PARKS & RECREATION DIRECTOR

SUBJECT: ALCOHOLIC BEVERAGE LOCATION PERMIT, TYPE "A" - NEW QUARRY GOLF COURSE/CITY OF BROOKSVILLE

DATE: OCTOBER 3, 2011

GENERAL SUMMARY/BACKGROUND: The Petitioner, City of Brooksville, is seeking an Alcoholic Beverage Location Permit (Category "A") to allow for the sale of alcoholic beverages for consumption on premises, for property located at 800 John Gary Grubbs Boulevard (Quarry Golf Course).

The subject property is zoned C2, Highway Commercial District/Recreation Land Use, and is located within a commercial district that includes permitted uses for retail sales, offices, restaurants, etc.

Staff reviewed the application in conjunction with the criteria established in Chapter 6 of the City Code. The proposed location meets the zoning requirements for being permitted to have a Category "A" Alcoholic Beverage Location Permit.

The City currently has Park Rules & Regulations in place that prohibit alcoholic beverages at the Quarry Golf Course. For consistency, these rules and regulations should be amended prior to authorizing the issuance of a Category "A" Alcoholic Beverage Location Permit for this location.

BUDGET IMPACT: Direct costs incurred in taking action on and processing this petition will be absorbed by the City of Brooksville.

LEGAL NOTE: The public hearing is required pursuant to Section 6-44 of the City Code. The public hearing is intended to provide persons having either supporting or opposing interest in the application to appear and be heard. The petitioner submitted this application on August 19, 2011.

CITY COUNCIL ACTION: At the September 19, 2011 meeting, City Council postponed taking action on the alcoholic beverage location permit and Resolution 2011-08 to amend the Park Rules & Regulations to the October 3, 2011 meeting at 7:00 p.m.

STAFF RECOMMENDATION:
After accepting public input, it is recommended that City Council find that the petition meets the criteria of Chapter 6 of the City of Brooksville Code for receiving a Category "A", Alcoholic Beverage Location Permit. Further, staff recommends City Council consider approval of the issuance of said permit following the petitioner's submittal of the required state alcoholic beverage license and approval of the amendments to Articles 9 and 21 of the City of Brooksville Parks and Recreation Department Rules and Regulations.

ATTACHMENTS:
1. Resolution No. 2011-08
2. Alcoholic Beverage Location Permit Application

Attachment 1

Resolution No. 2011-08

RESOLUTION NO: 2011-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, AMENDING ARTICLE 9 AND ARTICLE 21 OF THE RULES AND REGULATIONS FOR THE MANAGEMENT AND OPERATION OF THE PARKS OR RECREATIONAL AREAS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 764 of the City of Brooksville Code of Ordinances provides for the adoption of rules and regulations as they relate to City parks or recreational areas; and

WHEREAS, at the April 12, 2011, workshop of the City Council with the Brooksville Parks and Recreation Advisory Board, various methods were discussed to increase the financial viability and sustainability of the Quarry Golf Course; and,

WHEREAS, at its meeting on August 11, 2011 the Brooksville Parks and Recreation Advisory Board discussed the ability to sell certain alcoholic's beverages (beer only) at the Quarry Golf Course as a means to improve the financial viability and sustainability of the Quarry Golf Course.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, that:

SECTION 1: The Brooksville City Council hereby amends the rules and regulations, adopted by Resolution 2011-02, for the management and operation of the various parks or recreational areas under the responsibility of the Parks and Recreation Department of the City of Brooksville as follows:

Article 9. Quarry Golf Course

A. Alcoholic beverages may be permitted on premises as specifically authorized by the City; however, no personal coolers shall be allowed on the course.

Article 21. Alcohol

Unless specifically authorized in and limited to the duration of any special events permit authorized hereunder or as otherwise specifically authorized by the City, the sale, possession or consumption of alcoholic beverages on any park property is prohibited. In addition to any other remedies under this article, any individual possessing or consuming alcoholic beverages in violation of these rules shall be expelled from such park.

SECTION 3: Penalties for violations of these Rules and Regulations are hereby established pursuant to the Code of Ordinances.

SECTION 4. This Resolution shall take effect following its adoption.

ADOPTED on the 3rd day of October, 2011.

CITY OF BROOKSVILLE

By: _____
Frankie Burnett, Mayor

ATTEST:_____
Janice L. Peters, CMC, City Clerk

APPROVED AS TO LEGAL FORM
FOR THE RELIANCE OF THE CITY
OF BROOKSVILLE ONLY:

_____
Thomas S. Hogan, Jr., City Attorney

VOTE OF CITY COUNCIL
Bernardini ____
Bradburn ____
Burnett ____
Hohn ____
Johnston ____

Attachment 2

Application

AUG 19 2011

CITY OF BROOKSVILLE

APPLICATION FOR ALCOHOLIC BEVERAGE LOCATION PERMIT
(Code of Ordinances, Chapter 6)

[✓] ***New Permit***

[ ] ***Transfer****

[✓] ***Type A Permit*** *(Liquor (beer) and wine sales for consumption on premises; requires City Council approval.)*

[✓] ***Type B Permit*** *(Beer and wine sales for consumption off premises; City Manager approval only)*

The undersigned hereby applies for an Alcoholic Beverage Location Permit pursuant to City of Brooksville Code of Ordinances, Chapter 6, and it is specifically for the purpose of:

to Serve Citizens Beverages.

at the following location (street address):

Quarry Golf Course 800 John Gary Grubbs Blvd

[ ] Applicant

Name: Quarry Golf Course

d/b/a: Brooksville City of (Tom Varn Pk)

Address: 800 John Gary Grubbs Blvd

Brooksville FL. 34601

Phone: (352) 540-3807

Fax: (352) 544-5486

[ ] Property Owner **

Name: City of Brooksville

d/b/a: Municipality

Address: 201 Howell Ave.

Brooksville, FL. 34601

Phone: (352) 540-3810

Fax: (352) 544-5424

* Date of proposed transfer:

If transfer, name of previous owner:

** If the applicant is not the property owner, state the nature of the applicant's interest in the referenced property or business (see page 2), and submit a written consent from the owner along with this application. If an agent is to represent the applicant, attach a letter from the agency with the name and address of the agent.

[ ] Written consent from the owner, if applicable.

[ ] Agent letter, if applicable.

Application Fee: $75.00 (Per City Policy 1-90)

The *present* use of the property is: GOLF COURSE (Public)

The *proposed* use of the property is: GOLF COURSE (Public)

The legal description of the property is: Subdivision _____ Lot _____ Block 52 ACRES
ACREAGE - ON FILE [✓] See Attached

Property Appraiser Key Number: 00353496 & 00359329

If the applicant is not the owner of the property, state the nature of the applicant's interest in the referenced property or business: CITY-OWNED

I certify that all statements made in this application are true to the best of my knowledge and that submitting any incorrect information will void the application, or location permit, if issued. I understand that my request will not be considered unless all the information required by this application is submitted.

T. Jennene Norman-Vacha
CITY MANAGER for CITY OF BROOKSVILLE
Applicant's Name (Print or Type)

Jennene Norman Vacha
Applicant's Signature

STATE OF FLORIDA

COUNTY OF HERNANDO

The foregoing instrument was sworn to and subscribed before me this 24th day of August, 2011 by T. Jennene Norman-Vacha, who is personally known to me or who has produced ——— as identification and who (did) or (did not) take an oath.

Judith A. Kilgore
Notary Public

JUDITH A. KILGORE
MY COMMISSION # EE9219
EXPIRES: September 03, 2014
1-800-3-NOTARY Fl. Notary Discount Assoc. Co.

(Stamped, typed or printed commission name, number and date of expiration.)

If you have any questions concerning this application, please contact the City of Brooksville Community Development Department at (352) 540-3810.

APPLICATION FOR ALCOHOLIC BEVERAGE LOCATION PERMIT CHECKLIST
(For City Staff Use Only)

Applicant's Name: CITY OF BROOKEVILLE - QUARRY GOLF COURSE

Date Application Received: 8/22/11 Date Fee Paid: N/A

TYPE A PERMIT

If the application is for a Type A Permit, fill out the information below per Sec. 6-44(c).

(1) Proximity of locations to schools, churches, licensed day care facilities, public recreation areas, public buildings, and areas of public assembly:

Schools 1,680'± Churches 2,200'± Day Care 1680'±

*Public Recreation 0' *Public Building 0' *Public Assembly 0'

(2) Proximity of the location to established residential areas: 875'±

(3) Land Use/Zoning of location sought: C2 ZONING / RECREATIONAL LAND USE

Land Use/Zoning of adjoining and adjacent areas: PROPERTIES WITH CLOSEST ADJACENCY ARE ZONED C2 (COMMERCIAL) L.U.

(4) Types of streets and traffic serving the area: US 41 - MAJOR ARTERIAL

(5) Proximity of location to other businesses operating under Permit A or B: 614'+

I have reviewed the above application for an Alcoholic Beverage Location Permit and have determined that it meets all requirements of Chapter 6 of the City Code.

Bill Geiger 8/24/11 Chief of Police/Date 8/25/11

Community Development Director/Date

Date Notice Published: _____ Date Sign Posted: 9/2/11

Date of City Council Public Hearing: Sept. 19, 2011

Permit Issued: [ ] Yes [ ] No Date of Issuance: _____

SUSPENSION OR REVOCATION OF LOCATION PERMIT (Sec. 6-45)

Date: _____ Reason: _____

* PUBLIC SITE

Hernando County Property Appraiser

CAMA updated: 8/19/2011

Parcel: R21 422 19 0000 0250 0000 | KEY: 00353496

<< Next Lower Parcel # | Next Higher Parcel # >>

2011 Preliminary Values

TRIM Notice | Property Card | Interactive GIS Map | Print

Search Result: 1 of 1

Owner & Property Info

Owner's Name(s)	BROOKSVILLE CITY OF (TOM VARN PARK & QUARRY GOLF)
Site	800 JOHN GARY GRUBBS BLVD (view all Site Addresses)
First Owner's Mailing	201 HOWELL AVE BROOKSVILLE FL 34601
Brief Desc	54.7 AC MOL IN SE1/4 LYING S OF HWY 50 & E OF DARBY LN INCLUDING DARBY LN R/W ** CONTINUED **
DOR Code (89) - Other Municipal	Map Code 76C4
Levy Code CRBRES	GIS Code B037

Land Use	Land Units
GOLF COURSE	52.70 ACRES

TAX Information

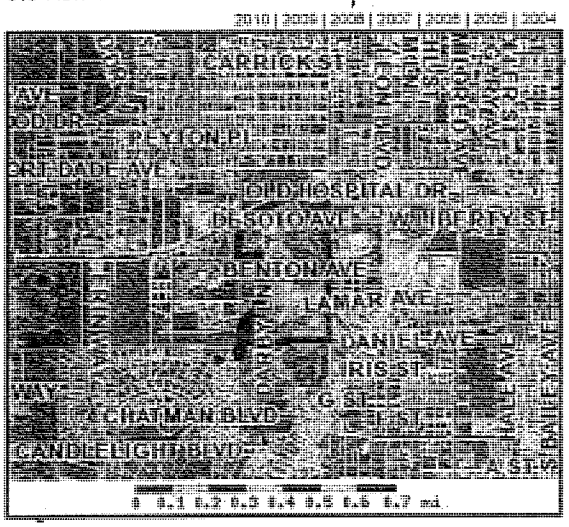
Tax History	
2010	$0.00
2009	$0.00
2008	$0.00
2007	$0.00

TAX Links > Access real-time Tax info

> Pay your Taxes on-line

GIS Aerial

flown: Feb 2010



Property & Assessment Values

Land Value	$559,938.00
Bldg Value	$638,054.00
Features Value	$285,203.00
Class Value	$0.00
Limit Value	$1,483,195.00

Assessed Value	$1,483,195.00
Exempt Value	$1,483,195.00
Excluded From Cap	$0.00
Taxable Value	$0.00
Just Mkt Value	$1,483,195.00

Sales

Sale Date	OR Book/Page	OR Inst.Type	Sale V/I (Qual)	Sale Price	Sale Party
1/1/1980	0/0000		(D)	$0.00	BROOKSVILLE CITY OF

Building Characteristics

Bldg #	Bldg Desc	Year Blt	Area (Base / Aux)	Bed / Bath
1	HEAVY INDUSTRIAL (45)	1960	3120 / 0	0 / 0
3	GOVERNMENTAL BUILDINGS (32)	1990	5888 / 1296	0 / 6
4	RECREATIONAL (24)	1990	10000 / 0	0 / 3
5	RECREATIONAL (24)	1985	480 / 300	0 / 2
6	PROFESSIONAL BUILDING (30)	1990	900 / 900	0 / 3
7	RECREATIONAL (24)	1998	280 / 280	0 / 2
8	RECREATIONAL (24)	1980	280 / 1120	0 / 2
	Note: All S.F. calculations are based on exterior building dimensions.			

Extra Features & Out Buildings

Description	Actual Year	Dimensions	Dep. Cost
PAVEMENT, ASPHALT COMMERCIAL (PV3)	1985	12792 SQ FT	$9,594.00
PAVEMENT, ASPHALT COMMERCIAL (PV3)	1985	1040 SQ FT	$780.00
PAVEMENT, CONCRETE COMMERCIAL (PV4)	1985	64000 SQ FT	$96,000.00
WOOD DECK (WDK)	1990	360 SQ FT	$342.00
CHAIN LINK FENCE 4FT+ (CF2)	1990	500 LINEAR FT	$2,000.00
DOOR,OVERHEAD,COMMERCIAL (DOH)	1990	200 SQ FT	$800.00
DOOR,OVERHEAD,COMMERCIAL (DOH)	1990	80 SQ FT	$320.00
OPEN PORCH, UNFINISHED (OPU)	1990	140 SQ FT	$126.00

PAVEMENT, ASPHALT COMMERCIAL (PV3)	1990	600 SQ FT	$450.00
PAVEMENT, ASPHALT COMMERCIAL (PV3)	1990	4950 SQ FT	$3,713.00
PAVEMENT, ASPHALT COMMERCIAL (PV3)	1990	9240 SQ FT	$6,930.00
PAVEMENT, CONCRETE COMMERCIAL (PV4)	1990	72 SQ FT	$108.00
PAVEMENT, CONCRETE COMMERCIAL (PV4)	1990	1000 SQ FT	$1,500.00
CHAIN LINK FENCE 4FT+ (CF2)	1990	564 LINEAR FT	$2,256.00
OPEN PORCH, W/CONCRETE FLOOR (OPC)	1990	420 SQ FT	$1,008.00
PATIO, CONCRETE (PT2)	1990	9600 SQ FT	$19,200.00
PAVEMENT, ASPHALT COMMERCIAL (PV3)	1990	22500 SQ FT	$16,875.00
PAVEMENT, ASPHALT COMMERCIAL (PV3)	1990	56600 SQ FT	$42,450.00
PAVEMENT, ASPHALT COMMERCIAL (PV3)	1990	66000 SQ FT	$49,500.00
PAVEMENT, CONCRETE COMMERCIAL (PV4)	1990	1480 SQ FT	$2,220.00
DOOR,OVERHEAD,COMMERCIAL (DOH)	1990	96 SQ FT	$384.00
CHAIN LINK FENCE 4FT+ (CF2)	2002	500 LINEAR FT	$2,000.00
OPEN PORCH, W/CONCRETE FLOOR (OPC)	2002	720 SQ FT	$3,283.00
OPEN PORCH, W/CONCRETE FLOOR (OPC)	1995	140 SQ FT	$462.00
OPEN PORCH, W/CONCRETE FLOOR (OPC)	2002	800 SQ FT	$3,648.00
PATIO, CONCRETE (PT2)	2002	800 SQ FT	$1,600.00
PAVEMENT, CONCRETE COMMERCIAL (PV4)	2002	960 SQ FT	$1,440.00
UTILITY,DETACHED,CONCRETE BLK (UTC)	1995	130 SQ FT	$787.00
WALL,CONCRETE BLOCK STUCCO 8FT (WL3)	2002	160 LINEAR FT	$1,680.00
OPEN SHED,NO WALLS OR CONCRETE (OS2)	2006	192 SQ FT	$169.00
PAVEMENT, ASPHALT COMMERCIAL (PV3)	1980	14504 SQ FT	$10,878.00
PAVEMENT, CONCRETE COMMERCIAL (PV4)	1980	1800 SQ FT	$2,700.00

Address Listings

301 DARBY LN	800 JOHN GARY GRUBBS BLVD	87 VETERANS AVE	

Business Listings

NONE

Mobile Homes and Lease Accounts

NONE

Hernando County Property Appraiser - Roll Year: 2011

CAMA updated: 8/19/2011

Search Result: 1 of 1

This information was derived from data which was compiled by the Hernando County Property Appraiser's Office solely for the governmental purpose of pr
This information should not be relied upon by anyone as a determination of the market value, ownership, or zoning of the property. Zoning information shou
the Hernando County Development Department. No warranties, expressed or implied, are provided for the accuracy of the data herein, it's use, or it's interp
is periodically updated, this information may not reflect the data currently on file in the Property Appraiser's office. The assessed values are NOT certified v
are subject to change before being finalized for ad valorem assessment purposes
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Hernando County Property Appraiser

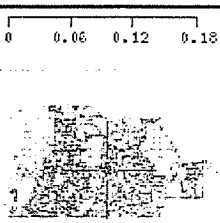
Alvin R. Mazourek CFA - Brooksville, Florida - 352-754-4190

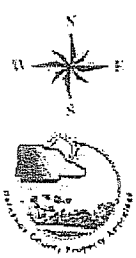
PARCEL: R28 422 19 0000 0030 0000 | KEY: 00359329

N 1/2 OF NE 1/4 OF NE 1/4 ORB 160 PG 452 AND LESS A TRIANGLE SHAPED PIECE IN NW ** CONTINUED **

Name:	BROOKSVILLE CITY OF (QUARRY GOLF COURSE)	LandVal	$209,313.00
Site:	DARBY LN	BldgVal	$0.00
Mail:	201 HOWELL AVE BROOKSVILLE FL 34601	JustVal	$209,313.00
		Assd	$209,313.00
Sales Info	1/1/1980 $0.00 (D)	Exmpt	$209,313.00
		Taxable	$0.00

Levy:CRBRES Map:77B1 GIS:B043 Class: Quality: TPPCnt:0





This information was derived from data which was compiled by the Hernando County Property Appraiser Office solely for the governmental purpose of property assessment. This information should not be relied upon by anyone as a determination of the market value, ownership, or zoning of the property. Zoning information should be obtained from the Hernando County Development Department. No warranties, expressed or implied, are provided for the accuracy of the data herein, it's use, or it's interpretation. Although it is periodically updated, this information may not reflect the data currently on file in the Property Appraiser's office. The assessed values are NOT certified values and therefore are subject to change before being finalized for ad valorem assessment purposes

CAMA updated: 8/26/2011 | GIS updated: 8/26/2011 | © Copyright 2003 All Rights Reserved - Hernando County Property Appraiser

AGENDA ITEM NO. G-1
10/3/11

AGENDA ITEM MEMORANDUM

TO: Honorable Mayor and City Council

VIA: T. Jennene Norman-Vacha, City Manager

VIA: Bill Geiger, Community Development Director

FROM: Steve Gouldman, AICP, City Planner

SUBJECT: Land Development Code Ordinance No. 826

DATE: October 3, 2011

GENERAL SUMMARY/BACKGROUND: This petition is a request to modify the City of Brooksville's land development regulations. The proposed Land Development Code (LDC) is intended to replace current Brooksville land development regulations. The proposed regulations were presented to City Council in June and December of 2010 and April 2011. Additionally, the Planning & Zoning Commission, Hernando County and the development industry were provided the regulations for review and comment.

The proposed LDC is substantially different in its organization and appearance when compared to the existing LDC. The proposed LDC also contains a substantial amount of regulations currently provided in the City's Code of Ordinances as well as significant new provisions.

In brief, Article I borrows from the current regulations and sets forth the legal foundations of the document, its effective date and its enabling authority from State Law.

Article II provides language identifying the purpose and intent of each of the various existing zoning districts, identifies permitted uses, conditional uses, special exception uses, special uses and prohibited uses in the narrative and in a revised use table. Also included in the Article are area, height, bulk and placement standards. New additions to the current regulations include an urban-scale residential zoning district, a transitional office-residential zoning district, a restrictive zoning district, a central business overlay district, an historic overlay district and a public facilities overlay district. Current uses identified as Specific Uses are renamed to Conditional Uses and a category of Special Uses is created. Conditional Uses are subject to administrative review, while Special Uses are reviewed by the Planning and Zoning Commission and the City Council. Finally, the use table is expanded beyond that which is contained in the City's current regulations in that it contains a number of uses not presently identified.

Article III provides regulations for existing special districts and those that are proposed for creation. Specifically, the Article includes provisions for the proposed central business and residential overlay, historic preservation and public facilities overlay

mobile home and recreational vehicle park developments, developments of regional impact and community development districts.

Article IV regulates performance and development standards for uses permitted by right and uses that are identified as conditional, special exception and special. The Article also contains regulations currently in force regarding subdivision and site development, landscaping and tree preservation, and fences and walls. The supplemental design standards provided for the conditional, special exception and special uses include those for specific (conditional) uses presently contained in the City's regulations as well as the new conditional, special exception and special uses established in the expanded use table in Article II.

Article V, Article VI, Article VII and Article X address natural resources, adequate public facilities, signs and building regulations respectively. Each respective article contains language that is currently provided in the City's Code of Ordinances and no substantive changes are proposed.

Article VIII establishes the various legislative and administrative steps required to develop and build upon land. Many of the existing administrative procedures are carried forward in the proposed LDC.

Article IX addresses LDC interpretations and nonconformities. The Article creates an administrative procedure for interpretations of the LDC regulations and provides for an appeal process of the interpretation. The nonconformity provisions include language similar to the existing nonconformities provision in the current regulations and additional language establishing various types of nonconformities not recognized in the City's current ordinance.

Article XI contains definitions for the terms used throughout the Land Development Code. The Article deletes definitions from the current regulations that are no longer applicable and adds new definitions particular to this ordinance. A number of existing definitions are modified to more clearly indentify the intent of the regulations.

BUDGET/IMPACT: SB Application, implementation and enforcement of the Land Development Code is and will continue to be the responsibility of the Community Development Department, with support from existing departments as applicable. No additional staff or other resources are anticipated in the administration of the provisions of the Ordinance.

LEGAL REVIEW: Florida Statutes § 163.3202(1) requires that each county and each municipality must adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan. Florida Statutes § 163.3202(2) mandates that Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan.

Pursuant to home rule authority provided for by Article VII, Section 2 of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and Section 1.03 of the Charter of the City of Brooksville, the City Council has the power to conduct municipal functions and to adopt ordinances.

PLANNING & ZONING COMMISSION RECOMMENDATION: At their June 8, 2011, meeting the Planning and Zoning Commission concurred with the staff recommendation for the Commission to recommend approval of the Ordinance to the City Council.

STAFF RECOMMENDATION: It is recommended that City Council evaluate the proposed Ordinance providing for a unified Land Development Code and adopt the Ordinance as proposed or adopt with modifications. Upon adoption of the Ordinance, a public hearing for the second and final reading of Ordinance No. 826 must be determined.

ATTACHMENT: Ordinance No. 826

ORDINANCE NO. 826

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, REPEALING SUBPART B, "LAND DEVELOPMENT CODE," AS AMENDED, OF PART II OF THE CITY OF BROOKSVILLE CODE OF ORDINANCES; REPEALING DIVISION 3 OF ARTICLE III OF CHAPTER 2, "CODE ENFORCEMENT" OF THE CODE OF ORDINANCES; DIVISION 4 OF ARTICLE III OF CHAPTER 2, "CODE ENFORCEMENT HEARING OFFICER; ENFORCEMENT HEARINGS AND PROCEDURE;" CHAPTER 6, "ALCOHOLIC BEVERAGES;" CHAPTER 10, "AMUSEMENTS AND ENTERTAINMENT;" ADOPTING A NEW "LAND DEVELOPMENT CODE" INCLUDING ARTICLE I, "GENERAL PROVISIONS," ARTICLE II, "ZONING DISTRICTS, USES AND LOT REQUIREMENTS,' ARTICLE III, "SPECIAL DISTRICTS AND DEVELOPMENT OPTIONS," ARTICLE IV, "GENERAL REQUIREMENTS AND SUPPLEMENTAL REGULATIONS," ARTICLE V, "NATURAL RESOURCES," ARTICLE VI, "ADEQUATE PUBLIC FACILITIES," ARTICLE VII, "SIGNS," ARTICLE VIII, "ADMINISTRATION, APPLICATION AND APPEAL PROCEDURES," ARTICLE IX, "INTERPRETATIONS AND NONCONFORMITIES," ARTICLE X, "BUILDINGS AND BUILDING REGULATIONS," AND ARTICLE XI, "DEFINITIONS;" PROVIDING FOR CONFLICTS AND REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Brooksville, Florida, ("City") is a municipal corporation duly created and existing pursuant to the Constitution and laws of the State of Florida; and,

WHEREAS, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances; and,

WHEREAS, pursuant to Section 1.03 of the Charter of the City of Brooksville, the City may exercise any power for municipal purposes except when expressly prohibited by law; and,

WHEREAS, the City Council of the City of Brooksville has the authority to prepare, adopt and enforce this Code pursuant to the Florida Constitution, Chapter 163 Florida Statutes, Chapter 166 Florida Statutes, the City of Brooksville Comprehensive Plan, and such other authorities and provisions established in statutory or common law; and

WHEREAS, it is the purpose of the City Council of the City of Brooksville to establish the standards, regulations and procedures for review and approval of all proposed development of property in the City of Brooksville and to provide a development review process that will be comprehensive, consistent, and efficient in the implementation of the goals, objectives, and policies of the City of Brooksville Comprehensive Plan; and

WHEREAS, the City Council of the City of Brooksville has determined this Land Development Code is consistent with the City's Comprehensive Plan and it is in the best public interest for all development to be conceived, designed, and built in accordance with good planning and design practices and the minimum standards set forth in this Code.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL MEMBERS OF THE CITY OF BROOKSVILLE, AS FOLLOWS:

SECTION 1. CONFLICTS AND REPEALER. The following provisions of the City of Brooksville Code of Ordinances are hereby repealed in their entirety: Division 3 of Article III of Chapter 2, "Code Enforcement;" Division 4 of Article III of Chapter 2, "Code Enforcement Hearing Officer; Enforcement Hearings and Procedure;" Chapter 6, "Alcoholic Beverages;" Chapter 10, "Amusements and Entertainment;" Chapter 101, "General and Administrative," Chapter 102, "Animals and Fowl," Chapter 103, "Reserved," Chapter 104, "Reserved," Chapter 105, Buildings and Building Regulations," Chapter 106, "Reserved," Chapter 107, "Reserved," Chapter 108, "Reserved," Chapter 109, "Environmental Protection and Natural Resources," Chapter 110, "Reserved," Chapter 111, "Reserved," Chapter 112, "Reserved," Chapter 113, "Flood Prevention and Protection," Chapter 114, "Reserved," Chapter 115, "Reserved," Chapter 116, "Reserved," Chapter 117, Manufactured Homes and Trailers," Chapter 118, "Reserved," Chapter 119, "Reserved," Chapter 120, "Reserved," Chapter 121, "Roads and Transportation Facilities," Chapter 122, "Reserved," Chapter 123, "Reserved," Chapter 124, "Reserved," Chapter 125, "Signs," Chapter 126, "Reserved," Chapter 127, "Reserved," Chapter 128, "Reserved," Chapter 129, "Subdivision Regulations," Chapter 130, "Reserved," Chapter 131, "Reserved," Chapter 132, "Reserved," Chapter 133, "Telecommunications Facilities," Chapter 134, "Reserved," Chapter 135, "Reserved," Chapter 136, "Reserved," and Chapter 137, "Zoning and Land Use." In addition, all other ordinances, or parts thereof, and resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 2. LAND DEVELOPMENT CODE. The Land Development Code of the City of Brooksville shall be as set forth in Exhibit A of this Ordinance which is attached hereto and incorporated herein in *haec verba*. The Land Development Code shall include Article I, "General Provisions," Article II, "Zoning Districts, Uses and Lot Requirements,' Article III, "Special Districts and Development Options," Article IV, "General Requirements and Supplemental Regulations," Article V, "Natural Resources," Article VI, "Adequate Public Facilities," Article VII, "Signs," Article VIII, "Administration, Application and Appeal Procedures," Article IX, "Interpretations and Nonconformities," Article X, "Buildings and Building Regulations," and Article XI, "Definitions."

SECTION 3. CODIFICATION. The Land Development Code of the City of Brooksville shall be codified as Subpart B of Part II of the City's Code of Ordinances. It is the intention of the City Council of the City of Brooksville that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Brooksville, Florida. The Code codifier is granted authority to codify the provisions of this Ordinance.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is for any reason held invalid, unlawful or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

CITY OF BROOKSVILLE

Attest:_____ By: _____
Janice L. Peters, CMC, City Clerk Frankie Burnett, Mayor

PASSED on First Reading _____
NOTICE Published on _____
PASSED on Second & Final Reading _____

APPROVED AS TO FORM FOR THE RELIANCE OF THE CITY OF BROOKSVILLE ONLY:

_____
Thomas S. Hogan, The Hogan Law Firm, LLC
City Attorney

VOTE OF COUNCIL:
Bernardini _____
Bradburn _____
Burnett _____
Hohn _____
Johnston _____

EXHIBIT A

CITY OF BROOKSVILLE

LAND DEVELOPMENT CODE

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CITY OF BROOKSVILLE

LAND DEVELOPMENT CODE

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CITY OF BROOKSVILLE

LAND DEVELOPMENT CODE

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CITY OF BROOKSVILLE

LAND DEVELOPMENT CODE

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CITY OF BROOKSVILLE LAND DEVELOPMENT CODE

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ARTICLE I

GENERAL PROVISIONS

PART 1-1

TITLE AND CITATION

This Code shall be known as the "City of Brooksville Land Development Code" and may be cited and referred to as the "Code" or the "LDC." Citation to provisions contained in this Code shall be referenced as "Article_____, Part_____,Section _____, LDC."

PART 1-2

BASIS FOR ADOPTION

SECTION 1-2.1. LEGISLATIVE AUTHORITY

The City Council of the City of Brooksville has the authority to prepare, adopt and enforce this Code pursuant to the Florida Constitution, Chapter 163 Florida Statutes, Chapter 166 Florida Statutes, the City of Brooksville Comprehensive Plan, and such other authorities and provisions established in statutory or common law.

SECTION 1-2.2. CHARTER PROVISIONS

Brooksville's Charter is entitled Part I, The Charter and Related Laws. The City shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and pursuant to the Florida Municipal Home Rule Powers Act it may exercise any power for municipal purposes except when expressly prohibited by law. All extraterritorial powers and jurisdiction, powers of taxation and powers to impose and enforce liens which the City now has are preserved.

The powers of the City shall be construed in favor of the City, limited only by the Constitution of the State of Florida, general law and specific limitations contained herein. Special acts pertaining to the jurisdiction and exercise of powers by the City shall be considered amendments to this charter and shall be incorporated as official amendments.

SECTION 1-2.3. PURPOSE

It is the purpose of the City Council of the City of Brooksville to establish the standards, regulations and procedures for review and approval of all proposed development of property in the City of Brooksville and to provide a development review process that will be comprehensive, consistent, and efficient in the implementation of the goals, objectives, and policies of the City of Brooksville Comprehensive Plan.

SECTION 1-2.4. INTENT

A. In order to foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of property within the jurisdictional

boundaries of the City of Brooksville, it is the intent of this Code that the development process in the City of Brooksville 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 the City of Brooksville.

B. The City Council deems it to be in the best public interest for all development to be conceived, designed, and built in accordance with good planning and design practices and the minimum standards set forth in this Code.

PART 1-3

INTERPRETATION AND REGULATORY EFFECT

SECTION 1-3.1. ABROGATION

This Land Development Code is not intended to repeal, abrogate, or interfere with any existing easements, covenants, any other private agreement or deed restrictions duly recorded in the public records of Hernando County provided that, where the provisions of this Code are more restrictive or impose higher standards or regulations than such easement, covenant, or private agreement or restriction, the requirements of this Code shall govern. This Code is not intended to repeal any lawful approval by official City action of any planned development, planned development project or subdivision, nor is it intended to interfere with, abrogate, or annul any other City rule or regulation, statute, or other provision of law. Where any provision of this Code imposes restrictions different from those imposed by any other provision of this Code or any other City rule, regulations, or other provision of law, whichever provisions are more restrictive or which impose higher standards shall control.

SECTION 1-3.2. AREA WHERE CODE APPLIES

The regulations of this Code shall apply throughout the City of Brooksville. No development shall be undertaken without prior authorization pursuant to this Code.

SECTION 1-3.3. CHIEF ADMINISTRATIVE OFFICER

The City Manager shall be considered the Chief Administrative Officer and shall be charged with the authority to enforce the regulations and procedures of this Code. The City Manager, in the performance of the necessary duties and functions, may enter upon any land and make examinations and surveys that do not cause damage or injury to private property. For the purpose of performing any of the duties and functions necessary to administer and enforce this Code, the City Manager may appoint appropriate persons as designees who shall have and exercise the authority of the Chief Administrative Officer.

SECTION 1-3.4. INTERPRETATION

In the event that any question arises concerning application of regulations, performance standards, definitions, development criteria, or any other provision of this LDC, the Community Development Department Director shall be responsible for interpretation. Responsibility for interpretation by the

Community Development Department Director shall be limited to standards, regulations, and requirements of this Land Development Code; such responsibility shall not be construed to include interpretation of any technical codes adopted by reference. Further, responsibility shall not be construed to substitute for any rights or responsibilities assigned to any commission, board or official named in other Articles or sections of this LDC.

SECTION 1-3.5. PROHIBITIONS

A. Generally

With the exception of authorized development activities, nothing shall be allowable on premises in any zone established which would in any way be offensive or obnoxious to a person of average sensitivities by reason of the emission of odors, liquids, gases, dust, smoke, vibration or noise. Nor shall anything be placed, constructed or maintained that would in any way constitute a nuisance to adjacent property owners, residents, or to the community.

B. Specifically

1. No building or structure shall hereafter be developed, used or occupied, and no building, structure, or part thereof shall hereafter be erected, reconstructed, moved, located, or structurally altered except in conformity with the regulations set out generally herein and for the district in which it is located.

2. Unless otherwise authorized herein, no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, located, moved or structurally altered in any manner so as:

   a. To exceed the permitted height, bulk or floor area for the district in which the building or structure is located;

   b. To accommodate or house a greater number of families or other occupants, or to provide a greater number of dwelling units allowed by the zoning district in which the building or structure is located;

   c. To occupy a greater percentage or portion of lot area than is permitted in the zoning district in which the building or structure is located;

   d. To provide less lot area per dwelling unit or to occupy a smaller lot than is required for the district in which the building or structure is located;

   e. To provide narrower or smaller yards or other open spaces, or spaces or separations between buildings or portions thereof that is required for the district in which the building or structure is located;

   f. To provide off-street parking or off-street loading space less than that required by this Code;

   g. To permit the use of the building or structure for a use not permitted in the district in which it is located.

SECTION 1-3.6. EXCEPTIONS

A. Previously Issued Building Permits

The provisions of this Code and any amendments hereto shall not affect the validity of any lawfully issued and effective building permit issued prior to the effective date of this Code if:

1. The development authorized by the permit has commenced prior to the effective date of this Code or any amendment hereto, or will commence after the effective date of this Code but prior to the permit's expiration or termination; and

2. 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 this Code or any amendment.

B. Existing Uses

All uses, structures, and lots existing on the effective date of this Code that are not in compliance with the provisions of this Code shall be considered nonconforming under the terms of this Code, except as otherwise provided herein.

SECTION 1-3.7. PERMIT REQUIRED

It shall be unlawful for any person, firm, partnership or corporation to construct, alter, repair, remove or demolish or to commence the construction, alteration, repair, removal or demolition of a building or structure in the City without first applying for and obtaining a permit or permits from the Community Development Department.

SECTION 1-3.8. CONDITION OF PERMIT

It shall be the duty of the Chief Administrative Officer or his designee to examine applications for permits without unreasonable or unnecessary delay. If, after examination, the Chief Administrative Officer or his designee finds no objections to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto and the proposed construction or work will be safe, the Chief Administrative Officer or his designee shall approve such application and a permit may be issued for the proposed work. If examination reveals otherwise, the Chief Administrative Officer or his designee shall notify the applicant and allow the applicant 14 calendar days to rectify the deficiencies identified. Should the applicant fail to rectify the deficiencies, the Chief Administrative Officer or his designee shall reject the application, providing the reason(s) therefore in a report to be attached to the application and delivered to the applicant.

SECTION 1-3.9. RULES OF CONSTRUCTION

A. Minimum Requirements

In the interpretation and application of any provision of these regulations it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of these regulations imposes greater restrictions upon the subject matter than a general provision imposed by the Comprehensive

Plan or another provision of these regulations, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

B. Debt or Pledge

Nothing in the Code shall be construed to create a debt or general obligation of the City or a pledge of the full faith and credit or taxing power of the City.

C. Site Design Requirements Apply On-site

No part of a yard, area, open space, or off-street parking or off-street loading space required for one structure or use shall be included as meeting requirements for another, except where specific provisions therefore are made in this Code.

D. Limitations on Creation of New Lots or Reductions of Lots or Yards

1. No new lot shall be created after the effective date of this Code except in conformity with the requirements of applicable regulations. No yard or lot existing at the time of passage of these regulations shall be reduced by private action in width, depth, or area below the minimum requirements set forth herein. Notwithstanding the foregoing, unmanned public service facilities, including, but not limited to, pump/lift stations, utility substations, and similar public service structures, may be sited on lots smaller than otherwise required if it can be demonstrated to the satisfaction of the Chief Administrative Officer or his designee that they meet applicable setbacks, buffers, or other standards.

2. No portion of a lot, used in connection with an existing or proposed building, structure or use, and necessary for compliance with the area, height, and placement regulations of this Code, shall, through sale or otherwise, be used again as a part of the lot required in connection with any other building, structure, or use.

E. Action When Development Parcel Contains Two or More Zoning Districts

1. Where a lot contains two or more zoning district designations with different permitted floor area ratios applying, the permitted floor area ratio for the lot shall not exceed the sum of the results obtained by multiplying the privately-owned land area of the lot in each zoning district by the applicable permitted floor area ratio for that portion of the lot.

2. Where a lot contains two or more zoning district designations with different density regulations, (i.e., a differing amount of required lot area for each dwelling unit), the density (maximum number of dwelling units) shall not exceed the numeric sum of the maximum number of units that could be constructed on individual portions of the lot in each zoning district.

3. Nothing in this section shall authorize the location of a use in a district where that use is not either a permitted principal or accessory use or a permissible Conditional Use, Special Exception Use or Special Use.

SECTION 1-3.10. AMENDMENTS

Nothing in this article shall prohibit the filing of amendments to an application, plan or other record accompanying same at any time before the completion of the work for which the permit was sought. Such amendment, after approval, shall be filed with and be deemed a part of the original application and permit.

SECTION 1-3.11. FEES

No permit shall be valid until the fees prescribed per City Council Resolution and on file within the City Clerks Office have been paid, nor shall an amendment to a permit be approved until the additional fees, if any, have been paid.

PART 1-4

SEVERABILITY

It is the legislative intent of the City Council in adopting this Code that all provisions hereof shall be liberally construed to protect and preserve the peace, health, safety, and general welfare of the inhabitants of the City of Brooksville. It is the further intent of the City Council that this Code shall stand, notwithstanding the invalidity of any section, phrase, sentence, or other part hereof, and that should any part of this Code be held to be unconstitutional or invalid by a court of competent jurisdiction, such part shall be deemed a separate, distinct, and independent part, and such holding shall not be construed as affecting the validity of any of the remaining parts.

PART 1-5

EFFECTIVE DATE AND ENACTMENT

SECTION 1-5.1. GENERALLY

The provisions of this Code shall be effective on and after the ___ day of ____, 2011.

SECTION 1-5.2. PENDING APPLICATIONS AND INTERIM AUTHORITY

A. All applications for which public hearings have been convened prior to the effective date of this Code shall be heard and decided pursuant to the terms of those procedures in effect prior to said effective date.

B. All applications deemed substantially complete and made prior to the adoption of this Code for which decisions are made after the effective date shall be decided pursuant to the terms of the procedures in effect at the time of said application.

C. All applications made after adoption of this Code shall be decided pursuant to the regulations and terms contained herein.

CITY OF BROOKSVILLE LAND DEVELOPMENT CODE

ARTICLE II

ZONING DISTRICTS, USES AND LOT REQUIREMENTS

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	Section 2-1.1	Intent	Page II-1
	Section 2-1.2	Establishment of Zoning District	Page II-1
PART 2-2	Zoning District Uses		Page II-4
	Section 2-2.1	Generally	Page II-4
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	Section 2-3.1	Generally	Page II-19
	Section 2-3.2	Schedule of Area, Height, Bulk, and Placement Regulations	Page II-19

ARTICLE II

ZONING DISTRICTS, USES AND LOT REQUIREMENTS

PART 2-1

ZONING DISTRICTS

SECTION 2-1.1. INTENT

The City is divided into zoning districts of such number, shape, characteristics, area, common unity of purpose, adaptability, or use as will accomplish the objectives of the Comprehensive Plan and this Code.

SECTION 2-1.2. ESTABLISHMENT OF ZONING DISTRICTS

A. Zoning Map

The City shall be divided by this Code into Zoning Districts, the boundaries and designations of which shall be shown on a map, covering in time the entire area of the City of Brooksville and identified as the City of Brooksville Zoning Map, hereafter referred to as the zoning map.

B. Zoning Boundary Lines

Except where referenced on the zoning map to a street boundary line or other designated line by dimensions shown on such map, the zoning district boundary lines are intended to follow lot lines, stream and shore lines, and the center line of street or alleys or rights-of-way as they existed at the time of the adoption of the map or any amendments of the same.

C. Zoning Districts

1. Residential districts. Residential districts provide for detached and attached residential housing development on a variety of lot sizes in accordance with the City of Brooksville Comprehensive Plan. Accessory uses, compatible related support uses for residential development, Special Exception Uses, Special Uses and Conditional Uses may also be permitted.

    a. R-1A Residential district. The R-1A district is designed to permit and protect low-density single-family development.

    b. R-1B Residential district. This district is designed to allow and protect medium-density single-family development.

c. R-1C Residential district. The R-1C district is designed primarily to permit the continued and new development of platted higher-density single-family residential areas.

d. R-1D Residential district. The R-1D district is designed to permit higher-density single lot, principal building residential development consisting of conventional single-family dwellings.

e. R-2 Residential district. The R-2 district is designed to permit medium-density residential development allowing both single-family and two-family dwellings.

f. R-3 Residential district. The R-3 district is designed to permit higher-density single lot, principal building residential development allowing both single-family and multiple-family dwellings.

2. Office and Commercial districts. The Office districts provide for a combination of office, institutional and residential uses, compatible Special Exception uses, compatible Special Uses and compatible related support uses under the provisions of this Article. The commercial districts provide for various retail sales, personal services, office and institutional uses, accessory uses as appropriate thereto and compatible supporting uses, as well as selected Special Uses and Special Exception uses, all at appropriate intensities and in locations in accordance with the City of Brooksville Comprehensive Plan.

a. PR Professional Office and Residential district. The PR district provides primarily for residential development and low intensity office uses compatible with existing residential areas. The district permits conversion of residential structures or the construction of new structures for office and related uses. In addition, this district may be used to provide a buffer between residential and more intensive office and commercial districts.

b. P-1 Professional Office district. This district is designed to encourage the compatible development of major professional and related office complexes in predominately developed areas which are suitable for such activities.

c. C-1 General Commercial district. This district is designed to encourage and facilitate commercial activities intended to serve a relatively large trade area and include major shopping facilities and goods oriented to pedestrian shoppers in areas sufficiently large enough to meet the needs of several types and varieties of general commercial activities.

d. C-2 Highway Commercial district. The C-2 district is designed to permit the development of commercial areas at appropriate locations on major highways in predominately developed areas and is intended to meet the

needs of motorists and other consumers through the provision of automobile-oriented commercial activities located in a desirable grouping rather than in a strip or linear fashion along the highway. All properties zoned C-3 prior to the adoption of this Ordinance shall be considered to be zoned C-2.

e. C-4 Neighborhood Commercial district. The C-4 district is designed to permit the development of local commercial areas which are properly located in regard to both adjacent streets and surrounding residential areas and is intended to serve local neighborhood needs through the provision of easily accessible convenience goods and personal services.

3. Industrial districts. The industrial districts provide primarily for manufacturing, processing, assembly, warehousing, storage and related uses at appropriate intensities and locations in accordance with the City of Brooksville Comprehensive Plan.

a. CIS-1 Commercial-Industrial Storage district. The CIS-1 district is intended to permit the development of wholesale and storage activities located in predominately developed areas which are desirable for such uses.

b. I-1 Industrial district. The I-1 district is designed to encourage the development of a coordinated and related industrial complex located in predominately developed areas where there are sites sufficiently large enough to meet the needs of limited types and varieties of industrial activities.

c. I-2 Industrial district. The I-2 district is designed to encourage the development of a coordinated and related light industrial complex located in predominately developed areas where there are sites sufficiently large enough to meet the needs of limited types and varieties of light industrial activities.

4. PDP Planned Development Project district. The purpose of the planned development project district (PDP) is to allow the development of land uses that are in conformance with the adopted future land use element of the City of Brooksville Comprehensive Plan. PDPs shall encourage maximum land development opportunities and well-designed developments that are characterized by unique conditions or situations which other zoning districts cannot accommodate, including, but specifically not limited to, unusual physical or environmental features, transportation, access, and/or a mixture of appropriate land uses which may not otherwise be permitted in other districts.

5. AG Agricultural district. The agricultural district is designed to promote and encourage the conservation and utilization of prime and productive agricultural land as well as the preservation of the open character of certain lands, which, by

virtue of their topography, soil types, natural resources or relationship to other land use areas should be carefully reviewed and evaluated prior to their possible development.

6. Special Overlay districts

   a. HCBRD Historic Central Business/Residential overlay district. The zoning overlay district and design standards implement the vision, principles and strategies of the City of Brooksville Comprehensive Plan's Community Redevelopment Plan.

   b. HCC Historic and Cultural Conservation overlay district. The overlay district is applicable to general areas having concentrations of structures of substantial historic, architectural or cultural significance, or for individual structures and premises designated as having such significance.

   c. PFS Public Facilities and Services overlay district. The PFS is a special purpose overlay district intended for locations at which facilities are provided to serve public, semi-public, and private purposes. Such purposes include governmental, religious, educational, health care, social service, and special facilities.

PART 2-2

ZONING DISTRICT USES

SECTION 2-2.1. GENERALLY

No building, structure or land shall be used, nor shall any use be established unless it complies with the requirements of this Article.

A. Permitted Principal Uses

The purpose of listing the permitted principal uses contained within Table 2-2, Table of Allowable Uses, is to identify all principal uses that may be permitted on properties within each zoning district.

B. Permitted Accessory Uses

Accessory uses are those uses which are customarily subordinate to, integrated with, and clearly incidental to a principal use on the same property. The Table of Allowable Uses identifies certain accessory uses that may be permitted within the zoning districts.

C. Conditional Uses

Conditional uses are those uses which require additional design standards to ensure compatibility with adjacent uses and the surrounding neighborhood. The design standards supplement and are in addition to the standards and criteria otherwise required within this Code. Unless otherwise required herein, compliance with these supplemental standards shall be determined during development review and shall not require any additional procedural steps or review processes.

D. Special Exception Uses

Special Exception uses are uses and structures which may be permissible within each zoning district. The Special Exception uses which are listed are considered to be uses which may be appropriate in a zoning district but require individual review as to their particular characteristics, impacts and location to determine if special conditions are necessary in order to protect the health, safety and general welfare of the City's residents. Requests for Special Exception Uses shall be reviewed by the Planning and Zoning Commission.

E. Special Uses

Special Uses are uses and structures which would not be appropriate generally or without special study throughout the zoning district but which, if controlled as to number, size, location or relation to the neighborhood, would promote the public health, safety and general welfare. Requests for Special Uses shall be reviewed by the Planning and Zoning Commission and City Council.

SECTION 2-2.2. ALLOWABLE USES

The following table indicates the categories of uses which are allowable in each standard zoning district within The City of Brooksville. The categories of uses are arranged in the vertical column on the left side of the table and the zoning districts are listed across the top. "P" indicates that the use is permitted, subject to the standards of this Code. "C" indicates the use is a Conditional Use that may be allowed in the identified district pursuant to conformance with the design standards contained in Article IV. No public hearing is required for Conditional Uses. An "SE" designates uses as Special Exception Uses that may be established in the district, pursuant to a noticed public hearing as described in Article VIII and in conformance with the standards contained in Article IV. An "SU" designates uses as Special Uses that may be established in the district, pursuant to a noticed public hearing as described in Article VIII and in conformance with the standards contained in Article IV. An "A" indicates the use is an Accessory Use that may be established in the district pursuant to the requirements of Article IV. A blank space indicates that the use is prohibited. All uses are subject to the development standards of the zoning district in which it is to be located as well as all other rules and regulations of this Code and the City of Brooksville. Properties with an Overlay designation shall be governed by the underlying zoning district and may be permitted additional uses as indicated in the Use matrix.

All uses are potentially permitted in Planned Development Project (PDP) districts, subject to the policies of the Comprehensive Plan, the requirements of Article VIII of this Code and all other rules regulations and ordinances of the City of Brooksville. Land uses permitted in existing Planned Development Project districts are specified in the PDP's conditions of approval. Requests for modifications to Planned Development Projects are reviewed in accordance with Article VIII of this Code.

TABLE 2-2

TABLE OF ALLOWABLE USES																		
Legend: P=Permitted Use; SU=Special Use; SE=Special Exception Use; C=Conditional Use; A=Accessory Use																		
		RESIDENTIAL						**OFFICE**		**COMMERCIAL**			**COMMERCIAL AND INDUSTRIAL**			**OVERLAYS**		
	AG	R-1A	R-1B	R-1C	R-1D	R-2	R-3	PR	P-1	C-1	C-2	C-4	CIS-1	I-1	I-2	PFS	HCBRD	HCC
Agricultural Uses																		
Agriculture	P	P																
Agricultural Equipment Storage	C												P	P	P			
Agricultural Stands--Temporary or permanent	C									C	C	C						
Animals	C	C	C	C	C	C	C											
Kennels	SU									C	C							
Landscaping Contractor's Nursery	P									P	P		P	P	P			
Plant Farm	P																	
Residential Uses																		
Accessory Dwellings	C	C	C	C	C	C	C	C									C	
Accessory Structures	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C		C	
Apartments, Commercial									C	C	C	C					C	
Bed and Breakfast Establishment	SE	SE	SE	SE	SE	SE	SE	C	P	P	P	P					P	P
Boarding House							P										C	
Community Residential Homes Type A	C	C	C	C	C	C	C											
Community Residential Homes Type B & C		SU	SU	SU	SU	SU	SE	SE	SE	SE	SE	SE						
Dormitories							P										C	
Dwelling, Modular	P	P	P	P	P	P	P	P									C	
Dwelling, Multi-family							P											
Dwelling, Single-family conventional	P	P	P	P	P	P	P	P	P								C	
Dwelling, Two family (duplex)						P	P											
Family Day Care Home	P	P	P	P	P	P	P	P										

TABLE OF ALLOWABLE USES																		
Legend: P=Permitted Use; SU=Special Use; SE=Special Exception Use; C=Conditional Use; A=Accessory Use																		
		RESIDENTIAL						**OFFICE**		**COMMERCIAL**			**COMMERCIAL AND INDUSTRIAL**			**OVERLAYS**		
	AG	R-1A	R-1B	R-1C	R-1D	R-2	R-3	PR	P-1	C-1	C-2	C-4	CIS-1	I-1	I-2	PFS	HCBRD	HCC
Fraternities/Sororities							P	P										
Garage, Yard, Etc. Sales	A	A	A	A	A	A	A	A										
Home-based Business	C	C	C	C	C	C	C	C	C									
Home Swimming Instructions	C	C	C	C	C	C	C	C	C									
Life Care Treatment	SU	SU	SU	SU	SU	SU	SU	SU	C	C	C	C						
Mental Health Care Facility	C										C	C						
Mobile Home Park	Requires Planned Development Project Zoning																	
Model Dwelling Units and Pre-construction Sales Offices		C	C	C	C	C	C											
Neighborhood/Community Fair	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			
Nursing, Convalescent and Extended Care Facilities	SU	SU	SU	SU	SU	SU	SU	SU										
Portable Temporary Storage Units	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			
Professional Residential Facilities																		
Recovery Home A	SU	SU	SU	SU	SU	SU	SU	SU										
Recovery Home B	SU	SU	SU	SU	SU	SU	SU	SU										
Recovery Home C	SU	SU	SU	SU	SU	SU	SU	SU										
Recreational Vehicle Park	Requires Planned Development Project Zoning																	
Swimming Pools	C	C	C	C	C	C	C	C	C	C	C	C						
Cultural/Institutional Uses																		
Churches and Synagogues	C	C	C	C	C	C	C	C	C	C	C	C				C		
Community Centers	C	C	C	C	C	C	C	C	P	P	P	P				P		
Research Activities									P	P	P	P		P	P			
Libraries	P	P	P	P	P	P	P	P	P	P	P	P						
Membership Organizations									C	C	C	C		C	C			
Museums, Art Galleries and Artist Studios									P	P	P	P					P	P
Parks and Recreational Facilities with lighting	C								C	C	C	C	C	C	C	C	C	

TABLE OF ALLOWABLE USES																		
Legend: P=Permitted Use; SU=Special Use; SE=Special Exception Use; C=Conditional Use; A=Accessory Use																		
		RESIDENTIAL						**OFFICE**		**COMMERCIAL**			**COMMERCIAL AND INDUSTRIAL**			**OVERLAYS**		
	AG	R-1A	R-1B	R-1C	R-1D	R-2	R-3	PR	P-1	C-1	C-2	C-4	CIS-1	I-1	I-2	PFS	HCBRD	HCC
Pre-K, Day Care, Child Care and Child Nurseries	SU	SU	SU	SU	SU	SU	SU	C	C	C	C	C				SE		
Schools (K--12)	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU			SU		
Neighborhood, General and High Intensity Business and Commercial Uses																		
Accessory Retail									C	P	P	P		C	C			C
Adult Care Centers									C	C	C	C						
Adult Uses										C	C							
Alcoholic Beverage								SU	SU	SU	SU	SU		SU	SU			SU
Apparel and Shoe Store										P	P	P						
Appliance Stores, Large										P	P							
Appliance Stores, Small										P	P	P						
Art Supply Store								A	P	P	P	P					A	A
Automated Teller (ATM)									A	A	A	A						
Automotive Supply Store										P	P							
Bank/Credit Union										P	P	P						
Banquet and Reception Halls										P	P	P						
Bicycle Sales										P	P	P						
Bicycle Repair										P	P							
Billiards and Pool Parlors										P	P	P						
Blueprint								P	P	P	P	P						
Body Shops										P	P							
Book/Stationary Store, New and Used								A	A	P	P	P						A
Bowling Alleys										P	P							
Brew On-Premises										P	P							
Building Materials										P	P		P	P	P			
Bus Terminal										C	C	C		C	C			
Camera/Photography Store								A	A	P	P	P						A
Canopies and Gasoline Pump Islands as Accessory Uses										C	C	C		C	C			

TABLE OF ALLOWABLE USES																		
Legend: P=Permitted Use; SU=Special Use; SE=Special Exception Use; C=Conditional Use; A=Accessory Use																		
		RESIDENTIAL						**OFFICE**		**COMMERCIAL**			**COMMERCIAL AND INDUSTRIAL**			**OVERLAYS**		
	AG	R-1A	R-1B	R-1C	R-1D	R-2	R-3	PR	P-1	C-1	C-2	C-4	CIS-1	I-1	I-2	PFS	HCBRD	HCC
Car Wash Facilities--Self Service										C	C	C						
Car Wash Facilities--Full Service										C	C	SE						
Catering									P	P	P	P						
Circuses	C										C			C	C			
Commercial, Vocational and Business Schools									P	P	P	P						
Contractor's Office, With Open Storage										P	P		P	P	P			
Contractor's Office, Without Open Storage								P	P	P	P	P	P	P	P			
Convenience Store With or Without Gas Pumps										C	C	SE		C	C			
Department and Discount Stores										P	P							
Drug Stores									A	P	P	P						
Dry Cleaners, Small										P	P	P						
Dry Cleaners, General										P	P	P		P	P			
Electric/Electronic Repair, Small										P	P	P						
Electric/Electronic Repair, Large										P	P							
Exterminator										P	P			P	P			
Farm and Garden Supply Centers										P	P			P	P			
Firing Range, Indoor										C	C							
Firing Range, Outdoor														C	C			
Flea Markets or Similar Outdoor or Indoor/Outdoor Sales Complexes,	C										C			C	C			
Florist Shop								P	P	P	P	P						

TABLE OF ALLOWABLE USES																		
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		RESIDENTIAL						**OFFICE**		**COMMERCIAL**			**COMMERCIAL AND INDUSTRIAL**			**OVERLAYS**		
	AG	R-1A	R-1B	R-1C	R-1D	R-2	R-3	PR	P-1	C-1	C-2	C-4	CIS-1	I-1	I-2	PFS	HCBRD	HCC
Food Product Stores: Bakery, Candies & Nuts, Dairy, Delicatessens, Meat Seafood and Produce									P	P	P	P						
Free-Standing Taverns, Bars, Lounges, Nightclubs and Dance Halls[1]										P	P			P	P			
Funeral Homes and Mortuaries									P	P	P	P						
Furniture/Home Furnishings										P	P	P		A	A			
Furniture Refinishing, Repair and Upholstery										C	C			C	C			
Garbage Haulers													P	P	P			
Gasoline Sales and Service										C	C	C		C	C			
General Business, Such as Retail Goods and Stores										p	p	p		A	A			
Green Roof									C	C	C	C	C	C	C			
Grocery Stores										P	P	P						
Gun Sales										P	P	P						
Gunsmith										P	P							
Hardware Store										P	P	P						
Heating Fuel										P	P							
Hospitals and Medical Centers							SU			P	P							
Hotels and Motels										P	P							
Industrial Laundry											P			P	P			
Jewelry Store								P	P	P	P	P						
Large-Scale Retailers, Including Large-Scale Building Supply Centers and Do-It-Yourself Centers										SU	SU							
Laundries (Self-Serve)										P	P	P						
Lawn Care/Landscaping	P									P	P			P	P			
Liquor Store[1]										P	P	P						

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Livestock Auction Facilities	P										P			P	P			
Locksmith								P	P	P	P	P						
Lumber/Other Building Materials										P	P			P	P			
Mail and Package Services									P	P	P			P	P			
Mail Order Office								P	P	P	P	P		P	P			
Mail Order Pickup Facilities										P	P	P						
Mini Warehouses/Self-Storage										C	C	C	C	C	C			
Motor Vehicle Repair, Minor										P	P	P	P					
Motor Vehicle Repair, Major										P	P		P	P	P			
Motor Vehicle Repair, Neighborhood										P	P	C		P	P			
Movie theater										P	P							
News Stand									P	P	P	P		A	A			
Novelty and Souvenir Shop									P	P	P	P						
Office Equipment Sales										P	P			A	A			
Optician/Optical Supplies								P	P	P	P	P		P	P			
Outdoor Advertising Service											P		P	P	P			
Pawnshop										P	P							
Pet Shop									P	P	P	P						
Photography Studio								P	P	P	P	P						
Printing and Publishing, Large Scale											P		P	P	P			
Printing Services									P	P	P	P		P	P			
Radio-TV Broadcasting Studio										P	P			P	P			
Radio and TV Sales										P	P			A	A			
Rental and Leasing, Light Equipment										P	P		P	P	P			
Repairs, Vehicle	A	A	A	A	A	A	A	A	A	C	P	C	P	P	P			
Restaurants without Drive-Up Facilities								A	A	P	P	P						P

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Restaurants with Drive-Up Facilities (Eating Establishment)										C	C							
Road Services										P	P		P	P	P			
Sales, Rental and Service of New or Used Commercial Vehicles, Buses and Trucks											P		P	P	P			
Sales, Rental and Service of New or Used Domestic Vehicles, Farm and Garden Equipment, Private Pleasure Crafts and Hobby Vehicles										P	P		P	P	P			
Sales, Rental and Service of Recreational Vehicles										P	P		P	P	P			
Service Station										C	C	C	C	C	C			
Shopping Centers										P	P	P						
Small Motor Repair										P	P		P	P	P			
Specialty Food Store								P	P	P	P	P		A	A			
Sporting Goods Store										P	P							
Storage Yards for Equipment, Machinery and Supplies											P		P	P	P	P		
Studios for the Performing, Fine or Martial Arts									P	P	P	P		P	P			
Supermarket										P	P	P						
Tobacco Shop									A	P	P	P		A	A			
Train Terminal											P			P	P			
Travel Agencies								P	P	P	P	P						P
Truck Stops											P		P	P	P			
Used Merchandise										P	P			P	P			
Utility Buildings and Gazebos Sales										P	P		P	P	P			
Vehicle Auction-Retail										P	P		P	P	P			
Vehicle Parts Sales-Used										C	C		C	C	C			

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Vehicle Recycling													C	C	C			
Vendors, Temporary									C	C	C	C	C	C	C			
Watch, Clock, Jewelry Repair									P	P	P	P						P
Wedding Chapel								P	P	P	P	P						P
Industrial, Manufacturing and Distribution Uses																		
Assembly Plants (Heavy)													P	P				
Assembly Plants (Light)											P		P	P	P			
Industrial Dry Cleaning Plants and Laundries											P		P	P	P			
Large-Scale Printing Plants											P		P	P	P			
Lumberyards											P		P	P	P			
Manufacturing (Heavy)													P	P				
Manufacturing (Light)											P		P	P	P			
Minor Industry											C		P	P	P			
Processing (Heavy)													P	P				
Processing (Light)											P		P	P	P			
Production (Heavy)													P	P				
Production (Light)											P		P	P	P			
Railroad Switching and Classification Yard													P	P	P	P		
Slaughterhouse and Animal Processing Plant													C	C	C			
Trucking and Truck Terminal											P		P	P	P			
Warehousing, With or Without Distribution Center											P		P	P	P			
Wholesale Distribution (Trade)										P	P		P	P	P			
Vehicle Auction--Wholesale											P		P	P	P			

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Office and Professional Services																		
Animal Hospital/Veterinary Clinic	C									C	C	C						
Barber, Beauty Shop							P	P	P	P	P	P		A	A			
Business Services								P	P	P	P	P						P
Diagnostic Centers, which Provide Radiology, Medical Screening and Testing Services									P	P	P	P						
Employment Services								P	P	P	P	P						
Family Support Services								P	P	P	P	P						
Government Office								P	P	P	P	P		P	P	P		
Health Practitioner's office								P	P	P	P	P						
Hospital	P									P	P							
Medical and Dental Laboratory										P	P							
Medical Clinics with Scheduled or Emergency Services by Physicians										P	P							
Pain Management Clinic									C	C	C	C						
Personal Services									P	P	P	P						
Professional Office								P	P	P	P	P		P	P			
Professional Services								P	P	P	P	P		A	A			P
Rehabilitation Center										P	P							
Temporary Labor Pool											P			P	P			
Outdoor/Passive Uses																		
Cemeteries (either Human or Pet) With or Without Mausoleums or Crematoriums	Requires Planned Development Project Zoning																	
Natural Preserve	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Bridle Paths	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			

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Camps	P									P	P	P						
Country Club	P	P	P	P	P	P	P	P	P	P	P	P						
Golf Club	P	P	P	P	P	P	P	P	P	P	P	P						
Golf Driving Range	C	SU	SU	SU	SU	SU	SU	SU	SE	C	C	SE	C	C	C			
Open Storage											P		P	P	P	P		
Outdoor Arenas, Rodeo Grounds and Race Tracks	P										P		P	P	P			
Paintball	P									P	P		P	P	P			
Parks with Picnic Area	P	P	P	P	P	P	P	P	P	P	P	P						
Recreation Services -- Neighborhood	C	C	C	C	C	C	C	C	C	C	C	C						
Recreation Services -- General, Indoor										P	P							
Recreation Services--General, Outdoor	C									P	P							
Recreation Services--Regional	C									P	P		P	P	P			
Swimming Club	C	C	C	C	C	C	C	C	C	C	C	C						
Tennis Club	C	C	C	C	C	C	C	C	C	C	C	C						
Walking and Hiking Trail	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Neighborhood and General Public Service and Emergency Service Uses																		
Ambulance Services	SE	SE	SE	SE	SE	SE	SE	SE	P	P	P	P	P	P	P			
Communication Facilities, Wireless (Cell Towers)	P	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	P	P	P	P	SU	SU
Components of Wastewater Systems	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			
Components of Water Systems	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C			
Correctional Facilities, Community and Major		Requires Planned Development Project Zoning																
Electricity Substations	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			

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	AG	R-1A	R-1B	R-1C	R-1D	R-2	R-3	PR	P-1	C-1	C-2	C-4	CIS-1	I-1	I-2	PFS	HCBRD	HCC
Fire Stations	SE	SE	SE	SE	SE	SE	SE	SE	P	P	P	P	P	P	P			
Flow Equalization Tanks	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Garages and Storage Yards for School Buses, Highway Construction Equipment, Telephone Equipment and Utility Trucks and Equipment										P	P		P	P	P	P		
Radio and Television Transmitting and Receiving Facility	P	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	P	SU	SU	P	SU	SU
Power Generation Facilities														C	C	C		
Public Service Facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C		
Public Use Facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C		
Railyards and Terminals										SU	SU		P	P	P	P		
Wastewater Plants	SU	SU	SU	SU	SU	SU	SU	SU	SU	C	C	SU	C	C	C			
Regional Cultural and Entertainment Facilities																		
Amusement and Theme Parks	SU									SU	SU							
Business Schools									P	P	P	P						
Colleges and Universities										P	P							
Convention Centers											P							
Places of Assembly	SU									SU	SU		SU					
Trade Schools										P	P							
Solid Waste Facilities																		
Hazardous Waste Transfer Facilities													P	P	P			
Municipal Solid Waste Facilities	C												C	C	C	C		
Recyclable Household Goods Facilities, Permanent Structure										P	P		P	P	P	P		
Recyclable Household Goods										C	C	C	C	C	C			

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	AG	R-1A	R-1B	R-1C	R-1D	R-2	R-3	PR	P-1	C-1	C-2	C-4	CIS-1	I-1	I-2	PFS	HCBRD	HCC
Facilities, Truck Trailer																		
Resource Recovery Facilities											SU		C	C	C			
Vehicle Recycling, Open											SU		C	C	C			
Vehicle Recycling, Enclosed										SU	C		C	C	C			
Yard Waste Composting Facility										C	C		C	C	C	C		
Yard Waste Transfer Facility										C	C		C	C	C	C		

Notes:

1. Requires Alcoholic Beverage Use Permit.

PART 2-3

SCHEDULE OF DISTRICT AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS

SECTION 2-3.1. GENERALLY

Except as specifically provided elsewhere in this Code, regulations governing the minimum zoning lot size, width and area per dwelling unit, required front, side and rear yards, maximum permitted floor area ratio (FAR), maximum permitted height of structures, maximum permitted lot coverage, maximum permitted impervious surface and related matters shall be for the districts as shown in the following table. Residential properties with an Historic Central Business/Residential (HCBRD) overlay designation and all properties with an Historic and Cultural Conservation (HCC) or Public Facilities and Services (PFS) overlay designation shall be subject to the height, bulk and placement regulations of the underlying zoning district. Non-residential properties with an HCBRD overlay designation shall be subject to the height, bulk and placement regulations contained in Article III.

SECTION 2-3.2. SCHEDULE OF AREA, HEIGHT, BULK, AND PLACEMENT REGULATIONS

The standards described in this table shall be used for the purpose of establishing individual lot standards pursuant to a property's zoning. Individual lots may only be developed using these standards as a minimum to the extent it can be demonstrated in a plat or site development plan that the project as a whole does not exceed gross density as defined and regulated by the Comprehensive Plan.

TABLE 2-3 HEIGHT, BULK AND PLACEMENT STANDARDS

Minimum Zoning Lot Size			Required Yard Setbacks					Maximum Building and Lot Coverage	
District	Area Square Feet	Width at Building line[2]	Front[3]	Side[4]	Rear[4]	Maximum FAR	Maximum Height[7&8]	Percent Building Coverage	Percent Impervious Surface
Agricultural and Residential Districts									
AG	12,000	100'	25'	15'	20'	NA	35'	NA	NA
R1-A	10,000	85'	25'	10'	20'	NA	35'	35	NA
R1-B	7,500	75	25'	10'	20'	NA	35'	35	NA
R1-C	6,000	60	25'	7.5'	20'	NA	35'	40	NA
R1-D	5,000	50'	20'	5'	20'	NA	35'	45	NA
R-2	7,500[1]	75'	25'	10'	20'	NA	35'	35	NA
R-3	7,500[1]	75'	25'	10'	20'	NA	50'	50	NA
Non-Residential Districts									
PR	7,500	75'	5'	10[6]	20[6]	0.30	35'	0.30	60
P-1	7,500	75'	10'	10[6]	25[6]	0.70	50'	0.70	60
C-1	10,000	100'	10'[5]	10[6]	25[6]	0.70	50'	0.70	75
C-2	20,000	100'	10'[5]	10[6]	25[6]	0.70	50'	0.70	75
C-4	7,500	75'	10'[5]	10[6]	25[6]	0.70	50'	0.70	75
CIS-1	20,000	100'	25'[5]	20[6]	25[6]	0.70	50'	0.80	75
I-1	20,000	100'	25'[5]	20[6]	25[6]	0.70	50'	0.80	75

Footnotes:

1. An additional 3,000 square feet shall be provided for each dwelling unit over the first three dwelling units.

2. All lots shall have a minimum of 50 feet street frontage, with the exception that those lots which front on cul-de-sacs and permanent dead-end streets shall have a minimum street frontage of 30 feet.

3. Front porches attached to single-family conventional dwelling shall be permitted to project a maximum of 10 feet into the required front yard. or 50 percent of the required front yard setback whichever is less. See Article IV for provisions.

4. Accessory structures shall provide a minimum side and rear yard setback of three feet.

5. All properties located adjacent to arterial highways shall provide a minimum 75-foot building setback from the edge of right-of-way of an arterial highway. The Chief Administrative Officer or his designee may reduce the 75-foot requirement and allow the minimum front yard setback of the property's zoning district in the following circumstances:

   a. A hardship exists in the redevelopment of an existing developed parcel due to the inadequate depth of the property or the continued use of an existing structure. In such instances, cross-access driveways to adjacent parcels shall be provided when and where feasible.

   b. The developer has provided for a reverse frontage road along the rear portion of the property. Any such exception may be subject to additional conditions.

   City Council will be notified of exceptions granted.

6. Side and rear yards shall be provided as indicated in Article IV.

7. Buildings may exceed 50 feet in height, provided the rear and side yard setbacks are increased one foot for every foot of building height over 50 feet.

8. The height limitations of this Code shall not apply to any roof structures for housing elevators, stairways, tanks, ventilating fans, solar energy collectors, or similar equipment required to operate and maintain the building, nor to church spires, steeples, belfries, cupolas, domes, monuments, water towers, skylights, flag poles, vents or similar structures, provided that such structures shall not extend over ten feet in height above the roof.

CITY OF BROOKSVILLE LAND DEVELOPMENT CODE

ARTICLE III

SPECIAL DISTRICTS AND DEVELOPMENT OPTIONS

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CITY OF BROOKSVILLE LAND DEVELOPMENT CODE

ARTICLE III

SPECIAL DISTRICTS AND DEVELOPMENT OPTIONS

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ARTICLE III

SPECIAL DISTRICTS AND DEVELOPMENT OPTIONS

PART 3-0

SPECIAL DISTRICTS

SECTION 3-0.1. GENERALLY.

A. Intent

It is the intent of this Land Development Code to permit creation of Special Districts and options in accordance with the procedures of Article VIII in the following circumstances:

1. In general, areas officially designated as having special and substantial public interest in protection of existing or proposed character, or of principal views of, from, or through the areas;

2. Surrounding individual buildings or sites where there are special and substantial public interest in protecting such buildings and their visual environment; or

3. In other cases where special and substantial public interests require modification of otherwise applicable zoning and other regulations, or repeal and replacement of such regulations, for the accomplishment of the special public purposes for which the special district is established.

B. Relationship To Comprehensive Plan

It is further intended that such districts and the regulations adopted for them shall be in accord with and promote the purposes set out in the Comprehensive Plan and other officially adopted plans of the City, and shall encourage land use and development in substantial accord with the physical design objectives set out therein.

PART 3-1

HISTORICAL CENTRAL BUSINESS/RESIDENTIAL DISTRICT OVERLAY

SECTION 3-1.1. GENERALLY

A. Purpose

The purpose of this Part is to provide regulatory guidance for the Historic Central Business/Residential Overlay District (HCBRD) and design standards. The zoning overlay district and design standards implement the vision, principles and strategies of the City of Brooksville Comprehensive Plan's Community Redevelopment Plan.

B. Intent

The intent of the Historic Central Business/Residential Overlay District is to revitalize Brooksville's downtown commercial core and residential periphery, enhance the appearance of Brooksville's historic business district, and promote a mixed-use, walkable and pedestrian-friendly environment.

SECTION 3-1.2. APPLICABILITY

These standards shall apply to all new development and redevelopment within the area identified in the Historic Central Business/Residential Overlay District (Figure 1). However, these provisions shall not apply to properties designated as Historic Landmarks, previously approved planned development projects, previously approved subdivisions, and projects with unexpired building permits, unexpired preliminary site development approval or unexpired construction plan approval at the time of adoption of this Ordinance. Existing lawful uses, lots, structures, characteristics of land and densities shall not be required to be removed or otherwise modified as a result of the standards or requirements set forth in this Part.

In addition to the standards provided herein, development within the HCBRD overlay district shall be required to meet all other applicable sections of the Land Development Code. Where any provision of the HCBRD overlay district regulations is in conflict with any other standards or regulations of the Land Development Code, the HCBRD overlay regulations shall prevail.

SECTION 3-1.3. PERMITTED USES

The uses permitted within the HCBRD overlay district shall be those of a property's underlying zoning district and those of the HCBRD overlay district. The permitted uses, Conditional Uses, Special Uses and Special Exception Uses are presented in Table 2-2 of Article II.

SECTION 3-1.4. STANDARDS FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENT

A. Existing development

Renovations and additions shall adhere to the architectural style of and utilize materials similar to the existing structure and shall comply with all applicable regulations of the property's underlying zoning district and other regulations of this Code.

B. New development

1. New development shall be subject to the requirements of the property's underlying zoning district and the following:

2. Each principal dwelling shall have a front porch. The porch shall be a minimum of eight feet in width and six feet in depth. The porch shall be covered with a solid roof but shall not be screened or otherwise enclosed. Railings, if provided, shall be consistent with the architectural style of the structure.

3. A garage is required for each dwelling unit. Garages designed to hold three or more cars shall have at least two separate doors. The entry face of a garage accessed through a front yard, including a front yard functioning as a side yard, shall be set back at least five feet further from the street than the front plane of the principal building, excluding covered porch. Except as otherwise regulated by this Part, setbacks for detached garages shall comply with the accessory structure requirements of this Code. Carports, other than drive-through porte cocheres, shall be prohibited.

4. Drive-through porte cocheres shall meet principal structure setbacks and shall extend no closer to the street than the front plane of the principal building, excluding covered porch.

SECTION 3-1.5. STANDARDS FOR NON-RESIDENTIAL, MULTI-FAMILY AND MIXED USE DEVELOPMENT

A. Existing structures

Renovations and additions shall adhere to the architectural style of and utilize materials similar to the existing structure and shall comply with all other applicable regulations of this Part.

B. New construction

1. Building location.

a. Setbacks:

Front yard setbacks shall be a maximum of three feet. However, up to 90 percent of the building frontage may be developed with a paved courtyard, arcade or gallery devoted to public/patron use and meeting the maximum setback. In such cases, the building façade containing enclosed floor space shall be no more than 20 feet from the right-of-way line and the façade shall comply with the design requirements of this Part. Rear yard setbacks shall be a minimum of ten feet, and no side yard setback shall be required. Notwithstanding the above, if a non-residentially-zoned property is adjacent to a single-family zoning district, the minimum rear and side yard setbacks shall be 20 feet.

b. Maximum height shall be 50 feet.

c. Maximum floor area ratio (FAR) shall be 2.0.

2. Building Design

a. Building Façade.

Blank walls shall not occupy over 50 percent of a street-facing frontage and shall not exceed 20 linear feet without being interrupted by a window or entry. No more than 20 feet of horizontal distance of wall shall be provided without architectural relief for building walls and frontage walls facing the street. Buildings shall provide a foundation or base that extends from the ground to the bottom of the lower windowsills that is distinguished from the building face by a change in volume or material. Building façade must be architecturally finished to grade. A clear visual division shall be maintained between the ground level floor and upper floors, which may include changes in volume or materials or other architectural detailing such as a belt course or cornice. The top of any building shall contain a distinctive finish consisting of a cornice or other architectural termination. Ground floor commercial and office uses that are located in non-residential or mixed use structures and that are located on a corner parcel and have two street frontages shall contain storefront display windows covering a minimum of 40 percent and a maximum 80 percent of a storefront's linear frontage.

b. Transparency.

All street-facing non-residential and mixed-use structures shall have windows covering a minimum of 40 percent and a maximum 80 percent of the ground floor of each storefront's linear frontage. Mirrored glass, obscured glass and glass block cannot be used in meeting this requirement. Display windows may be used to meet this requirement, but must be transparent and shall not be painted or obscured by opaque panels.

c. Shelter.

Buildings may incorporate arcades, alcoves, porticos or awnings.

3. Parking, Access and Site Design

Except as otherwise provided by this Section, parking requirements for all uses shall be in accordance with the Parking Standards of Article IV. Landscaping requirements for off-street vehicular use areas shall be in accordance with the landscaping and buffering requirements of this Code.

a. Required Off-Street Parking

i. The Chief Administrative Officer or his designee may reduce or waive parking requirements for existing structures/uses. Said decision shall be based on an evaluation of property design,

intensity of use and availability of public parking. For new development, the spaces required shall be as identified in Article IV of this Code. Required parking provided through surface parking lots shall be on the development site or within 500 feet of the development site that the parking is required to serve.

ii. The minimum parking requirements in Article IV of this Code for non-residential uses is the maximum allowed. Additionally, the non-residential parking requirements may be reduced by up to 50 percent by the Chief Administrative Officer or his designee. Said reduction shall be based on an evaluation of property design, intensity of use, availability of public parking and/or shared parking agreements.

b. On-Street Parking Credit.

On-street parking spaces shall be deducted from the required number of off-street parking spaces for the adjacent use. When an extended parcel line splits an on-street parking space, that space shall be deducted from the parking requirements of the parcel that fronts the majority of the on-street parking space.

c. Off-street parking (surface parking lots) location.

i. Off-street surface parking lots shall be located behind the front building façade.

ii. Notwithstanding the above, surface parking lots may be located adjacent to one street in projects with frontage along two streets. Additionally, on corner lots, surface parking may be located adjacent to two streets.

d. Parking Garages.

Except for vehicle entrances, the ground floor shall be developed with enclosed commercial, office or public use floor space to a minimum building depth of 30 feet along the entire length of the structure on each adjacent street, unless separated from the street by another building, parking lot and/or landscaped open space with a minimum depth of 30 feet.

e. Screening of trash and recycling receptacles, loading docks, service areas, and other similar areas.

i. Trash, recycling receptacles, loading docks, service areas, and other similar areas must be located in parking areas or in a location

that is not visible from street frontages, and must be screened to minimize sound and visibility from residences and to preclude visibility from adjacent streets. Service areas shall be screened by a masonry wall and landscape buffer. The wall shall be a minimum of six feet in height using architectural design, materials and colors that are consistent with those of the primary structure. The landscape buffer shall be a minimum of five feet in width and contain evergreen plants a minimum of three feet in height spaced not more than four feet apart.

ii. Mechanical equipment shall be placed on the parking lot side of the building away from view from adjacent street frontage and shall be screened from view of any street by fencing, vegetations, or by being incorporated into a building.

f. All rooftop mechanical equipment shall be integrated into the overall mass of a building by screening it behind parapets or by recessing it into roof structure.

g. Fences and walls shall be constructed of masonry, wood, vinyl or cast iron/metal. The location of all fences and walls shall be in accordance with Article IV of this Code.

h. A building's primary orientation shall be toward the street rather than the parking areas. The primary building entrances shall be visible and directly accessible from a public street.

i. Buildings that are open to the public shall have an entrance for pedestrians from the street to the building interior. This entrance shall be a distinctive and prominent element of the architectural design, and shall be open to the public during business hours. Buildings shall incorporate lighting and changes in mass, surface or finish to emphasize the entrance(s).

2. Sign Standards

Signs shall conform to the limitations and provisions of Article VII of this Code. Additionally, the following limitations and provisions shall apply to signage for all uses excluding emergency public services/uses.

a. Signage shall be constructed utilizing materials similar to those of the buildings served. Acceptable materials may include wood and painted metal. Plastic and similar synthetic materials are permitted if designed to replicate the appearance of wood and painted metal signs.

b. Pole signs shall be prohibited.

c. The maximum height of monument (ground) signs shall be eight feet above the ground plane. Monument signs shall be set back a minimum of ten feet from the public right-of-way, 30 feet from the intersection of right-of-way lines and shall meet any additional setback required in Article VII of this Code.

d. The maximum width of an awning sign shall not exceed the width of the canopy, awning or marquee.

e. Permanent window sign displays shall be limited to no more than 20 percent of the window area.

f. Projecting Signs

i. Projecting signs shall be located above ground-floor level doors and windows but below the roofline or second-floor level to promote a pedestrian environment.

ii. Signs are limited to no more than one projecting sign per business.

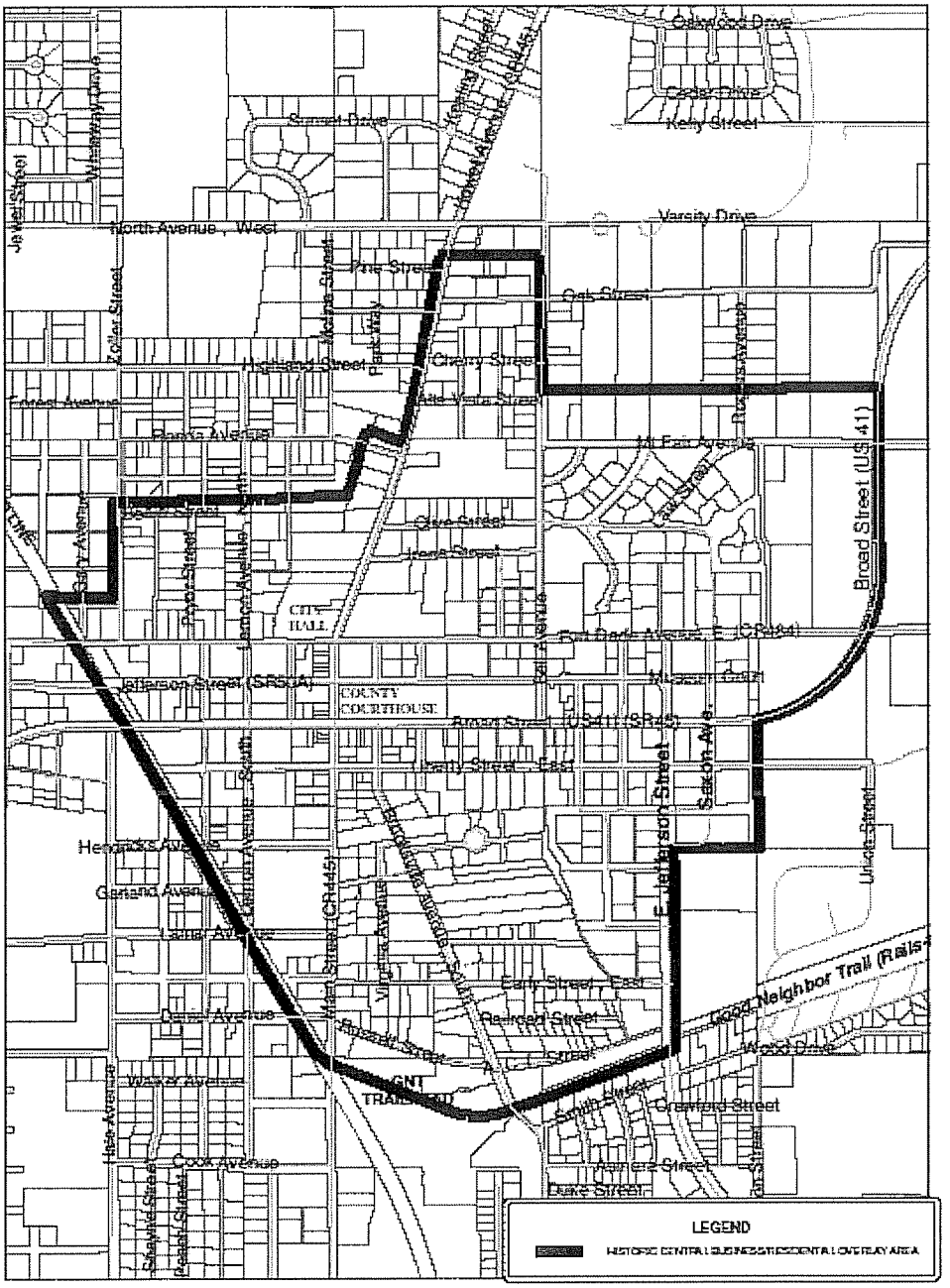
iii. Signs shall not project beyond the back of curb or, if no curb exists, beyond the edge of pavement.

g. Sign Lighting

i. Ground-mounted up-lights shall not exceed 150 watts per sign face and shall shield light from aiming toward motorists and neighboring properties. Fixtures shall be hidden from view by sign landscaping.

ii. Internally lighted signs attached to buildings shall only illuminate lettering and not the entire sign face.

CITY OF BROOKSVILLE
HISTORIC CENTRAL BUSINESS/RESIDENTIAL DISTRICT OVERLAY AREA



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PART 3-2

HISTORIC PRESERVATION

SECTION 3-2.1. GENERALLY

The architectural, cultural, archaeological, and historic artifacts of the City of Brooksville are important community resources which enrich the lives of citizens and visitors alike, provide expanded economic opportunity, and present opportunities to stabilize and enhance property values. Therefore, it is declared that structures, buildings, and sites important to the understanding of the history of the City of Brooksville possess special public interests and should be conserved and protected by designating them and their environs as Historic and Cultural Conservation districts.

Within zoning districts now existing or hereafter created, it is intended to permit creation of Historic and Cultural Conservation (HCC) overlay districts, in general areas having concentrations of structures of substantial historic, architectural or cultural significance, or for individual structures and premises designated as having such significance.

SECTION 3-2.2. PURPOSE AND INTENT

A. Purpose

The purpose of the City of Brooksville historic preservation regulations is to establish procedures, as set forth in the Florida Certified Local Government Program, for the protection of the Historic and Archaeological Resources of the City of Brooksville. The regulations are to be read in accordance with the Florida Certified Local Governmental Guidelines. It is the express intention that these regulations implement the Florida Certified Local Governmental Guidelines. These procedures shall provide for the establishment of an historic preservation review commission to be known as the Historic Preservation Review Board (HPRB); the designation of Landmarked Historic and Archaeological Resources, Landmark Sites, and Historic Districts; the maintenance of the Historic Resources Inventory; and the regulation of designated properties. These procedures shall comply with the Florida Certified Local Government Guidelines.

The architectural, archaeological, cultural, and historic artifacts of the City of Brooksville are important community resources which enrich the lives of residents and visitors alike, provide expanded economic opportunity, and present opportunities to stabilize and enhance property values. The structures, interiors, buildings, and archaeological resources important to the understanding of the history and archaeological history and prehistory of Brooksville possess special public interest and should be conserved and protected by designating them and their environs as Landmarked Historic and Archaeological Resources, Landmark Sites, and Historic Districts, hereafter referred to collectively as "Landmarks." These regulations, the purpose of which is to preserve, promote, and improve the Landmarks of the City of Brooksville, benefit the educational, cultural, economic, and general welfare of the public.

The City of Brooksville has played an important role in the development of Florida, and this history is shown today through its Historic and Archaeological Resources. These Landmarks represent the historical and archaeological activities of the community.

These regulations accomplish historic preservation through a three-step process. First, the regulations establish an HPRB made up of persons of knowledge, experience, judgment and background, and have personal or professional interest or experience in historic restoration and preservation. Second, the regulations provide for a process whereby the City Council will designate the Historic and Archaeological Resources of the City as Landmarks using the recommendations of the HPRB. Third, the regulations establish guidelines for the treatment of Landmarks, especially involving exterior alterations and demolition of buildings and structures and the subsurface disturbance of archaeological resources. The HPRB may issue Certificates of Appropriateness (COAs) for changes to Landmarks.

B. Intent

Regulations relating to HCC districts are intended:

1. To protect against destruction of such areas, structures, or features or encroachment of structures, uses, or features likely to have adverse effects on their historic, architectural, or cultural character;

2. To encourage uses such as a bed and breakfast establishments, antique shops, book stores, cafes and other establishments in residential structures which will lead to their continuance, conservation, and improvement in a manner appropriate to the preservation of the cultural, architectural, and historical heritage of the City;

3. To prevent developments in the visual environs of such areas or structures which would detract from their character;

4. To ensure that new or altered structures and uses within such districts and their environs will preserve and enhance the special character of the districts; and

5. To discourage unnecessary destruction of buildings, structures, and sites of special cultural, architectural, and historic importance.

6. Foster such planning as to encourage the continued use and preservation of historic property.

SECTION 3-2.3. REGULATORY FRAMEWORK

There is hereby created a Historic Preservation Review Board (HPRB) of the City of Brooksville.

A. Composition

1. The HPRB will consist of seven members who are residents of the city, residents of the county or individuals who own real estate within the incorporated city boundaries.

A minimum of four members shall be residents of the city or own real estate within the incorporated city. Membership of the board shall include, to the extent available, three persons who are educated or who practice in the following disciplines: architecture; history; architectural history; planning; archaeology; or related disciplines.

2. Members of the HPRB will be persons of knowledge, experience, judgment and background relative to the history of the City of Brooksville and Hernando County, and have personal or professional interest or experience in historic restoration and preservation. HPRB members will have the ability and desire to act in the public interest and represent, insofar as possible, the various special personal and professional interests required to make informed and equitable decisions concerning the preservation, conservation and protection of historic districts and structures.

B. Term of Office

1. HPRB members shall be appointed by City Council. The initial terms of four of the members appointed by City Council shall expire December 31, 2013 while the initial terms of the remaining three members shall expire January 1, 2014. Thereafter, the terms of all members will be two years.

2. The term of a board member will be automatically terminated in the event a member fails to attend any three regularly scheduled meetings in any calendar year during the member's term of office. This provision does not include excused absences and special or emergency meetings. An HPRB member must notify the Community Development Department of expected nonattendance for an absence to be considered excused.

3. Any member may be removed with or without cause by a majority vote of the City Council. Appointments to replace any member due to death, resignation or removal will be made by the City Council and will last for the unexpired term.

C. Organization

1. The HPRB shall elect a chairman and a vice-chairman from its membership, and each will serve terms of one year. The Board may elect the chairman and the vice-chairman for additional terms. The chairman will preside over the HPRB and will have the right to vote. In the absence or disability of the chairman, the vice-chairman will perform the duties of the chairman. The Chief Administrative Officer's designee shall act as the City Historic Preservation Officer and will serve as staff of the HPRB.

2. A majority of the Board (four) will constitute a quorum.

3. The Board shall adopt rules and regulations providing for the transaction of its business and consideration of applications, for the time and place of regular

meetings, and for the calling of special or emergency meetings. All meetings of the board shall be open to the public and a public record will be kept of the board's resolutions, proceedings, and actions as required by Florida law.

4. The HPRB will hold regular meetings to consider nominations for designation of historic status, review applications for certificates of appropriateness, and conduct other such duties and business with which the Board is charged under this ordinance.

D. Historic and Archaeological Resource and Landmark Inventory

1. The City shall develop and maintain a listing of its Landmarks and Historic and Archaeological Resources considered eligible for Landmark designation. This list, referred to as the Historic Resources Inventory, shall be periodically updated and shall contain, but not be limited to, all City of Brooksville designated Landmarks. The HPRB shall notify the owner(s) of the subject property of its intent to add Historic and Archaeological Resources to the Historic Resources Inventory.

2. When applications for development permits, development orders or other development approvals affect properties listed in or properties abutting those listed in the Historic Resources Inventory the City department receiving the application shall provide the HPRB written notification within 15 working days after the deadline for filing of application for permits which require a public hearing. The Chief Administrative Officer or his designee shall request, obtain, and consider testimony from the HPRB. The HPRB shall give consideration to the views, if any, of interested persons.

3. The HPRB shall review each application at its next regularly scheduled meeting provided that the HPRB receives notification of the application at least ten days prior to that meeting. If the HPRB does not receive notification of the application at least ten days prior to the next regularly scheduled meeting, the HPRB will review the application at the following month's regularly scheduled meeting. Should the HPRB fail to act on an application within the above referenced time frame, it shall be deemed that the HPRB has no comment regarding the application. The applicant, or its representative, may attend the meeting at which the application shall be reviewed.

4. The HPRB shall prepare a list of routine alterations, including Minor Work, which may receive administrative review from Community Development Department staff, provided that the alteration complies with the guidelines of the HPRB. In reviewing projects which may affect properties listed in or properties abutting those listed in the Historic Resources Inventory, the HPRB shall apply the following criteria to determine whether or not the project will have either no effect or an Adverse Effect on the Landmark and/or Historic and Archaeological Resources:

a. A project has no effect on a Landmark and/or Historic or Archaeological Resource when the project proposes to preserve and protect those characteristics of the property that qualified, or may qualify the property for Landmark designation. For the purpose of determining effect, alteration of features of the property's location, setting, or use may be relevant depending on a property's significant characteristics and should be considered.

b. A project is considered to have an Adverse Effect when the effect on a Landmark and/or Historic or Archaeological Resource may diminish the integrity of the property's location, design, setting, materials, workmanship or associated historic use. Adverse Effects on historic or prehistoric cultural and archaeological properties and resources include, but are not limited to:

- Physical destruction, damage, or alteration of all or part of the property;
- Isolation of the property from or alteration of the character of the property's setting when that character contributes to the property's qualification for the Landmark designation;
- Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting.

Interior modifications that do not affect the exterior historical characteristics shall not be considered to have an Adverse Effect.

SECTION 3-2.4. LANDMARK DESIGNATION

A. Initiation

1. The HPRB and the Community Development Department shall identify and receive recommendations for potential Landmarks from property owners.

2. The HPRB shall review each potential Landmark, in light of the criteria for Landmark designations contained below, and determine whether or not to initiate the designation process.

3. The HPRB shall, upon its decision to initiate the designation process, direct Community Development Department staff to prepare a written report and analysis of the proposed Landmark under the criteria contained herein and any other standards the HPRB may deem necessary. The report shall also include a legal description of the property to be designated and a description of the contributing resources to be designated.

B. Review and Recommendation by the HPRB

1. The HPRB shall hold a public hearing on each proposed Landmark designation within 60 days of the date to the HPRB's decision to initiate the designation process. Notice shall be given pursuant to the notice requirements contained in Section 3-2.4.F. below, including notification to the property owner.

2. The HPRB shall review each potential Landmark in light of the criteria for Landmark designations contained in Section 3-2.4.D., public testimony and evidence presented at the public hearing and make a recommendation to the City Council to approve, disapprove, or modify the proposed Landmark designation.

3. The HPRB shall prepare a written Landmark designation report for each Landmark designation. The report shall include the testimony given at the public hearing, an architectural or archaeological description, a statement of significance including a brief history, and the criteria by which the Landmark is considered worthy of designation. A site plan and photographs shall be included in the report. When available, floor plans of the building should be included. The report shall contain sufficient specific information about the property to serve as a guide for the evaluation of any future proposed changes to the property.

4. The HPRB shall forward its recommendation and the Landmark Designation Report to the City of Brooksville Community Development Department for review of the proposed Landmark designation as it relates to the Comprehensive Plan. The Community Development Department shall forward its comments to the HPRB and City Council within 30 days.

5. The HPRB shall forward their recommendation to the City Council within 30 days of the close of the HPRB public hearing.

C. Review and Determination by the City Council

1. The City Council shall hold a public meeting on the proposed designation within 60 days of receipt of the HPRB recommendation. Notice shall be given pursuant to the requirements of Section 3-2.4.F., including notification to the property owner. The City Council shall review the proposed Landmark designation in light of the criteria contained in Section 3-2.4.D., the HPRB recommendation and the Community Development Department comments, and shall approve, modify or disapprove of the proposed Landmark designation at the public meeting.

2. The City shall notify the property owner of the designation of the Landmark.

3. The Landmark designation shall be noted on the Official Zoning Map of the City of Brooksville.

4. Landmark designation by the City Council shall be subject to the procedures and regulations of the HPRB in addition to the other provisions of the Land Development Code and other regulations of the City of Brooksville.

5. Within ten (10) days of the oral decision by the City Council to designate a Landmark, the property owner may appeal the City Council decision to the Circuit Court of Hernando County. The nature of the appeal shall be by writ of certiorari.

D. Criteria for Landmark Designation

A Landmark shall have achieved significance within the time period established by the National Register of Historic Places, which is 50 years old or older (An exception to the 50 year rule may be made if the resource is of Exceptional Importance or if it contributes to a district that is eligible for listing in the National Register of Historic Places) and shall qualify for designation when it meets one or more of the following criteria:

1. It is associated in a significant way with the life of a person important in the past.

2. It is the site of an historic event with significant effect upon the community, state, or nation.

3. It exemplifies the historical, cultural, political, economic, or social trends of the community, state or nation.

4. It embodies those distinguishing characteristics of an architectural style, period or method of construction.

5. It is the work of an architect or builder whose work has influenced the development of the community, state or nation.

6. It contains elements of design, detail, materials or craftsmanship of outstanding quality or represents a significant innovation or adaptation to the Florida environment or constructed of materials not now used.

7. It has value as a building that is recognized for the quality of its architecture and that retains sufficient features showing its architectural significance.

8. It has yielded, or is likely to yield, archaeological information important in prehistory or history.

9. It is a geographically definable area or neighborhood united by culture, architectural styles or physical development, which has historic or cultural significance in the community.

10. It is an easily identifiable visual feature of the community and contributes to the distinctive quality or identity of the community because of its prominence or spatial location, contrasts of siting, age or scale.

11. It is where veterans of America's wars are buried and where public tribute may be paid in their memory.

Each designation of a building, structure, district, object, archaeological resource, or parcel of land as a Landmark shall be accompanied by the designation of a Landmark Site.

E. Effects of Designation as a Landmark

1. Upon designation of a Landmark by the City Council, that property becomes eligible for the Historic and Cultural Conservation (HCC) zoning overlay should the owner so desire.

2. Upon designation of a Landmark by the City Council, that property may become eligible for consideration for economic incentives.

3. Upon designation of a Landmark by the City Council, the HPRB, with the owner, may prepare a plan for the long-term preservation of the Landmark.

4. Upon designation of a Landmark by the City Council, that property shall be subject to regulation by the HPRB. A COA issued by the HPRB shall be required prior to any exterior alteration of the Landmark, if it is a building or structure, and prior to any subsurface excavation, trenching, or digging in cases of Landmarked Archaeological Resource.

5. Upon designation of a Landmark by the City Council, the City of Brooksville and all public utility entities shall be required to obtain a COA prior to initiating any changes in the character of sidewalks, trees, utility installations, lighting, walls, interior partitions or walls, fences, structures and buildings on property, easements or streets, included within or adjacent to the designated Landmark.

F. Notice

Upon establishment of a public hearing date, notice of the public hearing shall be given:

1. By the Chief Administrative Officer or his designee posting a sign(s) no later than fifteen (15) calendar days prior to the public hearing date in a conspicuous place upon the property which is the subject of the application; and

2. By the Chief Administrative Officer or his designee causing the publication of a notice one time at least 15 calendar days prior to the public hearing date in a newspaper of general circulation in the City of Brooksville; and

3. By proof of mailing receipt to all owners of property within 150 feet of the subject property, as reflected on the current year's tax roll, and to all condominium owners' associations with property within 150 feet of the subject parcel. Said notice by mail is the responsibility of the City and shall be mailed no later than fifteen (15) calendar days prior to the public hearing date.

4. By U.S. Postal Service standard mail delivery to all property owners located in excess of 150 feet but not farther than 300 feet of the subject property, as reflected on the current year's tax roll, and to all condominium owners' associations with property located in excess of 150 feet but not farther than 300 feet of the subject parcel.

SECTION 3-2.5. CERTIFICATE OF APPROPRIATENESS

A. General Requirements

1. A Certificate of Appropriateness (COA) from the HPRB shall be required before a person may undertake the following work on, or alteration to, a Landmark, whether or not a building permit is required for such work:
   a. Exterior alteration, including murals.

   b. Alteration of an archaeological resource.

   c. Relocation.

   d. New construction.

   e. Demolition.

2. A COA shall not be required for the painting of historic materials such as brick or stone which were originally painted. A COA shall be required when an applicant proposes to paint an historic material which has not previously been painted and for color selection for a new structure on a Landmark Site or an addition to a Landmark. In this case, the color selection for a new structure on a Landmark Site or an addition to a Landmark should be compatible with that of the historic structure of the Landmark.

3. A COA may contain the HPRB's recommendations for work on, or alteration to, a Landmark. Recommended work or alteration shall be clearly designated as "recommended." Performance of recommended work or alteration is not required as a condition of the issuance of the COA.

B. Initiation of Certificates of Appropriateness Review Procedures

1. The Chief Administrative Officer or his designee or other applicable City departments shall refer to the HPRB any person applying for a permit or

development order for exterior modifications which will affect a designated Landmark. Application shall be made directly to the HPRB for a COA.

2. To be placed on the HPRB's current month's agenda, application must be filed no less than ten calendar days before the regularly scheduled HPRB meeting. If the application is not filed at least ten (10) days prior to the next regularly scheduled meeting, the HPRB will review the application at the following month's regularly scheduled meeting.

C. Administrative Review and Determination for Minor Work

The HPRB shall prepare a list of routine alterations which may receive administrative approval from the Director of the Community Development Department without a public meeting, provided that the alteration complies with the guidelines of the HPRB. Such approvals shall include but not be limited to:

1. Minor Work by replacement of damaged or deteriorated materials in like kind including:

   a. Roofing

   b. Siding

   c. Windows

   d. Railings

2. Restoration by replacing non-historic elements with reproduction elements matching or approximating the original materials.

3. Emergency repair or replacement of water, sewer, or necessary underground utilities on, or in the immediate vicinity of a Landmarked Archaeological Resource.

D. HPRB Review

1. Prior to formal COA application, a tentative COA proposal may be brought before the HPRB for comments.

2. For new construction, conceptual plans shall be reviewed and approved prior to the preparation of construction drawings, which shall also be reviewed and approved before a COA is issued.

3. An application for a COA for archaeological disturbance shall be accompanied by full plans and specifications indicating areas of work that might affect the surface and subsurface of the archaeological site.

4. The Chief Administrative Officer's designee shall post a notice on the property at a location visible to the public seven calendar days prior to the meeting.

5. The applicant, or its representative, shall attend the meeting at which the application shall be reviewed. Failure to attend shall invalidate the application.

E. HPRB Determination

1. The HPRB shall take action at a public meeting on each application for a COA.

2. COAs approved by the Community Development Department shall be reviewed and formally approved by the HPRB.

3. For COAs which do not meet the criteria for Community Development Department approval, the following action shall occur:

   a. The HPRB shall make a decision on each application at its next regularly scheduled meeting provided the application has been made at least ten (10) days prior to that meeting and seven-day proper public notice has been posted by the Chief Administrative Officer's designee.

   b. The HPRB may:

      - approve the COA application as presented;
      - approve the COA application with conditions (the HPRB shall provide the applicant with a list of the conditions); or
      - deny the COA application and providing reasons for the denial.

   c. For demolition, relocation or new construction, the HPRB may extend the decision for an additional 30 days, or with the mutual consent of the HPRB and the applicant, for an additional specified period of time.

   d. The HPRB decision shall be an oral vote, recorded in the minutes of the meeting and confirmed in writing to the applicant by the HPRB staff. Reasons for the decision shall be given. The HPRB may suggest modifications with review by the Community Development Department.

   e. Should the HPRB fail to act on an application within the above referenced time frame, the application shall be deemed approved.

   f. Applicants shall be given notice of the public meeting at which their application will be heard.

4. The issuance of a COA shall not relieve the applicant from obtaining other development permits, orders, and approvals required by the City of Brooksville. A building permit or other development permit, order, or approval shall be invalid if it is obtained without the COA required for the proposed work.

F. Limitations on New Application

If the HPRB determines that a COA shall not be issued for a proposed alteration, relocation or new construction, a new application affecting the same property may be submitted during the 12 months after the disapproval only if a substantial change, as determined by HPRB staff, is made in the plans for the proposed work. The new application shall address the issues discussed by the HPRB as its reasons for rejecting the application.

G. Appeals

An appeal from a decision of the HPRB on a COA may be appealed to the Brooksville City Council.

1. Standing to Appeal

The following shall have standing to appeal or to intervene in an appeal of a decision of the HPRB that is specifically related to a particular parcel of real property or project:

a. An applicant who is adversely affected by the HPRB's decision, or

b. A property owner whose property is the subject of the decision and is adversely affected by the HPRB's decision, or

c. Any owner of real property as reflected on the current year's tax roll, lying within 150 feet in every direction of the property or project that is the subject of the decision and any condominium and/or owners' association with common property lying within 150 feet in every direction of the property or project that is the subject of the decision, or

d. Any resident, landowner or any person having a contractual interest in land in the City of Brooksville who demonstrates a direct adverse impact as a result of the decision that exceeds in degree the general interest in community good shared by all persons. The City Council shall make the determination if there has been a demonstration of a direct adverse impact sufficient to grant appellant or intervener status, however any information considered in making such a determination shall not be considered a part of the record on appeal except as provided in Section 3-2.5.C. of this Part.

H. Notice of Appeal

1. A Notice of Appeal of an HPRB decision shall be filed within 30 calendar days of the date on which the decision was rendered.

2. The Notice of Appeal shall be filed with the Chief Administrative Officer and shall set forth a detailed basis for the appeal.

3. If a Notice of Appeal is filed, the appellant, if not the owner of the property or project in question, shall mail notice, by proof of mailing receipt, within ten (10)

calendar days of the filing of the appeal to all owners of real property that is the subject of the HPRB decision.

4. Within twenty (20) calendar days of the filing of a Notice of Appeal pursuant to this Section, any person with standing pursuant to Section 3-2.5.G.1. may intervene and become a party to the appeal by filing a request for intervention in the same manner as filing an appeal of an HPRB decision as described herein.

5. The Chief Administrative Officer or his designee shall set the matter for City Council hearing within 30 days of the date of the Notice of Appeal. This period may be extended by agreement of the Chief Administrative Officer or his designee or the party appealing the decision and any intervener.

I. Conduct of Hearing

1. In general, the hearing shall be limited to the record on appeal, and shall consist of oral argument by the Chief Administrative Officer or his designee, the HPRB, the party appealing the decision and any intervener, each of whom may be represented by legal counsel.

2. The record on appeal shall consist of the following:

   a. The application and any other information submitted by the Appellant to and relied upon by the HPRB.

   b. The written decision of the HPRB and any documents attached thereto.

3. In addition to the record on appeal, the Chief Administrative Officer or his designee, HPRB representative, the Appellant and any intervener may freely refer to the following in presenting their cases to the City Council:

   a. Applicable portions of the City of Brooksville Comprehensive Plan, the City of Brooksville Land Development Code and any other duly adopted City of Brooksville ordinance, rule or resolution.

   b. Any state or federal statute, rule or decision.

4. If the Chief Administrative Officer or his designee, the HPRB, the Appellant or any intervener believes that, in order to fully present his case, evidence other than that listed in Sections 3-2.5.I.2. and 3-2.5.I.3. must be presented to the City Council, the nature of the additional evidence must be disclosed to the other parties and the City Council not less than five (5) days before the hearing. At the beginning of the hearing the City Council shall rule on whether such additional evidence may be presented. The City Council shall freely allow the presentation of additional evidence pursuant to this Subsection where such is relevant to the issue on appeal.

J. Finality of City Council Decision.

The decision of the City of Brooksville City Council is final. The City Council's decision may be challenged by any person with standing under State law, via writ of certiorari to the circuit court.

SECTION 3-2.6. REVIEW CRITERIA FOR CERTIFICATES OF APPROPRIATENESS: ALTERATION AND NEW CONSTRUCTION

A. Generally

In making a decision on an application for a COA involving a designated Landmark, the HPRB shall use the guidelines it has adopted, The Secretary of the Interior's Standards, and consider the following:

1. The effect of the proposed work on the Landmark property.

2. The relationship between the proposed work and other buildings, structures or objects on the Landmark Site or other related Landmark Sites.

3. The historic and architectural significance, architectural style, design, arrangement, texture, materials.

4. Through the use of the guidelines, a successful rehabilitation might involve repair or replacement of original materials or the introduction of new elements. The work should relate properly to the original components of the building and surroundings.

5. The effect of the proposed work on the historical integrity and ancient appearance of the Landmark property.

B. Interiors

The HPRB shall not have review authority over alterations to the interiors of a building or structure, but may study such plans as they relate to the exterior.

C. New Construction

When an applicant wishes to undertake new construction on a Landmark Site, the HPRB shall consider the compatibility of the new construction with the existing character of the Landmark or Landmark Site. New construction shall be compatible in:

1. Scale: height and width (The Land Development Code shall be the final determinant of appropriate height and width should a conflict arise between this provision and other provisions of this Code)

2. Setback

3. Orientation and site coverage

4. Alignment, rhythm and spacing of structures

5. Form and detail

6. Materials

7. Facade proportions and window patterns

8. Entrances and porch projections

9. Roof forms

10. Horizontal, vertical or non-directional emphasis

11. Paint and stain colors

12. Impact on established historic landscape

D. Archaeological Resources

When making a decision on an archaeological resource, the HPRB shall consider methods to avoid, reduce or mitigate Adverse Effects on the archaeological features, while taking into account the current needs of the owner.

SECTION 3-2.7. REVIEW CRITERIA FOR CERTIFICATES OF APPROPRIATENESS: DEMOLITION OF LANDMARKS OR BUILDINGS AND STRUCTURES ON LANDMARK SITES

E. Evidence on the Need for Demolition

When an applicant wishes to demolish a Landmark, the applicant shall have the responsibility of proving that the demolition is necessary and shall present adequate evidence on the need for the demolition. The HPRB shall take into account the situation and resources of the applicant in terms of the requirements for information provided by the applicant and in the case of economic hardship of an owner-occupied residential building, will provide assistance in compiling the necessary data, should the owner so desire. Nothing shall preclude an applicant from presenting more information as he sees fit to make his case.

F. Alternatives to Demolition

1. The applicant shall explore alternatives to demolition (such as relocation or renovation) and shall demonstrate said explorations to the HPRB. These shall include alternative approaches to the land use, relocation of the Landmark, and incorporation of the Landmark into the proposed redevelopment.

2. The HPRB may negotiate with the applicant to see if an alternative to demolition can be found.

3. The HPRB may ask interested individuals and organizations for assistance in seeking an alternative to demolition.

G. Reasonable Beneficial Use

1. The HPRB shall study the question of economic hardship for the applicant and shall determine whether the Landmark can be put to reasonable beneficial use without the approval of the demolition application. These determinations shall be in addition to the other factors examined by the HPRB in the demolition request.

2. In the case of an income producing property, the HPRB shall also determine whether the applicant can obtain a reasonable return from the existing property.

3. If economic hardship or the lack of a reasonable return is not proved, the HPRB shall deny the demolition application.

H. Information Provided By the Applicant

In order to make an informed decision about a demolition, the HPRB must be provided the following information by the applicant. In the case where economic hardship or reasonable economic use is not at issue, the financial documentation is not required.

1. A written cost estimate of the proposed demolition including removal and all associated costs to meet site condition requirements of this Code.

2. A written report from a licensed engineer or architect experienced in rehabilitation as to structural soundness and the suitability for rehabilitation. In the case of an owner occupied single-family residential structure, an inspection report from the City Building Official may be substituted for the engineer's or architect's report, should the owner wish.

3. Assessed value of the property according to the two most recent assessments.

4. An estimate from a real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the structure on the property.

5. The amount paid for the property, date of purchase or acquisition, the party from whom it was acquired, description of relationship between the owner/applicant and the person from whom the property was acquired, and any terms of financing between buyer and seller.

6. If the property is income producing, the annual gross income from the property for the previous two years; and depreciation deduction, and cash flow before and after debt service, if any, during the same period.

7. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.

8. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property.

9. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two years.

10. For income producing properties, maintenance and operating expenses for the previous two years.

11. Real estate taxes for the previous two years.

12. Form of ownership or operation of the property, i.e. sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other method.

13. Any other information which would assist the HPRB in making a determination as to whether the property does yield or may yield a reasonable return to the owners, e.g., pro forma financial analysis.

I. Information Provided By the HPRB

1. The HPRB shall determine whether the building or structure contributes to the Landmark and whether the building or structure continues to have its Landmark significance. The HPRB may decide that a building or structure on a Landmark Site may be demolished because it does not contribute to the Historic District or Landmark. Such a decision shall be based on its evaluation of the architectural and historical importance of the structure as described in 3-2.5.D.

2. The HPRB may also make its own study of the points requested by the applicant in order to obtain additional information for its decision.

3. The HPRB staff shall determine whether the application is complete based on these points and the rules adopted by the HPRB.

4. Any designated Landmark slated for demolition and having gone through the review process shall be offered for donation first to a private non-profit or governmental body, then to any private party for relocation on a new site. Only if no new owner or site is available, should a designated Landmark be demolished. A Landmark relocated within the City of Brooksville shall retain its Landmark designation status.

SECTION 3-2.8. ADOPTION OF GUIDELINES

A. Landmarks

The HPRB shall adopt illustrated guidelines to assist the HPRB in its assessment of the suitability of work involving Landmarks. These guidelines shall include the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

B. Archaeological Resources

The HPRB shall adopt procedures that it will recommend to owners outlining steps to be taken for the protection of archaeological resources listed in the Historic Resources

Inventory and for when archaeological resources are discovered during the development of a site. The HPRB shall also adopt procedures for the permanent protection of archaeological resources.

C. Notification of Property Owners

The HPRB shall notify affected property owners of its intent to adopt guidelines for their building or area and shall request comments from owners and interested persons. The HPRB shall hold a public hearing to hear comments on the proposed guidelines. The HPRB shall periodically review at a public meeting, the guidelines it has adopted and shall give notice to the owners affected. This review shall be held at intervals no greater than five (5) years.

SECTION 3-2.9. MAINTENANCE AND REPAIR OF DESIGNATED PROPERTIES

A. Generally

1. The owner and the tenant of a Landmark shall keep in good repair:

   a. All the exterior portions of such buildings and structures.

   b. All interior portions thereof which, if not so maintained, may cause deterioration, damage or lead to a state of disrepair of the landmark.

2. The purpose of this requirement is to prevent a person from instigating the demolition of his building or structure through neglect and permitting damage to it by weather or vandalism.

3. No provision of this section shall be interpreted to require an owner or tenant to undertake an alteration or to restore his building to its original appearance.

4. In the case of designated archaeological resources, the owners and tenants shall be responsible for the protection and preservation of the archaeological remains on the property. At the time of designation the HPRB shall work with the property owner to establish a plan for the protection of the Archaeological Resource which meets the needs of the resource and the property owner.

5. The HPRB may meet with owners of Landmarks which are in poor repair to discuss ways to improve the condition of the property.

6. The HPRB may meet with owners of designated archaeological resources when there is an action or effect which threatens the remains in order to develop an effective plan to protect said remains. The HPRB may request Code Enforcement to take action to require correction of defects threatening the preservation of the site or artifacts.

B. Emergency Conditions

When the Community Development Department determines that there are emergency conditions affecting a Landmark which are dangerous to life, health or adjacent property,

the Department may order the correction of these conditions without the approval of the HPRB. The Department shall notify the HPRB prior to the action being taken. When the emergency conditions do not require demolition, the Department shall make every effort to carry out the intent of this division and to use the guidelines of the HPRB when remedying the emergency conditions.

SECTION 3-2.10. HISTORIC AND CULTURAL CONSERVATION DISTRICTS (HCC)

The architectural, cultural, archaeological, and historic artifacts of the City of Brooksville are important community resources which enrich the lives of citizens and visitors alike, provide expanded economic opportunity, and present opportunities to stabilize and enhance property values. Therefore, it is declared that structures, buildings, and sites important to the understanding of the history of the City of Brooksville possess special public interests and should be conserved and protected by designating them and their environs as special public interest Historic and Cultural Conservation overlay districts.

Within zoning districts now existing or hereafter created, it is intended to permit creation of Historic and Cultural Conservation overlay districts on properties containing a structure or structured of substantial historic, architectural or cultural significance. Said overlay districts shall be created through the same process as the rezoning of a property as described in Article VIII of this Code. Development standards for properties zoned HCC overlay shall be those of the zoning district at the time the request for HCC designation is submitted.

Prior to acquiring an HCC overlay zoning, the subject site shall have been designated a Landmark through the Landmark Designation process, described in this Part.

PART 3-3

PUBLIC FACILITIES AND SERVICES DISTRICT OVERLAY

SECTION 3-3.1. PURPOSE AND INTENT

The Public Facilities and Services District (PFS) is a special purpose overlay district primarily, but not exclusively, intended for locations at which facilities are provided to serve public, semi-public, and private purposes. Such purposes include governmental, religious, educational, health care, social service, and special facilities.

SECTION 3-3.2. PROCEDURES

Requests for PFS Overlay zoning shall be subject to the procedures and requirements for Zoning Map amendments (rezoning) as provided in Article VIII.

SECTION 3-3.3. REGULATIONS

A. Except as provided herein, development standards for properties designated with a PFS Overlay shall be those of the property's underlying zoning district and all applicable regulations specified in Article IV.

B. Permitted uses

The uses permitted shall be those of the property's underlying zoning district and those of the PFS Overlay district as found in Article II.

C. Special regulations

No building, structure or use within a public service facility overlay district shall be located closer than fifty (50) feet to the property line of an adjoining parcel containing a residence or the property line of a residentially-zoned parcel.

PART 3-4

PLANNED DEVELOPMENT DISTRICTS

SECTION 3-4.1. GENERALLY

Planned Development Districts (PDD) are used for customized purposes in cases where standard district regulations are inadequate to protect surrounding property or where design flexibility is sought. The intent of these districts is to encourage creative, innovative, and/or mixed use development, and to insure and promote land use compatibility and harmony for land that is to be planned and developed as a whole in a single development operation or a programmed series of development phases.

SECTION 3-4.2. GENERAL REQUIREMENTS

A. The application shall be submitted in accordance with the requirements listed in Article VIII of this Code.

B. General site plan information.

The General Site Plan for PD Districts shall include sufficient information in accordance with the site plan submittal requirements referenced in Article VIII of this Code.

C. Review procedures

In addition to the review procedure for PDDs contained in Article VIII, a pre-submittal conference shall be held with Community Development Department staff. The petitioner shall provide a sketch plan for review at the conference which is intended to address the following:

1. The relationship between the anticipated project and surrounding uses and the consistency of the proposed development with the City's Comprehensive Plan and/or stated planning and development principles of the Land Development Code.

2. The nature, design and appropriateness of the proposed land use arrangement for the size and configuration of the property involved.

D. Actions by the City Council

1. Actions by the City Council shall be as provided for amendments generally. It may grant the application in accord with PDD and other applicable regulations, approve with modifications and/or conditions, or may deny the application.

2. If the amendment is granted, the City Council shall, in its amending action, approve the General Development Plan or indicate required modifications or conditions. Such approved plans, with any required modifications or conditions, shall be binding in determinations concerning consistency of applicable subdivision and site development plans. If modifications are required, a General Development Plan containing the modifications shall be submitted to the Community Development Department within 60 days of rezoning approval by City Council.

3. If the amendment is granted, the development shall be required to be in accord with applicable subdivision and site development plans meeting the requirements of these and other regulations, as supplemented or modified by the City Council in the particular case as part of the amending action, and shall conform to any time limitations established by the City Council on beginning and completion of the development as a whole or in specified stages.

4. Before development may proceed, any required agreements, contracts, sureties, and other instruments involved must be executed and found to be in compliance with the City Council's conditions by the appropriate departments and agencies.

E. Applicability of Subdivision and/or Site Development Plan Regulations.

After a PD District has been established, no Building Permit shall be issued therein unless and until the applicable subdivision construction plans or site development construction plans have been approved in accordance with the provisions contained in this Code. Such subdivision and site development plans shall be consistent with the approved General Development Plan, all commitments made and any restrictions placed on the approved General Development Plan, and any documents, graphic, map, or other such information provided as part of the official record for the approval of the PD District.

SECTION 3-4.3. CHANGES TO APPROVED PD DISTRICTS

The Chief Administrative Officer or his designee is authorized to approve the administrative modifications specifically listed in this section. Changes not listed below shall require approval of the City Council and shall be handled in the same manner as the original approval.

The Chief Administrative Officer or his designee is authorized to approve the following modifications to approved Planned Development Districts:

A. Any relocation of approved density or intensity farther than 500 feet from the zoning lot boundaries or farther than 200 feet from any part of the planned district which has been constructed or sold to an owner or owners different from the applicant requesting the change.

B. A change from multi-family to single family, if it does not increase external impacts such as, but not limited to, transportation, schools, parks, or utilities and is consistent in lot size, coverage, and yards with other single-family portions of the development.

PART 3-5

RESTRICTIVE ZONING DISTRICTS

SECTION 3-5.1. GENERALLY

The intent of the Restrictive Zoning district is to allow for the amending of standard zoning districts at the request or concurrence of the applicant. The Chief Administrative Officer or his designee may recommend, and the City Council may approve such amendment with conditions applicable only to the property involved in the change, provided that such conditions confer upon the applicant or subject property no privilege otherwise denied by these Articles to other lands, structures or buildings in the same district.

SECTION 3-5.2. APPLICABILITY

Rezonings to the districts as they appear in Section 2-2.2. of Article II in this Code may be approved with conditions as provided by this Part.

SECTION 3-5.3. RESTRICTIONS

Conditions amending the standards of the zoning districts identified in this Part or the general development requirements of this Code may include one (1) or more of the following, but in no case shall the conditions allow a less restrictive standard or impose a lesser requirement:

A. Use restrictions greater than those otherwise specified for the particular district.

B. Density restrictions greater than those otherwise specified for the particular district.

C. Setbacks greater than those otherwise specified for the particular district, including setbacks from lakes and major arterial roadways.

D. Height limits more restrictive than otherwise permitted in the particular district.

E. Minimum lot areas or minimum widths greater than otherwise specified for the particular district.

F. Maximum floor area less than otherwise specified for structures in the particular district.

G. Open space requirements greater than otherwise required for property in the particular district.

H. Parking, loading, driveway or traffic requirements more restrictive than otherwise required for the particular district.

I. Fencing or screening requirements greater than otherwise required for the particular district.

J. Signs, and their height, type and size.

K. Hours of operation.

All restrictive conditions shall run with the land, without regard to transfer of ownership or other interests, and may be removed or modified only upon amendment to the District by the City Council. Once approved by City Council, any changes to the restriction(s) shall require approval of the City Council and shall be handled in the same manner as the original approval.

PART 3-6

MOBILE HOME AND RECREATIONAL VEHICLE PARKS

SECTION 3.6.1. GENERALLY.

Mobile Home and Recreational Vehicle Parks shall be permitted only as Planned Development District projects and shall be approved in accordance with the provisions of Article VIII. In addition to all applicable requirements found elsewhere in this Code, all Mobile Home and Recreational Vehicle Parks shall, at minimum, be developed in accordance with the regulations of this Part.

SECTION 3.6.2. MOBILE HOME PARKS.

A. Site Plan.

A site plan shall be submitted with the application for each Mobile Home Park Planned Development District project and shall contain, in addition to the requirements of Article VIII, the dimensions and locations of all mobile home lots and setback lines. Each mobile home lot shall be numbered. The plan shall also include the depiction of one typical mobile home lot indicating the mobile home location, automobile parking space location and open space.

B. Standards.

1. All mobile home park planned development projects shall include lots for at least 25 mobile homes.

2. Each mobile home shall have a lot area of at least 5,000 square feet.

3. The overall density of a mobile home park planned development project shall not exceed six mobile homes or mobile home lots per gross acre.

4. One automobile parking space shall be provided on every mobile home lot. In addition, one automobile parking space shall be provided in visitor common parking areas for every three mobile home lots provided in the mobile home park planned development project. Off-street parking space for buildings and uses specifically permitted as Conditional Uses, Special Exception Uses and Special Uses shall be provided as required in Article V.

5. All mobile homes shall be located at least 35 feet from all project property lines and at least 50 feet, or half the width of the right-of-way, whichever is larger, from the right-of-way line of any street serving the mobile home park planned development project.

6. Except as provided herein, minimum front yard setback for mobile homes and screen room additions shall be 10 feet and minimum side yard and rear yard setbacks shall be 12 feet. No accessory structure or carport shall be located closer than 5 feet to any mobile home lot line.

    a. The side of an existing screen room shall be located no closer than 10 feet from the side of an adjacent mobile home or screen room. The end of an existing screen room shall be no closer than 6 feet from the end of an adjacent mobile home or screen room and the end of an existing screen room shall be no closer than 8 feet from the side of an adjacent mobile home or screen room.

    b. Existing carports shall be located a minimum of 10 feet from an adjacent mobile home, screen room, car port or accessory structure.

7. An access road shall provide direct access to each mobile home lot. The area occupied by the access road shall not fulfill any part of the area requirements for any lot. All dead-end roads within the project shall be designed to enable mobile homes to reverse direction without having to back more than one mobile home length.

8. No mobile home shall be connected to electric, gas, telephone, water, sewer or any other utility or service in, through, or at another structure. All such utility and

service connections shall be made directly to the mobile home from regular utility service lines.

9. All mobile home park planned development projects shall conform with all appropriate regulatory agency regulations which prescribe standards for water supply, sewage disposal and other facilities.

10. One unlighted freestanding sign, not over six square feet in area identifying the mobile home park planned development project plus one attached unlighted sign not over two square feet in area identifying each building on the premises shall be permitted. The City Council may, however, permit additional unlighted detached signs not over six square feet identifying the project on the premises when such signs are deemed necessary due to the size, location or nature of the mobile home park planned development project.

C. Construction permit.

The Chief Administrative Officer or his designee shall not issue a zoning permit for an approved mobile home park planned development project until the applicant presents construction plans bearing appropriate regulatory agency approval serial numbers as required.

D. Operator's permit.

The Chief Administrative Officer or his designee shall not issue a certificate of use for an approved mobile home park planned development project until the applicant presents a valid operator's permit from the appropriate regulatory agency, as required.

SECTION 3.6.3. RECREATIONAL VEHICLE PARKS.

A. Site Plan.

A site plan shall be submitted with the application for each Recreational Vehicle Park Planned Development District project and shall contain, in addition to the requirements of Article VIII, the dimensions and locations of all recreational vehicle lots and setback lines. Each mobile home lot shall be numbered. The plan shall also include the depiction of one typical recreational vehicle lot indicating the recreational vehicle location, automobile parking space location and open space.

B. Standards.

The following standards are provided as guidelines for development. Alternative standards may be considered and utilized in any Recreational Vehicle Park Planned Development District project.

1. All recreational vehicle parks shall include lots for at least 35 recreational vehicles.

2. Each recreational vehicle lot shall be a minimum of 2,500 square feet in size.

3. The overall density of a recreational vehicle park shall not exceed 14 recreational vehicles or recreational vehicle lots per gross acre.

4. One automobile parking space shall be provided on every recreational vehicle lot. In addition, one automobile parking space shall be provided in visitor common parking areas for every ten recreational vehicle lots provided in the recreational vehicle park.

5. All recreational vehicle parks shall front on a street for at least 300 feet.

6. All recreational vehicle park access points on a street shall be located at least 200 feet from the intersection of any street right-of-way lines. The commission shall require wider spacing between access points and intersection street rights-of-way when the recreational vehicle park has more than the minimum required frontage on a street.

7. All recreational vehicles shall be located at least 75 feet from all property lines and from the right-of-way line of any street serving the recreational vehicle park.

8. No recreational vehicle or attachment thereto shall be located closer than 25 feet to another recreational vehicle.

9. An access road shall provide direct access to each recreational vehicle lot. No recreational vehicle shall be located any closer than ten feet to the edge of this access road. The area occupied by the access road shall not fulfill any part of the area requirements for any lot. All dead-end roads within the recreational vehicle park shall be designed to enable recreational vehicles to reverse direction without having to back more than one recreational vehicle length.

10. A landscaped separation strip, at least 35 feet in width, shall be provided along all project property lines and streets serving the recreational vehicle park.

11. No recreational vehicle shall be connected to electric, gas, telephone, water, sewer or any other utility or service in, through or at another structure. All such utility and service connections shall be made directly to the recreational vehicle from regular utility service lines in the same manner that connections are provided to other structures within the area.

12. All recreational vehicle parks shall conform with all appropriate regulatory agency regulations which prescribe standards for water supply, sewage disposal and other facilities.

13. One freestanding sign, not over 12 square feet in area, identifying the recreational vehicle park plus one attached sign not over four square feet in area identifying each building on the premises, shall be permitted. The City Council may, however, permit additional unlighted freestanding signs not over 12 square feet in area identifying the recreational vehicle park on the premises when such signs are deemed necessary due to the size, location or nature of the recreational vehicle park.

C. Construction permit.

The Chief Administrative Officer or his designee shall not issue a building permit for an approved recreational vehicle park until the applicant presents construction plans bearing state health department approval serial numbers as required.

D. Operator's permit.

The Chief Administrative Officer or his designee shall not issue a certificate of occupancy for an approved recreational vehicle park until the applicant presents a valid operator's permit from the state health department as required.

E. Off-site recreational vehicle parking.

1. No person shall park any recreational vehicle on any street, alley, highway or other public place, or on any tract of land owned by any person, occupied or unoccupied, within the City except as provided in this Part.

2. Emergency or temporary stopping or parking of recreational vehicles is permitted on any street, alley or highway for not longer than one hour, subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations for that street, alley or highway.

3. No person shall park or occupy a recreational vehicle on the premises of a property containing a dwelling or on any lot which is situated outside an approved recreational vehicle park, except that the parking of one unoccupied recreational vehicle in an accessory private garage building or in a rear yard in any zoning district is permitted; provided, that no living quarters shall be maintained or any business practiced in such recreational vehicle while it is so parked or stored.

PART 3-7

DEVELOPMENTS OF REGIONAL IMPACT

SECTION 3.7.1. APPLICABILITY.

No development activity or development permits in a Development of Regional Impact (DRI) as defined by state statutes shall commence prior to its approval by the City Council, except for

development authorized by an approved preliminary development agreement pursuant to state statutes.

SECTION 3.7.2. FEES.

The applicant shall pay a fee, as established by the City Council, to cover the costs associated with the review of the Development of Regional Impact.

SECTION 3.7.3. PUBLIC NOTICE REQUIREMENT.

When required by state statute the City Council shall hold a public hearing to consider (i) an application for development approval of a Development of Regional Impact and (ii) a notice of proposed change to a Development of Regional Impact. The notice for the public hearing on an application for development approval of a Development of Regional Impact or a notice of proposed change to a Development of Regional Impact shall meet the same notice requirements as established herein for parcel rezonings as well as any public hearing and notice requirements prescribed by state statutes.

SECTION 3.7.4. REVIEW.

A. The Chief Administrative Officer or his designee shall administer the review of the Development of Regional Impact and shall formulate a recommendation to the City Council in accordance with the requirements of state statutes.

B. Where possible, application for a rezoning may be submitted concurrently with the DRI application or notice of the proposed change or amendment to the DRI.

PART 3-8

COMMUNITY DEVELOPMENT DISTRICTS

SECTION 3.8.1. GENERAL PROVISIONS

A. Purpose

It is the intent of this section to set forth the procedures and requirements necessary for the City of Brooksville to consider and approve Community Development Districts (CDDs). It is the further intent of this division to encourage a strong commitment to capital facilities planning, management and financing to ensure the provision of adequate capital infrastructure to service projected growth without overburdening the general taxpayer.

B. Governing Laws and Policies

The laws and policies governing development specifically approved in a Community Development District shall be as set forth in Chapter 190, Florida Statutes.

C. Enforcement

Enforcement of the terms of a Community Development District shall be as set forth in Chapter 190, Florida Statutes, and as otherwise provided in this Code.

D. Definitions

The definitions set forth in Chapter 190, Florida Statutes, shall apply to this section.

E. Requirements of a Community Development District Application, Notice and Hearings, and Operating Requirements

F.

The requirements of the Community Development District Application, notice and hearings and operating requirements shall be as set forth in Chapter 190, Florida Statutes.

SECTION 3.8.2. FILING PROCEDURES

A. Counseling Phase

An applicant shall submit a draft petition to the Community Development Department for a preliminary determination of the sufficiency of the proposal prior to formally filing a petition.

B. Formal Filing Phase

For the purpose of providing the information required below, the term "CDD Applicant" includes the Petitioner as defined under Florida Statutes, Chapter 190, and any individual, corporation, partner or partnership having an ownership in, or other rights or obligations with respect to, the proposed community development district. Applications for the establishment of Community Development Districts shall contain the following:

1. A detailed description of the plan of finance, including:

   a. A detailed discussion of the capital structure of the project financing, including: equity; subordinated, convertible and senior debt; leases, etc.

   b. With respect to tax-exempt bonds to be issued by the CDD, a description of the purpose of the bond issue and statement of the sources and uses of bond proceeds, including a detailed breakdown of the following: construction and development costs; costs incurred and to be reimbursed to the CDD Applicant; bond issuance costs, management/developer fees and underwriter's gross spread.

   c. A description of bonds to be refunded, if any.

d. A projected debt service schedule. Names, addresses and phone numbers of the following parties to the financing (as applicable):

i. Bond counsel, disclosure counsel, financial advisor, managing and co-managing underwriters, underwriter's counsel, feasibility consultant, bond insurer, trustee, letter-of-credit banks.

ii. Regarding outstanding bonds/debt of the CDD or debt to be assumed by the CDD, if any, supply the following:

1. Rating agency credit reports, if rated.

2. Written advice from the trustee/lender stating that there has been no default; or, if there has been a default, the nature of the default and the status.

2. Detailed projections of project bond/cash flows showing CDD project revenues, unit sales/buildout assumptions, operating and capital expenditures, management and administrative fees, debt service and debt service coverage; the projection period should be through the maturity of the bonds or 15 years, whichever period is shorter.

3. Complete assumptions to the cash flow projections, and/or a feasibility study prepared by a qualified financial consultant.

4. A description of the target market for the sale of units in the proposed CDD, competition and position in the marketplace.

5. A description of the ownership/legal structure of CDD Applicant:

a. Corporate Applicant - name and address of applicant, and the corporate officers and board of directors of each; also, list any parent, affiliated or subsidiary corporations which are in any way involved in the financing, construction or guarantee of the debt of the CDD and describe their interests.

b. Partnership Applicant - names and addresses of the general and limited partners of the partnership; partnership interests of each partner; if a partner is a corporation, then also provide information listed above.

c. Provide banking references.

6. For each corporate or partnership entity which is described in the response to Subsection 5. above, the CDD Applicant which guarantees or is responsible for the repayment of debt service on bonds issued by the CDD:

a. Provide copies of 5 years of audited financial statements (or, unaudited if audited statements are not available; or, federal tax returns if financial statements are not available). Include an interim financial statement for the most current fiscal year through the most recently completed quarter.

b. For publicly-held corporations, provide copies of 5 years of Form 10K and the most recent Form 10Q as required to be filed with the Securities and Exchange Commission.

7. Management of the CDD Applicant

a. Description and strengths of key management; experience in the industry and with the CDD Applicant.

b. Complete a Sworn Statement Under Section 287.133(3)(a), Florida Statutes, on Public Entity Crimes.

8. Litigation

a. Description of past, pending or threatened litigation to which the CDD Applicant is a party and which relates to the business, goods or services which the CDD Applicant will provide in connection with the establishment and operation of the CDD.

b. Indicate whether the CDD Applicant has ever filed for bankruptcy and describe the circumstances.

c. Indicate whether the CDD Applicant or any principals thereof have in the past been, or currently are, principals in a CDD anywhere in the United States, and whether there have been any defaults on bonds issued by those CDD's. Describe the circumstances and status of such defaults.

SECTION 3.8.3. REVIEW PROCEDURES

A. The City Council shall fix the schedule of fees and charges imposed for the filing and processing of each application, except where set by the State.

B. Only a qualified applicant may file an application to establish a Community Development District. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the Community Development District. If there is a question as to the sufficiency of the applicant's interest in the subject real property with respect to entering into the agreement, the City staff may request and rely upon an opinion of the City Attorney's Office.

C. Staff shall schedule a public hearing with the City Council within 45 days of the formal filing of the petition.

D. The City shall publish the Notice of Public Hearing for the Community Development District once a week for four successive weeks prior to the City Council public hearing date.

E. Staff Review Phase

1. The Chief Administrative Officer or his designee shall prepare and file with the City Clerk a staff report and recommendation 14 days prior to the scheduled public hearing.

2. Staff shall evaluate the petition for consistency with the State and local Comprehensive Plans.

3. The Chief Administrative Officer or his designee shall transmit copies of the petition to the various departments or agencies for review and comment.

4. Reviewers shall identify the general and specific issues that fall within the purview of the individual department.

5. The staff report shall address the issues and concerns identified in the individual reviews conducted by the various departments.

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ARTICLE IV

GENERAL REQUIREMENTS AND SUPPLEMENTAL REGULATIONS

PART 4-1

GENERALLY

SECTION 4-1.1. CONTENTS

This Article contains the general design standards and improvement requirements that apply to all development in the City of Brooksville. In some instances, however, the standards or requirements in this Article may be superseded by more specific standards or requirements associated with specific development scenarios addressed in other Articles of this Code.

PART 4-2

LOT ACCESS AND DIMENSIONS

SECTION 4-2.1. LOTS-- MEASUREMENTAND TYPES

A. Lot width.

The width of a lot shall be measured across the rear of the required front yard. The width of lots fronting on curves or culs-de-sac shall be measured as a straight line tangent to the midpoint of the arc of the curve formed by the building line. This building line may be equal to or greater than the required front yard of the zoning district. The building envelope for the smallest irregular shaped lot shall be shown on the preliminary plat. In addition, when a lot fronts on a cul-de-sac or curve, the lot width along the street frontage shall be measured as a straight line tangent of the midpoint of the arc of the curve along the street frontage and shall be a minimum of 20 feet.

B. Lot Types.

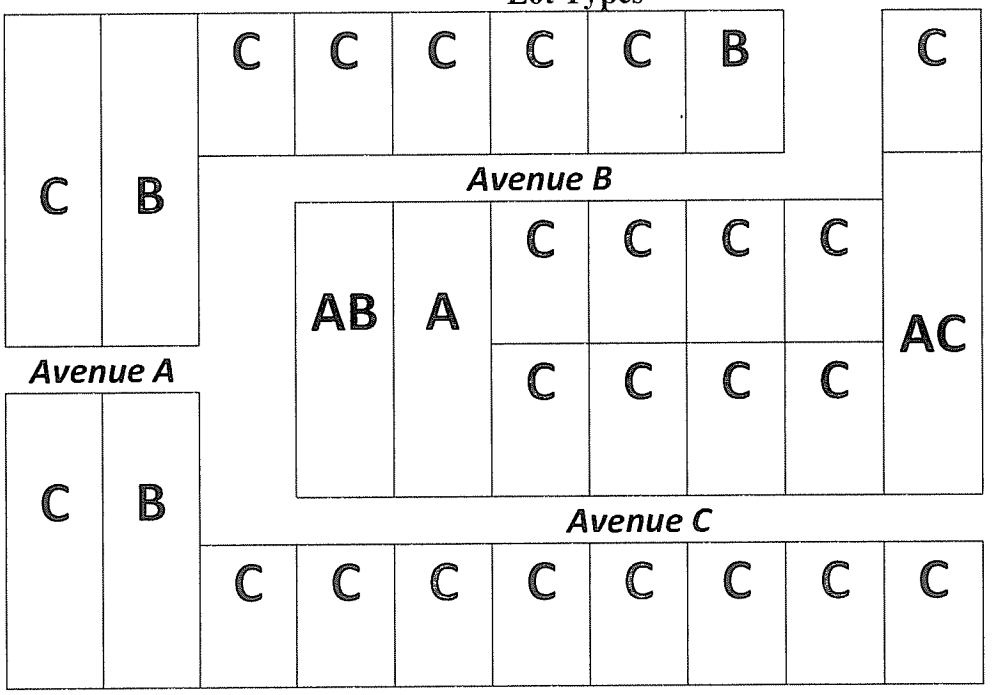
Figure 4.1 illustrates terminology used herein with reference to corner, interior, and through lots.

A – Through lots

B – Corner lots

C – Interior lots

Figure 4.1
Lot Types



C. Lot frontage.

1. On interior lots, the front of a lot shall be construed as the portion nearest the street.

2. On corner lots, the frontage of a lot shall be construed as the shortest boundary to a street. If the lot has equal frontage on two or more streets, frontage shall be determined by the Chief Administrative Officer or his designee in accordance with the prevailing building pattern, or the prevailing lotting pattern, if a building pattern has not been established.

3. On through lots, all portions adjacent to streets shall be considered as frontage for regulatory purposes. If the Chief Administrative Officer or his designee finds that the pattern of lots or the pattern of required yards, on lots adjacent to portions of the through lot, is such as to justify the elimination of the requirement that more than one frontage be provided on the lot, such additional frontage shall not be required.

D. One dwelling unit per lot.

For any district in which single-family residential uses are allowed, only one single family dwelling unit shall be permitted per lot unless otherwise allowed by this Code.

E. Lot Yards - Methods of measurement.

The following rules shall apply with regard to determinations on yards on lots:

1. Required yards adjacent to streets shall be of a depth as prescribed in district regulations with the depth measured as perpendicular to the street line or corridor reservation line, and the rear line of the required yard parallel to the street line or corridor reservation line.

2. Front yards on interior lots shall be construed as extending between side lot lines across the frontage of the lot.

3. Front yards on corner lots shall be construed as extending across the lot from each interior side lot line to the opposite street line. Corner lots are considered to have two front yards.

4. Interior side yards shall be construed as running from the rear line of the required front yard to the front line of the rear yard, if required or, if no rear yard is required, to the opposite lot line. The width of a required side yard shall be measured perpendicular to the side lot line and the inner line of the required yard shall be parallel to such outer line, at the minimum distance therefrom prescribed in district regulations.

5. Interior side yards on through lots with more than one front yard shall be construed as running to the rear lines of the front yards involved, and measurements and requirements shall be as for paragraph 4 above.

6. On corner lots, the side yard is the yard along any interior lot line which intersects with a street lot line. When a corner lot has four sides, the two sides not adjacent to the streets are both side yards and the lot has no rear yard. If the corner lot has more than four sides, the yards along interior lot lines which do not intersect with a street lot line shall be considered rear yards and must meet the district regulations for such yards. In all cases the restrictions on maximum lot coverage and maximum impervious area must be met.

7. Rear yards shall be construed as extending across the full width of the lot at its rear, except as stated in paragraph 6 above. Required depth of rear yards shall be determined in the same manner as required width of interior side yards.

8. On through lots providing two front yards, and on corner lots (except as stated in paragraph 6 above), there will be no required rear yard, and yards other than those adjacent to streets shall be construed as side yards, as provided in paragraph 6 above.

10. If an error is discovered in the location of a building or structure relative to the minimum yard requirements, or the lot is of a configuration atypical to the lots in the project as a whole, or the proposed building activity is to replace or repair structures destroyed or damaged during a Declared Natural Disaster, as defined in this Code, the property owner, or their authorized representative, may file a request for an administrative review. The review of the request and the final decision shall be made by the Chief Administrative Officer or his designee and shall be made in conformance with the following criteria:

    a. The waiver shall not exceed more than ten percent of the required yard.

    b. In the case of an error in yard measurements, the corresponding opposite yard must be larger than requested by the same distance as the waiver request (to insure that the waiver is not just an attempt to place a larger building on the lot) or the waiver request is an intrusion of only a small corner of the building (such as a house too close to the front of a cul-de-sac lot such that it violates the side yard requirements at the front corner but nowhere else).

    c. In the case of an atypical lot configuration, the lot shall be a corner lot, cul-de-sac lot, lot with an unusual number of sides or some other configuration which makes it impossible to place a house or structure on the site which would be typically found in the development or the area.

    d. In the case of replacement or repair of structures destroyed or damaged during a declared natural disaster, there shall be a physical impediment on the property, such as existing trees, which precludes compliance with the yard requirements. Additionally, the building activity shall commence within one year of the date of the Disaster Declaration.

    e. Any waiver request which does not meet paragraphs a. and b., c. or d. above will be denied an administrative waiver and must comply with the yard requirements or seek a variance pursuant to Article VIII.

F. Special yards.

A special yard, for purposes of these regulations, shall be construed as a yard other than adjacent to a street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard," as generally determined, defined, or applied with respect to regular lots, fits the circumstances of the case. In such instances, the special yard shall be considered a rear yard unless the Chief Administrative Officer or his designee determines that side yard requirements for the district shall apply because of the relationship of the portion of the lot or lots, with due regard to the orientation of structures and buildable areas thereon.

G. Permitted projections into required yards.

1. Certain architectural features, such as cornices, eaves and gutters, may project no more than three feet into the required front yard, five feet into the required rear yard, and three feet or no more than 50 percent of the required side yard, whichever is the most restrictive.

2. Other architectural features, such as bay windows, fire places and stairways, which may occupy a portion of a building footprint or extend from the building below the roof eaves, may project not more than three feet into required front and rear yards, three feet into side yards which measure a minimum of eight feet in width, and two and one-half feet into side yards measuring seven and one-half feet in width. No such intrusion is permitted into side yards less than seven and one-half feet in width.

3. Mechanical equipment, such as air conditioning units, pumps, heating equipment, solar panels, and similar installations, may not project into the required front yard(s), but may project five feet into the required rear yard(s), and three feet or no more than 50 percent of the required yard, whichever is the most restrictive, into the required side yard(s).

4. Covered patios, as defined by this Code, may intrude no more than 13 feet into the required rear yard and shall not intrude into the required side or front yards except as listed below. In no case shall the permitted intrusion of the covered patio reduce the yard provided to less than ten feet.

5. For through lots, a covered patio may intrude 13 feet into the required front yard which functions as a rear yard and has no access to a street. In no case shall the permitted intrusion of the covered patio reduce the yard provided to less than ten feet.

6. Patios enclosed by a screen-meshed structure without a solid roof that is attached to the primary building may intrude into required rear and side yards provided a minimum setback of three feet is provided. Such patios shall not intrude into required front yards except where a front yard functions as a rear yard and has no access to a street. In such cases, a minimum setback of three feet shall be required.

7. In all residential districts, front porches, inclusive of architectural features such as cornices, eaves, and gutters, may project into the required front yard no more than ten feet or 50 percent of the required front yard setback whichever is less provided the following conditions are met:

a. The porch is open on all sides except where it is attached to the principal structure. The porch shall not be screened or otherwise enclosed. Railings if provided shall be consistent with the architectural style of the structure.

b. Any porch projecting into a required front yard shall have a minimum depth, as measured from the face of the building to the porch edge, of six feet and a minimum width of eight feet.

c. Second story porches may project into the required front yard consistent with the requirements above provided there is a first story porch located directly below the second story porch.

H. Minimum lot area.

Minimum lot area is the minimum square footage required for a lot by this Code. The minimum area shall not include submerged or environmentally sensitive areas. Roadways or rights-of-way provided by the owner or developer of the lot may be included with the zoning lot for the purposes of calculating density or floor area ratio and the minimum lot area for individual lots. If a zoning lot includes different zoning districts, the minimum lot area requirements for each district shall be met.

PART 4-3

SUBDIVISION AND SITE DEVELOPMENT SUBMITTALS

SECTON 4-3.1. SUBMITTAL REQUIREMENTS

A. Preliminary subdivision plat.

All preliminary subdivision plats and required supplementary materials shall cover the entire parcel proposed for development and shall be submitted in accordance with this Part. Preliminary subdivision plats shall contain at least the following data. All plans shall be prepared by a registered professional engineer licensed in the State of Florida.

1. Preliminary layout.

The project engineer shall prepare a complete layout of the streets and lot configurations including all parcels of land which the developer reasonably expects to include in the project. The layout shall be made on a topographic map drawn to a scale of one inch equals four hundred (or less) feet (1" = 400'), with a contour interval of two (2) feet. The layout shall include at least the following:

a. Easements and drainage rights-of-way.

b. North arrow and scale.

c. Location of proposed improvement facilities.

d. Site data including number of lots by category, typical residential lot sizes, and minimum areas on special use lots. (Multifamily, commercial, community facilities, etc.) The number and size of parks with total of park area.

e. The layout shall indicate all adjacent parcels and the surrounding transportation grid.

2. Draft of protective covenants.

3. Preliminary engineering report.

The project engineer shall prepare and submit a report indicating the results of his preliminary analysis of the lands to be developed. Particular attention should be given to the soil conditions which will influence drainage design assumptions, pavement design considerations, potable water and sewage disposal method determinations.

4. List of planned improvements.

5. Statement of developer's intent with respect to construction of improvements prior to recording of subdivision plat or bonding improvements.

6. Proposed development schedule.

If the development is of such size that the developer desires to develop in units or phases, a map shall be submitted which indicates the sequence of development.

7. Adequate access analysis.

The project engineer shall submit an analysis of the existing and proposed vicinity transportation network indicating the collector street system which will adequately service the pedestrian and vehicular traffic generated by the proposed development. The Planning and Zoning Commission will consider the analysis and, with recommendations from the Community Development Department, define any specific improvements which the developer must accomplish as a condition of the application.

8. Development of regional impact statement if required by the provisions set forth in Florida Statutes, Chapter 380.

9. Water supply and sewage disposal plans.

   The developer or project engineer shall obtain from the County Health Department a written opinion indicating that the developer's planned methods of water supply and sewage disposal are satisfactory.

10. Exceptions - Any applicant may request that required information described in Paragraphs 2 through 9 of this Section be omitted from the proposed preliminary subdivision plat, provided however, that such request shall be subject to the following requirements:

    a. The request shall be in written form and shall be submitted with the plat.

    b. The request shall identify the information, item or data that is proposed to be omitted from the plat and shall fully explain the reasons that such information, item or data does not apply to such plan.

B. Construction and Design (Improvement) Plan requirements.

All Improvement Plans and required supplementary material shall cover the entire parcel covered by a Preliminary Subdivision Plat approved in accordance with Section 4-3.1.A. All Improvement Plans shall contain at least the following data and information:

1. General Improvement Plan Requirements - In general, Improvement Plans shall be suitable for contracting and construction purposes. The Improvement Plan shall show those subdivision improvements which are required; and which are assured by bond or improvement agreement; and which must be satisfactorily completed before the bond or escrow is released.

2. Improvement Plan Sheet Data, Size and Scale - Improvement Plans shall be drawn at a scale of one inch to 50 feet or larger. Sheet size for Improvement Plans shall be 24 inches by 36 inches or 36 inches by 48 inches. Multiple sheets may be used provided each sheet is numbered and the total number of sheets is indicated on each sheet. Cross referencing between sheets shall be required. Necessary notes and symbol legends shall be included. Abbreviations should be avoided but if used they shall be defined in the notes. Six copies shall be provided.

   a. The identification "Improvement Plan", the date, scale, revision date (if any), development name, and other such information shall be shown in a

convenient grouping in the lower right hand corner of every sheet, preferably in a conventional title block.

b. Each copy of an Improvement Plan required to be submitted to the Administrative Official shall bear the original signature of a professional engineer licensed by the State of Florida and authorized by the applicant who shall also certify that the drawing was prepared at his instruction and that the information shown is correct.

3. Required Improvements to Subdivided Land - It is required that the applicant submit construction drawings of all improvements to be added in the proposed subdivision. The drawings shall be of a detailed nature, prepared by a registered professional engineer licensed in the State of Florida.

C. Final subdivision plat requirements

1. Scope - The final plat will have incorporated therein all changes or modifications required by the Planning and Zoning Commission, otherwise it shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided that such portion conforms with all the requirements of this Code.

Preparation - The final plat shall be prepared by a registered professional engineer licensed in the State of Florida. Final plat shall be drawn on sheets twenty-two (22) inches wide by thirty-six (36) inches long and shall be at a scale of one hundred (100) feet to one inch, or larger. Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For a large subdivision the final plat may be submitted for approval progressively in contiguous sections satisfactory to the City Council. A three inch margin shall be provided on the left side of each sheet for binding and a one inch margin shall be provided on all other sides of each sheet. Original sheets shall be of a durable reproducible mylar or linen material. Drafting shall be with black, permanent india ink. North orientation shall be toward the top of each sheet. Lettering shall read from the bottom of the sheet or the right side of the sheet. No letter or number shall be less than one-eighth of an inch in height and stroke for letters shall be bold enough so as to be clearly legible.

2. Plat Information - The following information shall be shown on the final plat:

a. Primary control points or descriptions and "ties" to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred.

b. Tract boundary lines and all sectional data, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots

and other sites; with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves.

c. Name and right-of-way width of each street or other right-of-way.

d. Location, dimensions and purpose of any easements.

e. Number to identify each lot or site, and block.

f. Purpose for which sites, other than residential lots, are dedicated or reserved.

g. Minimum building setback line and buffers on all lots and other sites.

h. Location and description of monuments.

i. Names of record owners of adjoining unplatted land.

j. Reference to recorded subdivision plats of adjoining platted land by record name, plat book page and number, with adjacent street and lot dotted in.

k. Title, scale, north arrow and date.

l. Legal description.

m. Vicinity map.

4. A certificate of construction by the Public Works Director certifying that all improvements have been installed in accord with the requirements of this chapter and with the action of the Planning and Zoning Commission giving conditional approval of the preliminary plat, or a bond or certified check, or such other collateral security, has been posted, which is available to the City and in sufficient amount to ensure such completion of all required improvements.

5. Protective covenants in form for recording.

6. Other data - Such other certificates, affidavits, endorsements or deductions as may be required by the Planning and Zoning Commission in the enforcement of this Article.

7. Title page - The title page of all subdivision plats shall contain the following information and documents:

a. Dedications.

b. Surveyor's certificate.

c. City surveyor's certificate.

d. Abstractor's certificate.

e. Resolution.

f. Clerk's certificate.

g. Joinder and consent to dedication.

h. Certificate of approval from:

i. Planning and Zoning Commission.

i. City attorney.

iii. Mayor.

iv. Public Works Director.

D. Requirements for record plat title page.

1. Dedication.

Each plat must contain a dedication executed and acknowledged by the owner in the manner prescribed by law for the execution of deeds. Such dedication shall dedicate to the public all streets, easements, canals, parks and other public places shown on the plat, warrant that the dedicators are the owners of the lands platted, and authorize the recording of such plat. Dedications and acknowledgements in substantially the following form shall be deemed a sufficient compliance with this section:

a. By individual:

DEDICATION

_____, the owners of the lands herein platted, as dedicators, do hereby dedicate to the public and the purchasers of any lands shown on this plat all streets, easements, canals, parks, and other public places shown on this plat and hereby request that this plat be recorded in the Public Records of Hernando County, Florida.

WITNESS our hands and seals as dedicators this _____ day of _____, 20___.

Signed and sealed in the presence of:

_____ _____(SEAL)

_____ _____(SEAL)

STATE OF_____

COUNTY OF _____

Before me the undersigned, an officer duly authorized and acting personally appeared _____ and _____, to me known to be the individuals described in and who executed the foregoing Dedication and they being duly sworn, acknowledged the same.

WITNESS my hand and official seal this ____ day of _____, 20__.

_____

NOTARY PUBLIC

My Commission Expires:_____

b. By corporation:

DEDICATION

_____, a Corporation under the laws of the State of _____, the Owner of the lands herein platted, as Dedicator, does hereby dedicate to the public and the purchasers of any lands shown on this plat, all streets, easements, drainage facilities, utilities, canals, and other public places shown on this plat and hereby requests that this plat be recorded in the public records of Hernando County, Florida.

IN WITNESS WHEREOF, the said Dedicator has caused its name and Corporate seal to be affixed hereto by its President, attested by its Secretary heretofore duly authorized by its Board of Directors, on this _____ day of _____, 20___.

(CORPORATE SEAL)

ATTEST: _____ _____

Secretary By:

_____

President

STATE OF _____

COUNTY OF _____

Before the undersigned, an officer duly authorized and acting, personally appeared_____and _____, to me known to be the individuals who executed the foregoing dedication as President and Secretary, respectively, of _____, a Corporation, under the laws of the State of _____, and being duly sworn, acknowledge then and there before me that they executed the same as such officers of such Corporation heretofore duly authorized by the Board of Directors of such Corporation as the act and deed of such Corporation.

WITNESS my hand and official seal this ____ day of _____, 20__.

_____

NOTARY PUBLIC

My Commission Expires:_____

2. Surveyor Certificate.

Each plat must contain a certificate signed by a registered land surveyor that such plat was prepared by such surveyor and is a correct representation of the land platted; that permanent reference monuments have been placed thereon and said plats meet all requirements of Chapter 177 Florida Statutes, and with all of the plat requirements adopted by the City Council of the City of Brooksville, Florida. The certificate of the registered land surveyor preparing said plat to be recorded in the public records of Hernando County shall be in substantially the following form:

SURVEYOR CERTIFICATE

I, _____, hereby certify that I prepared this plat and that it is correct representation of the lands platted; that this plat complies with all provisions of Chapter 177, Florida Statutes, and with all of the plat requirements adopted by the City Council of the City of Brooksville, Florida.

_____
Registered Land Surveyor

_____
Florida Certificate No.

3. City Surveyor Certificate.

Each plat shall be reviewed for conformity to Chapter 177, Florida Statutes, by a professional surveyor and mapper either employed by or under contract to the City of Brooksville, the costs of which shall be borne by the legal entity offering the plat for recordation, and evidence of such review must be placed on such plat.

CITY SURVEYOR CERTIFICATE

I, _____, hereby certify that I reviewed this plat and that it is correct representation of the lands platted; that this plat complies with all provisions of Chapter 177, Florida Statutes, and with all of the plat requirements adopted by the City Council of the City of Brooksville, Florida.

_____
Registered Land Surveyor

_____
Florida Certificate No.

4. Abstractor's Certificate.

Each plat must contain a certificate by an abstractor or abstract company licensed to do business in Hernando County, Florida, that the dedicators are the apparent record owners of the lands platted and that there are no delinquent taxes of the

lands platted and further, that record title to all access roads shown or indicated on such plat is held by the City of Brooksville, Hernando County or the State of Florida, which said certificate shall be in substantially the following form:

ABSTRACTOR'S CERTIFICATE

I hereby certify that _____ is/are the apparent record owners of the lands hereby platted; that there are no delinquent taxes on such lands and that record title to all access roads is held by the City of Brooksville, Hernando County or the State of Florida.

_____

5. Resolution.

Each plat submitted to the City Council of Brooksville, Florida, for approval for record shall contain a form of appropriate resolution for adoption by the City Council, approving such plat for record and accepting the dedication of all streets and other places shown thereon, which said resolution shall be in substantially the following form:

RESOLUTION

Whereas, this plat was on the ____ day of _____, 19___, submitted to the City Council, Brooksville, Hernando County, Florida, for approval for record and has been approved by said council; now therefore, be it resolved by the City Council, Brooksville, Hernando County, Florida, that said plat is hereby approved and said plat shall be recorded in the public records of this County, and that the dedication of all streets, easements, canals, drainage facilities, utilities, parks, and other public places shown thereon is hereby accepted by said council for the City of Brooksville, and the public generally, and shall be binding on all persons hereafter.

_____ _____

City Clerk Mayor

6. Clerk's Certificate.

The clerk's certificate required by Chapter 177, Florida Statutes, on each plat shall be in substantially the following form:

CLERK'S CERTIFICATE

I, _____, Clerk of the Circuit Court of Hernando County, Florida, hereby certify that I have examined this plat, that it complies in form with all of the provisions of Chapter 177, Florida Statutes, that it was filed for record on the _____ day of _____, 19___, File No. _____, and recorded in Plat Book _____, Page _____.

_____

Clerk of Circuit Court
Hernando County, Florida

7. Certificates of Approval.

Each plat submitted to the City Council of the City of Brooksville, Florida for approval for record shall contain the following four (4) certificates of approval:

a. Certificate of approval by the Planning and Zoning Commission shall be in substantially the following form:

CERTIFICATE OF APPROVAL
BY BROOKSVILLE PLANNING
AND ZONING COMMISSION

THIS IS TO CERTIFY, that on _____, the Brooksville Planning and Zoning Commission approved the above plat or plan.

_____
Chairman

b. Certificate of the City Attorney shall be in substantially the following form:

CERTIFICATE OF APPROVAL
BY ATTORNEY FOR THE
CITY OF BROOKSVILLE

Examined and approved: _____ _____
City Attorney Date

c. Certificate of the Mayor shall be in substantially the following form:

CERTIFICATE OF APPROVAL
BY MAYOR OF THE
CITY OF BROOKSVILLE

Examined and approved: _____ _____
Mayor Date

d. Certificate of the Public Works Director shall be in substantially the following form:

CERTIFICATE OF APPROVAL
BY CITY OF BROOKSVILLE
PUBLIC WORKS DIRECTOR

Examined and approved: _____ _____
Public Works Director Date

8. Joinder and Consent to Dedication.

Each plat submitted to the City of Brooksville City Council for approval for record, shall where applicable, contain a joinder and consent to dedication which shall be in substantially the following form:

JOINDER AND CONSENT TO DEDICATION

The undersigned hereby certifies that it is the holder of a mortgage, lien, or other encumbrance upon the above described property, and that the undersigned hereby joins in and consents to the dedication of the lands described above by the Owner thereof, and agrees that its mortgage, lien, or other encumbrance, which is recorded in Official Record Book _____, Page _____, of the Public Records of Hernando County, Florida shall be subordinated to the above dedication.

Signed, sealed and delivered in the presence of:

_____ _____(SEAL)

_____ _____(SEAL)

STATE OF _____

COUNTY OF _____

This is to certify, that on _____ before me, an officer duly authorized to take acknowledgements in the State and County aforesaid, personally appeared _____, to be known to be the person described in and who executed the foregoing Joinder and Consent to Dedication and severally acknowledged the execution thereof to be _____ free act and deed for the uses and purposes therein expressed.

WITNESS my hand and official seal this ____ day of _____, 20__.

_____
NOTARY PUBLIC

My Commission Expires:_____

PART 4-4
SUBDIVISION AND SITE DEVELOPMENT REQUIREMENTS

SECTION 4-4.1. GENERALLY

All new development, subdivisions, streets, parking, lots, tracts and related improvements shall be developed and improved in accordance with the minimum standards and requirements set forth in this Code. The plans and specifications shall completely define the scope of all work to be accomplished in the construction of improvements and shall provide for a standard of quality which equals or exceeds the minimum requirements cited in the *Hernando County Facility*

Design Guidelines, as issued by the Hernando County Engineering Department, the *Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways, State of Florida* and the Hernando County Utilities *Water and Wastewater Construction Specifications Manual.*

SECTION 4-4.2. DEVELOPMENT REGULATIONS

A. Blocks

1. The lengths, widths and shapes of blocks shall be determined with due regard to:
   a. Provision of adequate building sites suitable to type of use proposed.

   b. Zoning requirements.

   c. Requirements for safe convenient vehicular and pedestrian circulation.

   d. Topography.

2. Block lengths shall not exceed six hundred (600) feet or be less than three hundred thirty (330) feet unless specifically approved by City Council.

3. Pedestrian crosswalks, designed to Florida Department of Transportation (F.D.O.T.) standards, shall be required where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

4. Street rights-of-way shall be provided to all undeveloped areas surrounding the subdivision at points not to exceed one thousand three hundred twenty (1,320) feet or such as the planning and zoning commission may direct. Such rights-of-way may be left unimproved if desired by the subdivider and approved by City Council.

B. Access

1. Every site developed under these site development regulations shall have access to a publicly-owned and maintained street or roadway. Access may be by a privately-owned and maintained street or roadway.

2. All uses shall be provided with paved access to the nearest paved street or frontage road, as applicable.

3. All uses shall be provided with paved driveways which extend from the edge of street pavement or frontage road to the property line.

4. When access can be provided to a development by a collector facility, direct access to arterial roadways shall be restricted.

5. All non-residentially zoned properties located adjacent to arterial highways shall provide a minimum 75-foot building setback from the arterial highway. The administrative official may reduce the 75-foot requirement and allow the minimum front yard setback of the property's zoning district in the following circumstances:

   a. A hardship exists in the redevelopment of an existing developed parcel due to the inadequate depth of the property or the continued use of an existing structure. In such instances, cross-access driveways to adjacent parcels shall be provided when and where feasible.

   b. The developer has provided for a reverse frontage road along the rear portion of the property. Any such exception may be subject to additional conditions.

6. Access to residential property - Direct access from residential property adjacent to arterial streets shall be prohibited when access can be provided via a collector roadway, unless it can be demonstrated by the applicant that access to the arterial roadway will provide a greater public benefit.

7. Primary access to non-residential property – With the exception of sites containing retail gasoline sales, there shall be only one (1) vehicular access point, not to exceed forty (40) feet in width at the property line, or two (2) vehicular access points at the property line, not to exceed twenty-four (24) feet in width each, located on any one street or Frontage Road to serve the development. All vehicular access points shall be located at least 150 feet, or two-thirds the distance of the lot frontage, whichever is less, from the intersection of any right-of-way lines of streets or a street and a railroad and at least 15 feet from all side or rear property lines.

   No more than two vehicular access points, not to exceed 36 feet in width each shall be allowed for sites containing retail gasoline sales. All vehicular access points shall be located at least 75 feet from the intersection of any right-of-way lines of streets or a street and a railroad and at least 25 feet from all side or rear property lines.

   As provided in Paragraph 6 above, adjoining projects may share a common driveway, provided that appropriate access easements are granted between or among property owners. If non-residential property is located such that access can be provided to either an arterial or collector facility, primary access shall be via the collector facility, unless it can be demonstrated by the applicant that primary access to the arterial roadway will provide a greater public benefit.

8. Shared access - Shared access facilities onto arterial and collector streets are encouraged when two or more contiguous sites are planned for compatible uses. Shared access is desirable where the trip generation from the anticipated land uses will not be large enough to warrant a traffic signal.

9. Prohibition of use of residentially-zoned private property for access to uses not permitted in residential districts - No private land which is agriculturally or residentially-zoned shall be used for motor vehicle access to land or structures in other districts used for any purpose not permitted in agricultural or residential districts.

10. Off-site street parking - Except for Single Family Residential Units or other types of residential units approved by the City, off-site street parking shall be designed to ensure that all vehicles leaving or entering the public street right-of-way shall be traveling in a forward motion.

11. Private roads designed to provide vehicular access to nonresidential buildings and uses located in nonresidential zoning districts shall not be permitted to be located in residential zoning districts.

C. Streets

1. All new streets in the City of Brooksville shall utilize urban-type design features which reflect a "closed" drainage system including gutters, inlets and miami or raised curbs. Rural-type street design features which reflect an "open" drainage system including open swales shall not be permitted except to provide access to lots of one (1) acre or greater. Design features and selection of drainage system type shall be approved by the Public Works Department Director.

2. Access to Adjoining Property - Where street access to adjoining property is appropriate to accommodate traffic circulation objectives of the City, a street right-of-way shall be extended to the boundary of such property and such right-of-way shall be dedicated to the public as an unopened street. Upon formal determination that such unopened street is required for access to property, the developer of the property for which access is required shall be responsible for opening and improving the unopened street.

3. Additional Right-of-Way - A proposed use or subdivision that abuts an existing street that does not conform to the minimum right-of-way requirements set forth in this Code shall provide for the dedication of additional right-of-way so that the minimum right-of-way required by these regulations can be established. The additional right-of-way shall be dedicated upon formal plan or subdivision approval, and shall be dedicated to the appropriate public entity.

4. Street/Access Drive Alignment - Street/Access driveways shall be required to provide centerline alignment with existing centerline on the opposite side of the right-of-way.

5. Horizontal and Vertical Curves - Horizontal and vertical curves shall be in conformance with Hernando County and/or FDOT standards.

6. Improvements - Prior to granting of final approval, the subdivider/developer shall have installed or shall have furnished adequate bond for the ultimate installation of the following:

   a. All streets shall be surfaced in accordance with applicable standard specifications referenced herein.

   b. Curbs, gutters, drainage and drainage structures shall be provided in accordance with standard specifications referenced herein.

   c. Permanent reference monuments (PRM) shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as required. PRM shall be consistent with Florida Statutes Chapter 177 and as approved by the Chief Administrative Officer or his designee.

   d. Sidewalks shall be constructed along both sides of all local, collector and arterial streets. Required sidewalks shall be constructed prior to the issuance of a Certificate of Occupancy.

   e. Street lights shall be installed.

   f. Every effort to ensure the preservation of the historical brick streets of the City of Brooksville shall be taken. Any bricks removed from a street shall be saved and utilized for restoration efforts. Extensive care of these brick, in removing, storing, and replacing shall be taken at all times.

7. Interconnected Neighborhoods - Street layout shall be accomplished in a manner that connects development of the adjacent neighboring areas. Proposed streets shall provide satisfactory alignment for continuation of all existing planned or platted streets with which they are to connect. The street arrangements shall not cause hardship to owners of adjoining property in platting their own land and providing convenient access thereto.

8. Cross-Access Criteria and Requirements - The purpose of requiring cross-access in certain situations is to reduce the necessity to use the public street system in order to move between adjacent and complementary land uses where such interchange of vehicular or pedestrian trips are likely to occur. The provisions below shall not apply to developments required to provide Frontage Roads.

a. When each of the following conditions exist, provisions for vehicular and pedestrian cross-access must be provided:

i. The site has frontage on a public road.

ii. The site has a commercial land use or commercial or office zoning designation, and is adjacent to a parcel which also has a commercial land use designation or commercial or office zoning and which has access on the same roadway.

b. When each of the following conditions exists, provisions for pedestrian cross-access must be provided.

i. The site has frontage on at least one roadway.

ii. The site has a commercial land use or commercial or office zoning designation and is adjacent to a parcel having frontage on the same roadway which has a land use or zoning designation allowing 12 dwelling units per acre or more, or

iii. The site has a residential land use or zoning designation allowing 12 dwelling units or more per acre and is adjacent to a parcel having a land use or zoning designation of 12 dwelling units or more per acre or a commercial land use or commercial or office zoning designation and which has access on the same roadway.

As used herein, "provisions for cross-access" shall mean that the developer of the property shall design his site in such a manner as to make cross-access possible as provided in this division.

c. When the criteria in Paragraph i or ii above are met, provisions for cross-access must be provided as established below:

i. If the adjacent site is developed and, in the opinion of the Chief Administrative Officer or his designee, cross-access is feasible, the developer shall design and build the appropriate cross-access to the property line of the adjacent parcel.

ii. If the adjacent site is developed but, in the opinion of the Chief Administrative Officer or his designee, cross-access is not feasible at this time, the developer shall design and designate on the site plan the location of future cross access, but will not be required to construct the cross-access at the time of initial site development. The owner shall commit, in writing, to construct and allow cross-

access at such time as the Chief Administrative Officer or his designee determines that cross-access is feasible and desirable.

iii. If the adjacent site is undeveloped, the developer shall design and build the cross-access to the property line of the adjacent parcel in anticipation of future connection when that site is developed.

iv. The minimum width of a vehicular cross-access shall be 24 feet. The minimum width of a pedestrian cross-access shall be five feet.

9. Intersections - The intersection of more than two streets at one point shall be avoided. Streets shall intersect one another at an angle as near to the right angle as possible, and no intersections of streets at angles less than 70 degrees shall be approved. Street intersections shall be rounded with a radius of 20 feet measured at the back of curbs when such intersection occurs at right angles. Intersections with an angle other than a right angle shall be rounded with a curve of a radius acceptable by Best Engineering Principles.

10. Street right-of-way pavement widths and design speeds shall be no less than as follows:

TYPE	DESCRIPTION	R/W	LANE WIDTH	DESIGN SPEED
Alley	One way traffic	20'	15'	20 mph
Frontage	Local Access	50'	12'	30 mph
Local	Open Drainage	60'	10'	30 mph
Local	Closed Drainage	50'	10'	30 mph
Collector/2 Ln	Open Drainage	80'	11'	40 mph
Collector/2 Ln	Closed Drainage	70'	11'	40 mph
Collector/4 Ln	Divided Open Drainage	140'	11'	50 mph
Collector/4 Ln	Divided Closed Drainage	100'	11'	50 mph
Arterial/2 Ln	Open Drainage	100'	12'	50 mph
Arterial/2 Ln	Closed Drainage	80'	12'	50 mph
Arterial/4 Ln	Open Drainage	200'	12'	60 mph
Arterial/4 Ln	Closed Drainage	150'	12'	60 mph

11. Street grades shall conform to the *Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways, State of Florida* on sight distance wherever feasible and shall not exceed the following, with due allowance for reasonable vertical curves:

    a. Arterial streets shall not exceed a six (6) percent grade.

    b. Collector streets shall not exceed an eight (8) percent grade.

    c. Local streets shall not exceed a ten (10) percent grade.

    d. Marginal access streets shall not exceed a ten (10) percent grade.

12. Intersections with Arterial and Collector Streets - New street entrances, including frontage road ingress\egress locations, on roads designated or classified as Arterial or Collector shall be not less than 440/245 feet apart.

13. Marginal Access - Where a subdivision abuts or contains an existing or proposed arterial street, City Council may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alley, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

14. Names and Numbers - Address numbers shall be assigned in accordance with the addressing system in effect. Names of new streets shall not duplicate existing or platted street names within the City or County unless a new street is a continuation of or in alignment with the existing or platted street. Street names shall be subject to the approval of City Council. Street name markers which meet City specifications shall be installed by the developer at all street intersections. All new streets shall be named in the following manner:

    a. Avenues shall run east and west.

    b. Streets shall run north and south.

15. Natural Contours - Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets; appropriate slope and gradient shall be utilized to eliminate potential erosion problems.

16. Private Streets - Private streets shall be discouraged, but may be permitted only when the use is limited to a single parcel or project and serves a general public need or purpose.

17. Proposed Extensions – Where feasible, proposed streets shall be extended to the boundary lines of the property included in a subdivision submitted for approval.

18. Railroad on or Abutting Subdivision - Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, City Council may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

19. Dead-End Streets - Permanent dead-end streets shall be permitted only when provided with a cul-de-sac at the closed end with a turnaround having an outside roadway radius of not less than forty (40) feet, and an outside right-of-way radius of not less than sixty (60) feet. Such dead-end streets shall not exceed six hundred (600) feet from the furthest point of cul-de-sac radius to the centerline of the closest intersecting street. Temporary dead-end streets shall be provided with a temporary turnaround area which shall meet the requirements above.

D. Frontage Roads and Reverse Frontage Roads

1. Developers of properties adjacent to the major arterial highway grid must provide at the developer's expense a frontage road or reverse frontage road from property line to property line approximately parallel to the arterial highway upon demonstration of need and demand by the city. If the city does not determine need within ten years from the date the certificate of occupancy is issued for the current use, the developer may be exempted from this requirement by the City Council until such time as the impact from additional development, redevelopment or change of use on the site occurs. For purposes of this section, the following roads in the city are classified for their entire length as arterial highways and are subject to the terms and provisions of this section:

   - US 98;
   - US 41;
   - SR 50; and
   - SR 50A.

2. The frontage road requirement may also be applied to collector roads for a distance of up to 600 feet from their intersection with an arterial highway, which will provide for greater safety by effectively looping frontage road traffic away from the intersection of the collector road and the arterial highway system.

3. The frontage road is to be designed to city specifications established by the director of public works. The developer shall construct the frontage road segment

at the time of site development, or, prior to issuance of a building permit, furnish to the city sufficient funds based on current cost estimates for the engineering and construction of the frontage road across the property when the city determines that sufficient length is available to construct a link in the frontage road system.

4. All driveway cuts issued to developers of properties adjacent to arterial highways shall be considered temporary and subject to removal when the frontage road link is constructed across the property.

5. Owners of property adjacent to arterial highways shall be required to obtain a city permit for driveway cuts to the property prior to and in addition to any state or federal permits. Application shall be made to the city agency established by the City Council for the enforcement of the terms and provisions of this section. This city permit shall be sent to the state or federal agency as a recommendation from the city.

6. All frontage roads created under the provisions of this section shall be maintained by the property owner, upon whose property the road is constructed, in a passable condition to city standards established by the Public Works Department Director. The property owner may contract with the city to provide for the maintenance of the roadway, or dedicate the roadway and right-of-way to the city for inclusion into the city roadway maintenance system. If the dedication is accepted by the City Council, the property owner will no longer have the obligation to maintain the roadway.

D. Stormwater Management Regulations

1. The drainage system for a new development, including subdivisions, shall be designed in accordance with sound engineering principles and procedures such that all useable parcels in the development are positively drained. The drainage system shall be designed to accommodate drainage from adjacent lands which naturally drain to or through the lands being developed. The drainage system shall be designed to not significantly affect the natural drainage onto adjacent lands unless appropriate agreements are obtained by the developer from the owner of such adjacent lands concurring in the proposed drainage design. Evidence of such concurrence shall be submitted to the City of Brooksville along with the development plans and specifications.

2. All new commercial and office developments shall implement on-site stormwater management through low impact development techniques, such as grass swales, bio-retention areas, detention ponds, permeable pavers, rain barrels and cisterns. Design strategies shall be those of the U.S. Environmental Protection Agency, Office of Water's *Low Impact Development Design Strategies: An Integrated Design Approach.*

3. Drainage facilities that are designed to handle flowing water (e.g., culverts, weirs, etc.) shall be hydraulically designed to function when subjected to the maximum flow rate that can be expected to occur no more often than once in ten (10) years.

4. Drainage facilities that are designed to handle water accumulations (e.g., retention ponds with no overflow provisions) shall be designed in accordance with Southwest Florida Water Management District (SWFWMD) rules and regulations. Necessary drainage facilities including, but not limited to, culverts, rights-of-way and easements shall be dedicated to the City, at no expense to the City, and at the option of the City. The dedication shall include adequate rights-of-way or easements to permit proper maintenance operations. Areas required for maintenance shall be cleared of all trees and underbrush which would interfere with maintenance of the facility.

5. Open drainage retention facilities with slopes of greater than four to one (4:1) shall be fenced. The fence shall be clad in green or black vinyl and shall be a minimum of six feet in height. Open drainage facilities with slopes of greater than four to one (4:1) and located in front of the principal structure shall be clad in green or black vinyl and shall be a minimum of six feet in height. Additionally, the fence shall be landscaped with evergreen vines, such as Confederate Jasmine, Coral Honeysuckle or Beach Elder. The vines shall be planted along the entire length of the fence, excluding gates, no more than six feet apart on centers. The vines shall be in three gallon containers, at a minimum, at the time of planting and shall have a minimum opacity of 75 percent within two years of planting. Fencing of permanent dry detention facilities shall not be required.

F. Potable Water System

A potable water distribution system shall be provided in all new subdivisions. The system shall be designed in accordance with federal, state and local standards. The public water systems shall be designed to provide fire flow and fire hydrants shall be placed in accordance with all applicable regulations and standards. New water lines shall not be located at the rear of platted lots unless otherwise allowed by the City's Public Works Director. Connections to existing water lines shall be as directed by the City's Public Works Director.

G. Wastewater System

A wastewater system shall be provided in all new subdivisions. The system shall be designed in accordance with all applicable federal, state and local standards. New sanitary sewer lines shall not be located at the rear of platted lots unless otherwise allowed by the City's Public Works Director. Connections to existing sanitary sewer lines shall be as directed by the City's Public Works Director.

H. Fire Protection

Fire protection shall be provided in accordance with Florida Fire Prevention Code, latest edition.

I. Underground Utility Service

All electrical power, telephone, cable and any other utility lines shall be installed in easements provided for along the appropriate property lines. Utility lines shall be installed underground. The pad mounted transformers for electric service shall not be located within the street right-of-way, unless authorized by the Chief Administrative Officer or his designee.

J. Easements

1. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least seven and one-half (7 1/2) feet wide, each lot, or total fifteen (15) feet.

2. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming with the lines of such watercourse, with an additional fifteen (15) foot easement on each side for maintenance purposes.

3. Easements shall not be established, conveyed, dedicated or otherwise utilized for the purpose of providing access to lots, tracts or parcels established after the effective date of this Code. However, the Chief Administrative Officer or his designee shall have the authority to require the developer to provide access easements to a lot or tract of record when such an access easement is necessary to provide legal access to such lot or tract.

K. Green Building Technology

All new commercial and office developments shall be designed to incorporate green building and development technologies. The technologies include, but are not limited to, the following:

1. Use of renewable construction materials.

2. Use of high performance mechanical and distribution equipment.

3. Use of low or non-volatile organic compounds (VOC) emission building products.

L. Parking and Loading

All off-street parking and loading and related facilities shall be provided in accordance with the requirements and standards of this Section.

1. Off-street parking required - In all districts, in connection with every industrial, commercial, institutional, residential or any other use, there shall be provided, at the time any new structure is erected, any use of a structure or land is enlarged or increased in density or intensity or any other use or change of use established, off-street parking spaces for automobiles in accordance with requirements contained in this Section. Conformance with the parking requirements herein shall be for the new use or portion of enlarged use or structures only and not the existing use or structure.

2. Joint use facilities and shared parking - Nothing in this Section shall be construed to prevent the joint use of off-street parking or off-street loading space for two or more structures or uses.

   a. An agreement for such joint use, in the form of a reciprocal easement shall be filed with the Chief Administrative Officer or his designee and recorded with the Clerk of the Circuit Court for Hernando County.

   b. No part of an off-street parking area or off-street loading area required for any structure or use for the purpose of complying with the provisions of this Code, shall be included as a part of an off-street parking area or off-street loading area similarly required for another building or use, unless the Chief Administrative Officer or his designee determines that the periods of peak usage of such buildings or uses will not be simultaneous with each other.

   c. All development orders or permits covering such approval shall include the requirements that the order or permit is valid only so long as the conditions described in the application for order or the permit exist.

3. Compliance with regulations - The requirements for off-street parking space and off-street loading space applicable to newly erected or substantially altered structures shall be a continuing obligation of the owner of the real estate upon which any such structure is located, so long as the structure is in existence and its use requiring parking or loading, or both, continues. It shall be unlawful for an owner of any structures affected by this Code to discontinue, change or dispense with, or cause the discontinuance or change of the required vehicle parking or loading space apart from the discontinuance of such structure, without establishing alternative parking and loading space which meets the requirements of and is in compliance with this Code.

4. Methods of providing required parking and loading - All required parking shall be located on the same zoning lot as the principal use(s) it serves, except as provided below.

   In lieu of actual construction of required on-site parking spaces, all or any portion of the off-street parking required for a use on a zoning lot may be located on another zoning lot, either by itself or combined as joint use or shared parking for other uses, subject to certification by the Chief Administrative Officer or his designee that the following requirements have been met:

   a. The use being served by the off-site parking shall be a permitted principle use as established in Article II, in the zoning districts within which the zoning lot containing such parking is located;

   b. The off-site parking spaces shall be located within 500 feet walking distance of a public entrance to the structure or land area containing the use for which such spaces are required. A safe, direct, attractive, lighted and convenient pedestrian route shall exist or be provided between the off-site parking and the use being served;

   c. The continued availability of off-site parking spaces, necessary to meet the requirements of this Section, shall be ensured by an appropriate reciprocal easement, satisfactory to the City Attorney and recorded with the Clerk of the Circuit Court of Hernando County;

   d. The provision of off-site required off-street parking shall only occur in industrial, commercial and office districts; and

   e. Except in the HCBRD Overlay district, off-site required off-street parking shall not be separated from the use it serves by arterial or collector streets, or other similar physical barriers to convenient access between the parking and the use.

5. Number of required off-street parking spaces - The number of required off-street parking spaces is set forth in Schedule A below.

SCHEDULE A

MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS

REQUIRED PARKING SPACES	
USES	**SPACES PER UNIT OF MEASURE**
CULTURAL FACILITIES	
Art Galleries	1.2 per 1,000 sq. ft. GFA
Museums	1.2 per 1,000 sq. ft. GFA

Libraries	1.2 per 1,000 sq. ft. GFA
COMMUNICATION FACILITIES	
Radio and Television Studio	1.0 per 1,000 sq. ft. GFA
Motion Picture Studio	1.0 per 1,000 sq. ft. GFA
Radio and Television Transmitting and Receiving Facility	1.0 per employee
COMMUNITY RECREATIONAL USES	3.3 per 1,000 sq. ft. GFA, or 1.0 per 30% of the maximum capacity for open uses
MANUFACTURING, PROCESSING AND ASSEMBLY	1.0 per 1,000 sq. ft. GFA
MEMBERSHIP ORGANIZATIONS	3.3 per 1,000 sq. ft. GFA
OPEN USES OF LAND—LIGHT	
Cemetery	1.0 per employee
OPEN USES OF LAND—HEAVY	
Junk Yards	0.5 per employee plus 1.0 per 5,000 sq. ft. of lot area
Landfills	1.0 per employee
Open Storage	1.0 per employee of the largest shift
PLACE OF ASSEMBLY	0.3 per seat
PUBLIC FACILITIES	
Public Service Facilities	1.0 per employee
Public Use Facilities	3.3 per 1,000 sq. ft. GFA
Wastewater Treatment Plant and	1.0 per employee
Facilities Resource Recovery Fac.	1.0 per employee
Power Generation Facility	1.0 per employee
Fire Stations	1.0 per employee of the largest shift plus 5.0
Correctional Facility	1.0 per employee plus 1.0 per 25 inmates
RESIDENTIAL SUPPORT USES	
Church/Synagogue	0.3 per seat
Child Care Center	3.2 per 1,000 sq. ft. GFA
College/University	0.5 per student
School, Elementary or Middle	1.6 per classroom
Senior High	0.33 per student, plus 1.0 per staff member
RESIDENTIAL USES	
Community Residential Home	

Type A	2.0 per facility
Type B or C	1.0 per employee of largest shift, plus 1.0 per facility vehicle, plus 0.2 per resident
Dwellings	
Multiple Family	
Efficiency	1.25 per dwelling unit
1 bedroom	1.50 per dwelling unit
2 or more bedrooms	2.0 per dwelling unit
Single Family	
Conventional	2.0 per dwelling unit
Mobile Home	2.0 per dwelling unit
Two Family	2.0 per dwelling unit
Recreational Vehicles	2.0 per dwelling unit
Fraternities and Sororities	3.3 per 1,000 sq. ft. GFA
Life Care Treatment Facility	1.0 per employee of the largest shift, plus 1.0 per facility vehicle, plus 0.33 per resident
Professional Residential Facility	1.0 per employee of the largest shift, plus 1.0 per facility vehicle, plus 0.2 per resident
RETAIL	
Eating establishment	
--sit down	15.0 per 1,000 sq. ft. GFA
--sit down with drive-thru	10.0 per 1,000 sq. ft. GFA
--fast food without drive-through	20.0 per 1,000 sq. ft. GFA
--fast food with drive-through	10.0 per 1,000 sq. ft. GFA
--walk-in/drive-through	5.0 per 1,000 sq. ft. GFA
Convenience Stores	5.0 per 1,000 sq. ft. GFA
Shopper Goods	
--apparel stores	4.0 per 1,000 sq. ft. GFA
--department stores	4.0 per 1,000 sq. ft. GFA
--drinking establishment	10.0 per 1,000 sq. ft. GFA
--furniture and home furnishing stores	1.0 per 1,000 sq. ft. GFA
--supermarket	5.0 per 1,000 sq. ft. GFA
Gas Station	1 per fueling position, plus 2 per working bay, plus 1 per 200 sq. ft of sales area
Mobile Home/Recreational Veh. Sales	2.0 per 1,000 sq. ft. GFA

Motor Vehicle Sales	2.0 per 1,000 sq. ft. GFA
Service Stations	1.0 per four pumps, plus 3.0 per repair bay
Shopping Centers	
--less than 50,000 sq. ft. GFA	5.0 per 1,000 sq. ft. GFA
--50,001—400,000 sq. ft. GFA	4.5 per 1,000 sq. ft. GFA
--more than 400,000 sq. ft. GFA	4.0 per 1,000 sq. ft. GFA
All Other Retail	5.0 per 1,000 sq. ft. GFA
SERVICES	
Banking	
Automatic Teller	2.0 per machine
Bank (Walk-in only)	4.0 per 1,000 sq. ft. GFA
(w/drive-in windows)	3.0 per 1,000 sq. ft. GFA plus 100.0 ft. of queuing area per drive-in lane
Business Services	3.0 per 1,000 sq. ft. GFA
Health Services	
Health Practitioner's Office	5.0 per 1,000 sq. ft. GFA
Animal Hospital/Vet Clinic	5.0 per 1,000 sq. ft. GFA
Hospitals	2.0 per bed
Medical and Dental Laboratories	4.0 per 1,000 sq. ft. GFA
Nursing, Convalescent and Extended Care Facilities	0.35 per bed
Rehabilitation Center	4.0 per 1,000 sq. ft. GFA
Mental Health Care Facility	2.0 per 1,000 sq. ft. GFA
Lodging Places	
Bed and Breakfast Establishment	2.0 per dwelling unit, plus 1.2 per lodging unit
Boarding House	1.1 per lodging unit
Dormitories	1.0 per 5 residents, plus 1.0 per employee
Hospitals Guest House	1.1 per room
Hotels/Motels	1.1 per room
Professional Services	3.0 per 1,000 sq. ft. GFA
Personal Services	8.0 per 1,000 sq. ft. GFA
Recreation Services	
Theater and Race Track	0.3 per seat
Other	5.0 per 1,000 sq. ft. GFA

Repair Services	
Motorized Vehicle Repair	3.0 per repair bay
Bicycle Repair	3.0 per 1,000 sq. ft. GFA
Electrical and Electronic Repair	3.0 per 1,000 sq. ft. GFA
Furniture Refinishing and Repair	3.0 per 1,000 sq. ft. GFA
Gunsmith	3.0 per 1,000 sq. ft. GFA
Locksmith	3.0 per 1,000 sq. ft. GFA
Reupholstery	3.0 per 1,000 sq. ft. GFA
Small Motor Repair	3.0 per 1,000 sq. ft. GFA
Watch, Clock and Jewelry Repair	3.0 per 1,000 sq. ft. GFA
Miscellaneous Services	
Car Wash	1.0 per 1,000 sq. ft. GFA
Contractor's Office	1.0 per facility vehicle, plus 3.0 per 1,000 sq. ft.GFA
Dry Cleaners	3.0 per 1,000 sq. ft. GFA
Exterminator	3.0 per 1,000 sq. ft. GFA
Food Catering	3.0 per 1,000 sq. ft. GFA
Funeral Parlor	0.25 per 1,000 sq. ft. GFA
Interior Cleaning Service	1.0 per 1,000 sq. ft. GFA
Lawn Care/Landscaping	3.0 per 1,000 sq. ft. GFA
Mail Order Office	3.0 per 1,000 sq. ft. GFA
Photography Studio	3.0 per 1,000 sq. ft. GFA
Sign Painting Service	3.0 per 1,000 sq. ft. GFA
Technical Schools	0.33 per student, plus 1.0 per staff member
TRANSPORTATION FACILITIES	
Aircraft Landing Field	0.2 per aircraft tiedown, plus 0.2 per aircraft storage area, plus 1.0 per plus employee on largest shift
Airport	by individual review
Airport Related Activities	by individual review
Bus Terminal	8.0 per 1,000 sq. ft. waiting area
Hazardous Waste Transfer Facility	1.0 per employee on the largest shift
Railroad Switching and Classification Yard Shipping Port	1.0 per employee
Truck Terminal	1.0 per employee
Warehouse	1.0 per 1,000 sq. ft. GFA

Warehouse—Mini with on-site office	2.0 per 100 storage units
MISCELLANEOUS	
Amusement Park	by individual review
Circuses	by individual revue
Crematorium	0.25 per seat of chapel capacity plus 0.33 per employee
Dry Cleaning Plant	1.0 per employee on the largest shift, plus 1.0 per facility vehicle
Flea Markets	3.0 per 1,000 sq. ft. GFA
Lumberyard	2.0 per 1,000 sq. ft. GFA
Publishing and Printing	1.0 per 1,000 sq. ft. GFA
Vehicle Rental and Leasing	3.0 per 1,000 sq. ft. GFA
Research Activities	1.4 per employee
Slaughterhouse	1.0 per 1,000 sq. ft. GFA
Stadium	0.3 per seat
Wholesale Distribution	1.0 per 1,000 sq. ft. GFA
Note: GFA = Gross Floor Area	

6. Calculation of certain parking requirements - Where parking requirements relate to number of seats, and seating is in the form of undivided pews, benches, or the like, 20 lineal inches shall be construed to be equal to one seat. Where parking requirements relate to movable seating in auditoriums and other assembly rooms, ten square feet of net floor area shall be construed to be equal to one seat, except where otherwise specified. Net floor area shall be the actual area occupied by seating and related aisles, and shall not include accessory unoccupied areas.

7. Determination for unlisted uses or alternative parking - The Chief Administrative Officer or his designee shall make a determination, in the cases of uses not listed in Schedule A above of the minimum required off-street parking spaces. In reaching the determination, the Chief Administrative Officer or his designee shall be guided by the requirements for similar uses, the number and kind of vehicles likely to be attracted to the proposed use and studies of the parking requirements of such uses in other jurisdictions. The Chief Administrative Officer or his designee may approve alternative parking standards in situations where an applicant can sufficiently demonstrate that a particular situation is unusual, unique, or poses practical difficulty, and upon submission of adequate technical justification such as independent parking analyses, ULI or ITE parking standards, or similar justification.

8. Dimensions for off-street parking - Each off-street parking space shall be designed in accordance with the requirements specified in the Hernando County *Facility Design Guidelines.*

9. Disabled Parking - Parking for the disabled shall be provided as shown in Schedule B.

SCHEDULE B

MINIMUM DISABLED PARKING SPACE REQUIREMENTS

Total Parking Spaces in Lot	Required Number of Accessible Spaces
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 for each 100 over 1000

10. Required Paving

a. Except for single and two family dwellings, every off-street parking area shall be surfaced with asphaltic or portland cement binder pavement or an equivalent improvement, so as to provide a durable and dustless surface. In making a determination as to the suitability of an equivalent improvement, the Administrator shall find that such improvement:

i. Provides a safe and permanent surface, suitable for the quantity and quality of traffic expected to use it;

ii. Provides a surface which will accept permanent delineation of parking spaces, aisles, accessways and maneuvering areas; and

iii. Provides a surface that will not contribute to erosion or sedimentation, either on-site or off-site.

b. Stabilized pervious parking surfaces may be permitted in lieu of the paving requirements above for seasonal uses or uses not active on a daily basis. The surfaces must contain permanently delineated spaces if determined necessary by the Community Development Department.

11. Off-street loading space - Every use requiring the receipt or distribution, by vehicles, of materials and merchandise shall have one or more loading berths or other space for standing, loading and unloading on the same or adjoining premises in accordance with the requirements of Schedule C. Loading space shall be sufficient to allow normal loading and unloading operations of a kind and magnitude appropriate to the property served. Loading spaces shall not be used for the storage of vehicles or materials, or to meet off-street parking requirements, or in conducting the use. The requirements in the table below shall apply to new structures or additions to structures, and shall not be considered to make any existing structure non-conforming for lack of such off-street loading.

For any land use which is not listed in the table below, the Chief Administrative Officer or his designee, upon review of the proposed use, shall specify the required number of loading spaces to be provided, using generally accepted traffic engineering practices and standards.

SCHEDULE C

OFF-STREET LOADING REQUIREMENTS

Land Use	Space Requirements
Hotel/Motel uses	One loading berth for every 100,000 square feet of floor area.
Industrial and commercial uses as follow	Minimum number of loading berths required
Under 8,000 square feet	1 berth
8,000—25,000 square feet	2 berths
25,000—50,000 square feet	3 berths
50,000—100,000 square feet	4 berths
100,000—Over square feet	5 berths

12. Off-street loading space standards - All off-street loading spaces shall meet the following standards:

a. Off-street loading spaces shall meet, be located and arranged so that a semi-trailer truck (WB 50 class) shall be able to gain access to and use such spaces by means of one continuous parking maneuver.

b. Loading space shall observe the minimum street and interior setback established for structures.

c. All loading space and maneuvering space shall be surfaced with an all-weather material which shall be maintained in a safe, sanitary, and neat condition.

d. No loading space shall be located so that a vehicle using such space intrudes on or hinders the use of travel lanes, walkways, public or private streets, or adjacent properties.

e. Each required off-street loading space shall have a minimum width of 12 feet and a minimum vertical clearance of 16 feet above finished grade of the space. The length shall be a minimum 30 feet for local delivery and 60 feet for semitrailers. A maximum of two-thirds of the required loading spaces can be used for local delivery vehicles.

13. Bicycle parking - For non-residential uses having an off-site parking requirement of 20 spaces or more, a number of off-street bicycle parking spaces shall be provided equal to five percent of the automobile parking space requirement. All bicycle racks must be the "Inverted U" type. Each inverted U provided will count as two bicycle parking spaces.

14. Recreational vehicle parking – In residential districts, all recreational vehicles, boats, personal watercraft and trailers shall be parked within an accessory private garage building or, in the rear or side yard or, in the case of a corner lot, behind the front building line facing each street or right-of-way on a stabilized surface.

M. Exterior parking lot lighting – In all non-residential and multi-family parking areas, parking lot lighting shall be subject to the following requirements:

1. Applicability

a. Regular maintenance to existing exterior lighting shall not require compliance with the requirements of this Subsection. For the purposes of this Subsection, regular maintenance shall be considered to include cleaning and changing lamps, ballasts, starters, housing, lenses, replacing damaged poles, and other similar components.

b. When 50 percent or more of the existing lighting fixtures of an exterior lighting system are upgraded, changed, or replaced, as measured cumulatively from the effective date of this Subsection, the entire exterior lighting system shall be brought into compliance with the requirements contained herein.. This requirement shall not apply to regular maintenance of an existing lighting system.

c. Parking areas of outdoor recreational facilities (public or private), such as, but not limited to stadiums, football fields, soccer fields, baseball fields, softball fields, tennis courts, auto race-tracks, horse race-tracks or show arenas shall be subject to the provisions of this Subsection. Fields, courts, tracks and arenas are excluded from these requirements.

2. Exemptions - Exterior lighting meeting the Applicability criteria of M.1. above is exempt from the requirements of this Subsection in the following instances:

a. Projects with unexpired construction plan approval at the time of the effective date of this Subsection.

b. Correctional facilities with lock down capability.

c. Temporary lighting needed for the performance of emergency safety repairs or natural disaster recovery.

d. Lighting for building construction provided that the fixtures used are directionally shielded and aimed so that the light is confined to the area to be illuminated.

e. All lighting required by Federal, State or local regulatory agencies.

3. Fixture types

a. Except as provided herein, all parking lot light fixtures shall be full cut-off type.

b. The use of floodlighting is allowed for illuminating equipment and material storage areas, truck loading bays (docks) and outdoor work, manufacturing, or assembly areas associated with industrial facilities, non-electric utility facilities, municipal material yards, areas used for parking or loading large trucks or buses, and other areas where necessary for safety reasons. Floodlights may also be used to externally illuminate a sign provided they are aimed to illuminate only the face of the sign. All floodlights shall be fitted with internal or external shielding and/or louvers. Floodlights shall be aimed so that the area illuminated is confined within the project boundaries.

c. At canopied areas, such as those found at drive-through facilities at banks, service stations, convenience centers, and car-washes, lighting under the canopy, awning, porte-cochere, or similar structure shall be either recessed or full cut-off fixtures.

SECTION 4-4.3. COMMERCIAL DEVELOPMENT DESIGN STANDARDS

A. Small-scale commercial design standards

1. Applicability

a. Provisions of this section are applicable to all retail commercial development whose total gross building area is less than 25,000 square feet, all non-retail commercial development regardless of size, and all office development regardless of size. The design standards apply to the commercial and office projects specified above located within the C-1, C-2, C-4, PR and P-1 zoning districts. The provisions of this section do not apply to projects in the CIS-1, I-1 and I-2 zoning districts.

b. If a single use, single lot development comprised of multiple buildings is being phased by the developer and a phase of the development has been constructed or received a development permit at the time of adoption of this ordinance, subsequent development must either meet the minimum standards provided for herein, or continue with the same architectural design and concept as the existing development.

c. Provisions of this section are applicable to new development and additions to or modifications of an existing building that increases gross floor area by more than fifty (50) percent.

d. Compliance with the standards set forth in this section shall be demonstrated by submittal of drawings and a site development plan meeting the requirements of Article VIII, Section 8-2.3. of this Code.

2. Building orientation and primary facade standards

Primary facades must meet the primary facade standards outlined in this section. For purposes of this section, the term street includes driveways and accessways, and other ways used by the public for vehicular travel, whether or not dedicated to or owned or maintained by a governmental entity; except that alleys are excluded.

a. Commercial buildings located mid-block shall be oriented to face the street, unless it can be shown that there are compelling site conditions that necessitate that the building not face the street, then the building is considered to have two primary facades; the facade that faces the street and the facade that incorporates the customer service entrance.

b. Commercial buildings on corner lots shall be oriented to face a street, unless it can be shown that there are compelling site conditions that necessitate a different orientation. If site conditions necessitate that the

primary entrance not face the street, then the building is considered to have three primary facades; the two facades that face the street and the facade that incorporates the customer service entrance.

c. All primary facades of a building shall be designed with consistent architectural style, detail, trim features, and roof treatments.

d. For parcels of one half (1/2) acre or larger, building perimeter landscaping on the primary facade side shall be planted adjacent to, or between the building and the drive aisle or parking area and shall include shrubs and ground cover. The minimum landscaped area shall be determined by the following formula: 5 feet times the length of each primary facade times 50 percent. The area of building perimeter landscaping can be used to meet the required 15 percent landscaping for the parcel. Landscaping shall where feasible, use native and drought tolerate plant materials.

3. Primary facade standards

a. Primary facades shall provide at least three (3) of the following:

i. For parcels less than one-half (1/2) acre, building perimeter landscaping on the primary facade side shall be planted adjacent to, or between the building and the drive aisle or parking area and shall include shrubs and ground cover. The minimum landscaped area shall be determined by the following formula: Five (5) feet times the length of each primary facade times fifty (50) percent. The area of building perimeter landscaping can be used to meet the required fifteen (15) percent landscaping for the parcel. Landscaping shall where feasible, use native and drought tolerate plant materials.

ii. Arcades or colonnades a minimum of five (5) feet wide, mansard roofs with a minimum five-foot overhang, or other roof treatments that provide shade and a break in the vertical plane, along at least fifty (50) percent of the horizontal length of the primary facade.

iii. Display windows a minimum of four (4) feet high, along at least fifty (50) percent of the horizontal length of the primary facade.

iv. Awnings, associated with windows and/or doors, in increments of ten (10) feet or less in length, along at least fifty (50) percent of the horizontal length of the primary facade.

v. Windows, covering at least forty (40) percent of the length of the primary facade.

vi. Arched, gabled, stepped or decorative parapet over primary customer entrance, integrated with the building's massing and style.

vii. Canopies or porticos, integrated with the building's massing and style.

viii. Peaked roof forms.

ix. Overhangs, a minimum of 18 inches feet wide.

x. Arches, or arched or curvilinear forms.

xi. Ornamental and structural details that are integrated into the building structure.

xii. Recesses and/or projections at least every twenty (20) feet.

xiii. Any other treatment or the combination of a number of separate treatments which together exceed the minimum as specified for primary facades that, in the determination of the Chief Administrative Officer or his designee, meets the intent of the commercial design standards.

b. Exterior building materials shall be regulated as follows:

i. Corrugated or ribbed metal wall panels, used as a finish material, shall be prohibited on the primary facade.

ii. Smooth-faced concrete or smooth faced masonry units on a primary facade shall have stucco, decorative cementacious finish, or other decorative finish. The use of painted, struck block eight (8) × eight (8) × sixteen (16) will not be allowed as a finish material.

iii. All non-primary facades of any structure shall have finished surfaces, without a limitation on the types of materials.

c. Roof treatments shall be regulated as follows:

i. Both single and multiple-tenant buildings and projects are required to have variations in the roof lines, and roof features that are consistent with the building's mass and scale. In addition, roofs shall meet at least two (2) of the following requirements:

1) Decorative parapets that are a minimum of three (3) feet in height above the finished roof or that are high enough to block the view of any mechanical equipment.

2) A three-dimensional cornice treatment, a minimum of twelve (12) inches high, having a minimum of three (3) vertical (not diagonal) changes in plane (no two (2) on the same plane), and a variety of thickness in relief ranging from the greatest at the top to the least at the bottom.

3) Overhanging eaves that extend at least two (2) feet beyond the supporting walls, with a minimum fascia of six (6) inches deep.

4) Two (2) or more roof planes per primary facade.

5) A sloping roof with an average pitch of 4:12 or greater.

6) Any other treatment that, in the determination of the county administrator or designee, meets the intent of the commercial design standards.

ii. Rooftop equipment and fixtures shall be concealed from eye-level view from any public right-of-way and from the ground level of any adjacent properties.

d. Exterior lighting shall be subject to Subsection 4-4.2.M. above.

B. Large-scale commercial design standards

1. Applicability

Provisions of this section are applicable to all retail commercial development whose total gross building area is 25,000 square feet or greater.

2. Development standards

The following additional standards shall be required for all large-scale retail commercial projects:

a. Facades

No uninterrupted and/or unadorned length of any portion of the facade shall exceed 100 linear feet. Interruptions of such continuous lengths of the facade shall include wall plane projections and/or recesses of not less

than five feet in off-set, and 20 feet in length, and two or more of the following: architectural features such as pilasters, columns, canopies/porticos, arcades, colonnades, and/or parapets. These requirements shall not apply to sides that incorporate loading and/or service areas unless said side(s) face an adjoining public right-of-way or residentially zoned property or are otherwise visible to the public.

b. Multiple stores within a single building

Where a large retail project contains individual stores that are less than 25,000 square feet of gross floor area each and contain separate, exterior customer entrances, the street level facade of each store shall provide windows between the height of a minimum of 3 feet and 8 feet above the walkway grade, for no less than sixty 60 percent of the horizontal length of the building facade of each store.

c. Detail features

All facades shall include patterns at intervals of no more than thirty 30 feet either horizontally or vertically. Such patterns shall include windows, color changes, texture changes or material module changes, and/or surface modeling changes such as offsets, reveals, or ribs of no less than twelve (12) inches in width.

d. Materials

Predominant exterior building material shall include architectural or split face block, brick, glass, wood, stucco, artificial stucco, stone or concrete with architectural finish.

e. Entryways

All facades shall include at least one customer entrance, or be screened from public view with no less than a 10-foot wide buffer with foundation landscaping in planters or planting beds which extend a minimum of 18 inches from the building along the entire length of the 10-foot buffer with a minimum of one overstory tree every 30 feet. Customer entrances shall be clearly defined and include at least two 2 of the following features: canopies/porticos, overhangs, recesses/projections, arcades, raised above-the-doorway cornice parapets, peaked roof forms, arches, outdoor patios, display windows, integrated architectural details such as tile work, moldings, planters or wing walls, and/or landscaped sitting areas.

f. Service and loading areas

Service and loading dock areas shall be screened by an architecturally-finished masonry wall, PVC fence or combination architecturally-finished masonry wall/PVC fence 8 feet in height and extending the entire length of the service and loading dock areas. A buffer area 6 feet in width containing evergreen plants a minimum of 6 feet in height and spaced no more than 6 feet apart shall be provided along the exterior of the wall. These provisions shall not apply to facades that face adjoining property zoned for an equal or greater intensity and that incorporate service and loading dock areas, provided that the adjoining property's building facade(s) facing the proposed development incorporate service and loading dock areas.

g. Roofs

Flat roof lengths, longer than one hundred (100) feet in length shall be concealed or addressed utilizing at least one of the following:

i. Parapet - The parapet design shall be a minimum of 3 feet in height and shall incorporate a three-dimensional cornice treatment. Alternative designs such as varying the parapet height for a minimum linear distance of 100 feet, and a minimum vertical height of 2 feet shall be subject to approval by the Chief Administrative Officer or his designee.

ii. Two 2 or more sloping roof planes that extend a minimum of 3 feet above the eave.

h. Pedestrian circulation

Large retail projects shall encourage pedestrian-oriented ingress and egress through design features that enhance pedestrian safety, efficiency, and connectivity with a clear definition between vehicular areas and pedestrian walkways.

i. Sidewalks

i. Pedestrian connectivity between the building facade and each grouping of parking spaces, public sidewalks, out parcel buildings, and transit stops shall be clearly indicated through the use of landscaped areas and sidewalks. Along each facade with customer entrances there shall be a sidewalk along the full length of the facade. For multiple store developments all facades with multiple customer entrances shall include a covered sidewalk connecting all

entryways. For single store developments, a covered canopy shall be provided from the entryways to the edge of the sidewalks connecting to the remote parking area.

ii. Sidewalks remote from the building shall be a minimum of 5 feet in width and provide a minimum of 3 feet of green/landscaped area between the edge of sidewalk and the vehicle use area.

j. Pedestrian amenity area

Large-scale retail projects shall include pedestrian amenity areas that include landscaped sitting areas with design components such as covered seating elements and/or other amenities in shaded areas. One pedestrian amenity area shall be required for each retail establishment with a building area between 25,000 and 100,000 square feet. For each retail establishment with a building area greater than 100,000 square feet, an amenity area shall be provided for each customer entrance. The amenity areas should be placed in areas which have the highest pedestrian traffic.

k. Parking areas.

Parking lots and access aisle-ways shall be designed as follows:

i. Parking areas shall be designed so that no more than 100 spaces are part of a clearly defined grouping of spaces. Such groups shall be broken into individual areas and/or clearly separated by landscaped or weather-protected pedestrian walkways, significant landscape or geographic features and/or by design components of the proposed building(s). The design of these separators shall consider pedestrian movements, conflict points with vehicles, site distance and angles, security site lighting and safety within the parking lot area. Separations shall be no less than 8 feet in width at any point. A pedestrian access way shall be provided to every customer entrance. The parking lot shall be designed with traffic calming features along the fire lanes fronting the building facades. Parking lots shall be designed to reduce vehicle movement along the fire lane. Design features may include cross driveways, ninety-degree parking space design, and consideration of site access points. At least 20 percent of the required parking spaces shall be placed in the rear or side areas of the proposed development. Alternative designs that incorporate existing natural resources are encouraged and are subject to approval by the Chief Administrative Officer or his designee.

ii. Each parking space in excess of the minimum required by this Code shall provide an additional landscaped area of 10 square feet to be placed within the internal parking area, and/or right-of-way buffer. Pervious parking areas, including turf block or grass shall be used for at least 5 percent but no more than 20 percent of the total constructed parking spaces, subject to approval by the Chief Administrative Officer or his designee. If grass parking is proposed, the parking shall be designed and constructed with a structural support (i.e. go-grid, go-block, etc.). The area designated for pervious parking shall be located at the perimeter of the parking lot. Pervious parking areas shall not be credited towards landscaping requirements.

l. Landscaping

The following landscaping standards shall be incorporated into the design of all large-scale retail projects:

i. Foundation landscaping shall be required for at least 50 percent of the facade length. The foundation landscaping shall be located between the drive aisle and the first vertical wall of the building facade. A minimum of 25 percent of the required foundation landscaping shall be placed between the required sidewalk and the first vertical wall of the building facade. The foundation landscaping shall be in planters or planting beds that extend a minimum of 18 inches from the building.

ii. In parking areas, every 10 spaces shall be designed with a minimum 400 square feet of landscaping to be placed in medians or islands and shall include at least one overstory tree, one understory tree and 6 shrubs. No median or island shall be less than 5 feet in width. No row of parking spaces shall have more than 10 spaces without landscaping interruption. Grouping of landscaped islands is encouraged to promote the healthy growth of larger trees. Alternative designs are subject to approval by the Chief Administrative Officer or his designee.

iii. A perimeter buffer shall be required along the full length of all streets serving a large-scale retail development. The buffer shall be a minimum of 35 feet in width and comprised of retained natural vegetation, or planted with native plant species.

m. Signage

Signage shall be designed as part of a complete development system. The location(s) and design shall be reviewed and approved as part of the overall site plan. The predominant sign material shall include architectural or split faced block, brick, glass, wood, stucco, artificial stucco, or stone and be compatible with the principal building design. This Subsection does not apply to site directional signage, traffic control signage, or building signage. Building signage shall comply with the requirements of Article VII.

n. Outdoor display and sales

Any permanent display areas not within the building which face an adjoining public right-of-way, parking area or residential zoning district shall be shielded from view by a wall made from architectural or split face block, brick, glass block, wood, stucco, artificial stucco, stone, concrete with an architectural finish or a combination of the foregoing materials. The wall shall be incorporated into the overall design of the building and extend a minimum of 4 feet in height and may contain openings up to 6 feet in width at intervals of no less than 30 feet. As an alternative, a landscaped buffer area 6 feet in width containing evergreen plants a minimum of six feet in height and spaced no more than six feet apart may be provided along the exterior of the wall.

o. Lighting

Exterior lighting shall be subject to Subsection 4-4.2.M. above.

3. Compliance

In addition to the application requirements of this Code, a colored facade rendering shall be submitted at time of application submission to ensure that the development standards required herein are met.

PART 4-5

LANDSCAPING AND TREE PROTECTION

SECTION 4-5.1. PURPOSE AND INTENT

The intent of this Part is to provide for required landscape, buffering and tree protection in existing developments, redevelopments and proposed developments. The purpose is to enhance aesthetic appearance and preserve the environmental and ecological benefits of trees and other

native vegetation in a manner that implements the goals, objectives, policies and standards as set forth in the City's Comprehensive Plan. Landscape, landscaped areas, buffers and tree protection shall be provided for or accomplished in the manner set forth in this Part.

SECTION 4-5.2. TREE CITY USA PROGRAM; ARBOR DAY OBSERVANCE AND PROCLAMATION.

A. Authority to implement the Tree City USA program - The City Council states its intent to continue as an active participant of the Tree City U.S.A. program as set forth by the National Arbor Day Foundation and administered by the State Department of Agriculture, Division of Forestry. The City shall adopt and enact administrative procedures necessary to meet the standards, as specified by the Arbor Day Foundation, to be a recognized participant in this program.

B. Arbor Day observance and proclamation - The City Council recognizes and observes the third Friday of each January as Arbor Day.

SECTION 4-5.3. MULTI-FAMILY AND NONRESIDENTIAL REQUIREMENTS

With the exception of Section 4-5.9., all multifamily and nonresidential land uses shall be subject to the requirements of this Part.

SECTION 4-5.4. TREE REMOVAL

A. Permits - A tree removal permit application or landscape plan approval, in conjunction with development or redevelopment activities, shall be required prior to permitting any action to landscape a site or to cut down, destroy, remove or move, poison or destroy through damaging, or authorize the same, to any living tree with a diameter breast height (DBH) 10 inches or greater. Trees with a diameter breast height (DBH) 18 inches or greater shall be classified as a specimen tree and shall be preserved unless the tree is within six feet of a site approved for a building. The City Council is empowered to make deviations from development regulations or to authorize removal of specimen trees. A permit will be issued by the Chief Administrative Officer or his designee if the remaining trees on the site are sufficient to comply with minimum landscaping requirements, the site would be brought into compliance with minimum requirements, or the tree is to be replaced by one or more approved trees totaling 100 percent of the diameter of the tree to be removed. All other permits require City Council approval.

B. Exceptions - The following situations or circumstances are exempt from the permit or approval requirement:

1. All state-licensed, governmental and commercial plant or tree nurseries and botanical gardens where trees are grown for the purpose of being sold or for other public purposes.

2. All groves of trees in active commercial operation for bona fide agricultural purposes only.

3. Trees presenting an imminent danger to the public health or safety, as determined by the Chief Administrative Officer or his designee.

4. Trees located within a public or private right-of-way or maintenance easement which inhibit the clear visibility triangle (CVT) or disrupt utilities such as power lines, drainageways and similar public utilities where proper pruning will not alleviate the hazard. All efforts shall be made to prune or top any trees which inhibit clear visibility or disrupt utility lines.

5. Trees to be removed which are listed as restricted trees in Subsection 4-5.6.E.9.

6. In a declared emergency the Chief Administrative Officer or his designee may waive the requirements of this Part to facilitate public and/or private endeavors.

C. Mitigation Fund – As an alternative to the onsite restoration of trees or other vegetation which have been removed from a site, the developer may select to contribute and equivalent amount to the Tree Mitigation Fund.

D. Application requirements - Applications for a tree removal permit to remove, replace or move trees shall be accompanied by a permit fee and the appropriate information as follows:

1. Written statement - State the reasons for the requested action. For trees that are to be saved or retained, each application shall contain a statement of how these areas are to be protected during and after construction activities.

2. Site layout - Two copies of a legible site layout drawn to the largest practicable scale indicating the following:

   a. Trees which are a minimum ten inches DBH shall be identified by location on the site, common name and proper botanical name, DBH, and quantity in the event that a stand of trees occurs. Such identification should be verified by a site inspector.

   b. A plan legend which shall denote:

      i. Trees to be removed.

      ii. Trees to be retained.

      iii. Trees to be relocated.

iv. Replacement stock to be planted.

v. The name, address, telephone number and signature of the property owner.

vi. The legal description of the property.

vii. North arrow, scale and identification of nearest streets.

viii. Name of landscape designer/consultant, if any.

c. Location of all existing and proposed structures, improvements and uses, including the location and dimension of property lines, building and structure setbacks, and buffers as required.

d. Proposed changes, if any, in elevation, grade and major contour.

e. Locations of existing or proposed utility services.

E. Fees - The City Council may set reasonable fees and charges for the implementation of this Part. Such fees shall be set by resolution of the City Council and payment of permit fees shall be made before tree removal permits or certificates of occupancy will be issued.

SECTION 4-5.5. TREE PROTECTION AND PRESERVATION REQUIREMENTS

A. Reduction bonus and tree credits - Preservation of existing healthy mature trees indigenous to the area will be encouraged through implementation of bonuses as follows:

1. One percent reduction in the required open space equal to one percent of the developed area shall be allowed for each tree with a DBH of 12 inches or more.

2. An additional half percent reduction in required open space shall be allowed for each 12-inch increment beyond the first 12 inches of DBH.

B. Protection of trees and shrubbery

1. At least a 48-inch high protective marker or perimeter line shall be placed around all protected trees prior to any land preparation or other development activities as follows:

a. No closer than half the radius of the dripline or ten feet, whichever is greater.

b. The marker shall be easily seen by equipment operators. Should such a marker make vehicular access to the property impossible, an access route no wider than 15 feet wide and no closer than ten feet from any protected tree will be allowed.

2. Required protective markers and perimeter lines shall remain in place until all construction activity, except landscaping within the protected area, is terminated.

3. No attachments, signs, permits or wires excepting protective guy wires supporting the tree, shall be attached or nailed to any tree.

4. During development and construction of any structures or improvements, it shall be unlawful to place solvents, materials, machinery, concrete, mortar or temporary soil deposits, or allow disposal of same, within the dripline of any protected tree.

5. Grade changes shall not be made within the dripline of any tree or stand of trees without formal approval of the submitted landscape plan by the Chief Administrative Officer or his designee.

6. Trees destroyed or receiving damage to the extent that survival is reasonably questionable must be replaced as herein provided before a certificate of occupancy or other land use permit may be issued.

B. Canopy road protection

1. Tree protection zones.

a. The City Council has determined that certain roadways within the city merit special protection of the trees that line or provide canopies over the roadways. It is the purpose of this Section to describe those roadway sections and require additional protection through control of activities on lands abutting these roadways.

SCHEDULE D
TREE PROTECTION ZONES

Street Name	From/To
Brooksville Ave.	Liberty St. to Russell St.
Colonial Dr.	Old Hammock Rd. to Shadow Dr.
W. Ft. Dade Ave.	Main St. to N. Broad St.
E. Ft. Dade Ave.	Main St. to Cobb Rd.
Garden St.	Decatur Ave. to Mildred Ave.

Highland St.	Stafford Ave. to Howell Ave.
Irene St.	Howell Ave. to Bell Ave.
Olive St.	Howell Ave. to Bell Ave.
Liberty St.	Brooksville Ave. to Jefferson St.
Mildred Ave.	Summit Rd. to Daniel Ave.
Mount Fair Ave.	Bell Ave. to N. Broad St.
Daniel Ave.	Main St. to Hale Ave.

b. All lands within 50 feet of the centerline of the roads listed in Schedule D of this section are declared to be tree protection zones (TPZ).

c. Minor neighborhood access streets of less than two-tenths of a mile in length shall not be considered for inclusion as TPZs.

2. Tree protection

a. No tree shall be removed for the purpose of access to adjacent properties, and no improvements shall be carried out nor made in the TPZ other than routine maintenance of existing roadways, utilities and existing drainage facilities without the express, written approval of the City Council.

b. Any person who removes a specimen or canopy tree without the required permit shall be in violation of this Part and subject to the penalty provided in Section 4-5.9. Additionally, trees so removed shall be replaced by the violator with the same species and number of trees necessary to provide a total replacement diameter equal to the total diameter of the trees removed; provided, that no individual replacement tree shall have a diameter of less than six inches at DBH, a height of not less than 15 feet and a crown spread of not less than ten feet. Maintenance of replacement trees shall be the responsibility of the violator for a period of one year. Any tree that dies within the one-year period shall be replaced again and maintained for an entire year to ensure its long-term survival.

c. Nothing in this Part shall be construed to prevent routine maintenance or the trimming of trees by individuals or public utilities or their authorized agents where such trimming or maintenance is required for the establishment or continuation of the service provided by such utility.

SECTION 4-5.6. LANDSCAPE REQUIREMENTS

A. Landscape plan/open space. Where a development permit is sought, the applicant shall submit a general landscape/open space plan with the site plan. The total minimum landscaped/open space of the developed area, including setbacks, shall be as follows:

1. Twelve (12) percent for sites less than 25,000 square feet.

2. Fifteen (15) percent for sites 25,000 square feet up to one acre.

3. Twenty (20) percent for sites one acre or larger.

B. Off-street parking and vehicular circulation areas - The following provisions and requirements shall apply to all offstreet parking areas for automobiles and vehicle circulation areas:

1. Required landscaped area (RLA) - Minimum RLA for parking areas shall be ten square feet for every parking space plus one square foot for every 50 square feet of parking and vehicle circulation area exceeding 5,000 square feet.

   a. Minimum required land area for RLAs - Each RLA shall contain a minimum of 50 square feet.

   b. RLA for rows of parking spaces - A landscaped area shall be provided at each end of all rows of parking. In addition, at least one landscaped area shall be provided between every ten parking spaces; provided, however, that when double (front-to-front) rows of parking spaces are utilized, each required landscaped area shall contain a minimum land area of 100 square feet.

2. Required trees. At least one tree shall be provided in each landscaped area as required by subsection 1.b. of this section; provided, however, that two trees shall be provided for each required landscaped area that is in excess of 150 square feet, and one additional tree shall be required for each additional 150 square feet or portion thereof of such RLA.

3. Required shrubs - Each RLA shall be planted with shrubs in the ratio of one shrub per 20 square feet.

4. Parking space reduction to protect existing trees - The Chief Administrative Officer or his designee shall have the authority to reduce the required number of off-street parking spaces when such reduction would result in the preservation of existing trees. Only trees which are a minimum of 12 inches in diameter when measured at the DBH shall be applicable for such reduction. In addition, such reduction provided may be allowed only when the number of required parking spaces shall result in a decrease of no more than five percent of the total number of required off-street parking spaces required for the proposed land use.

C. Landscape adjacent to streets and parcels - A landscape strip shall be provided along all parcel lines and abutting all street right-of-way lines. Landscaped strips shall be considered to be RLAs and may be included as fulfilling the buffer requirements for the

premises. However, no part of a landscaped strip required for any use shall be included as fulfilling the landscape or buffer requirements for another use unless specifically provided for in this Part. Landscaped strips shall be provided in the following manner:

1. Street rights-of-way - A ten-foot wide landscaped strip shall be required along all parcels lines abutting a street right-of-way, except within the central business district and other parcels where an allowance or variance has been granted for zero lot lines. The landscape design shall meet the requirements of the clear visibility triangle (CVT) at street and driveway intersections, as applicable. Landscape shall be provided within the required landscaped strip as follows:

    a. Trees - One tree shall be provided for every 25 linear feet. Trees indigenous to the area (of appropriate species) are to be used, and shall be spaced in a manner that will avoid the possibility of damage to underground or overhead utilities.

    b. Hedge - A linear planted hedge is required when off-street parking, loading, unloading and vehicle circulation areas are to be located adjacent to any street. At planting, shrubs shall be at least 30 inches in height and shall be separated by not more than 30 inches. In lieu of a vegetative hedge, the Chief Administrative Officer or his designee shall be authorized to approve the use of berms or other appropriate landscape materials in a manner that results in the visual separation of street rights-of-way and the premises in question.

2. Required landscape and buffer - When both buffer and landscape strip requirements apply, required trees (as described in Subsection e.2. of this Section) shall be provided. In addition, when a landscape strip is included to meet the buffer requirements, the more stringent requirements shall apply.

3. Joint accessways - Where two parcels share a common access way from a frontage road or roadway along the common property line, the buffer and landscape requirements shall be waived for that area along the parcel line and right-of-way.

D. Landscape and screening for all commercial dumpsters - All trash receptacles shall comply with adopted public works department standards and be of sufficient size to accommodate the trash generated. The receptacles shall be screened from public view. Screening on three sides shall be no less than six feet in height and shall be composed of any one or a combination of the following elements: solid masonry wall, wooden stockade or PVC fencing or chain link fencing with neutral metal or wood slatting. A gate not less than five feet in height may be used to screen the fourth side. Landscaping shall be incorporated around each screened receptacle and may include berms, vines, shrubbery and trees.

E. Landscape material

1. Drought-tolerant landscaping - Whenever and wherever possible, use of drought-tolerant (Xeriscape) landscaping (as defined by the Southwest Florida Water Management District's *A Guide to Florida-Friendly Landscaping*) is recommended in landscape design and construction.

2. Required tree and shrub stock - Species acceptable for replacement or replanting purposes are those native (indigenous) to the City environs and Central Florida. Any substitution must be approved by the Chief Administrative Officer or his designee.

3. Survival - Maintenance of all landscaped areas shall be the responsibility of the property owner. All landscaping shall be maintained in a good condition, having an orderly and healthy appearance, free of refuse and debris. In the event that trees or landscape plantings expire during any time after completion of development, the property owner shall be responsible for replacement. Failure to maintain landscape areas and plants shall be considered a violation of this Article and subject to enforcement and penalties as provided in this Article.

4. Other acceptable ground cover - Where it is not possible to retain existing natural ground cover, landscaped areas shall be seeded or sodded, or provided with other acceptable ground cover as approved by the Chief Administrative Officer or his designee.

5. Planting and installation - The following shall govern planting and installation of all required trees and other landscaping:

    a. Trees and landscape shall be planted in accordance with accepted commercial/horticultural planting procedures.

    b. All plants, including grass sod, shall be sound, healthy, vigorous, free from mutilation, diseases, fungus, insect pests and their eggs, and shall have healthy root systems. Plants shall be nursery grown stock in containers or freshly dug, balled and burlapped. Nursery stock shall be in accordance with minimum requirements of the American Standards for Nursery Stock, published by the "American Association of Nurserymen."

    c. Trees shall be a minimum of 3 inches DBH and 10 feet in height, installed.

    d. Shrubs, when installed, shall be a minimum of 12 inches to 18 inches high for all internal landscaped areas; a minimum of 24 inches high for landscaped strips lying between parking areas, private roads and public rights-of-way, and a minimum of 36 inches high where a continuous hedge is required along major or minor arterial roadway rights-of-way.

e. Vines may be used in a buffer in conjunction with walls and fences.

f. Turf areas may be seeded, sodded, plugged or sprigged. For slopes at or greater than 4:1 (25 percent), sod and/or ground cover shall be required. Other soil stabilization methods may be utilized or required, subject to the Chief Administrative Officer or his designee's determination.

6. Maintenance/irrigation system - A proper and efficient maintenance/irrigation system shall be provided in all landscaped areas.

7. Bracing - Wherever new trees are installed they shall be braced, to provide sufficient time for their root systems to become firmly established; after which the bracing shall be removed.

8. Intersection visibility - When any type of accessway or street, public or private, intersects a public right-of-way, all landscaping, including trees, shall be positioned so as to not impede cross-visibility at a level between 2 and 10 feet within the CVT. Trees shall be trimmed so that no limbs or foliage extend into the CVT.

9. Restricted trees - The following trees may not be used within the incorporated city limits to meet the landscaping requirements set forth in this section:

a. Silk Oak (Crevillea Robusta).

b. Jacaranda (Jacaranda Acutifolia).

c. Pine (all species).

d. Eucalyptus (all Eucalyptus species).

e. Ear Tree (Enterlobium Cyclocarpum).

f. Paper Mulberry (Broussonetia Papyrifora).

g. Chinaberry (Nebia Azedarch).

h. Cajeput/Punk Tree (Melaluca Leucadendra).

i. Citrus trees (all types).

j. Florida Holly/Brazilian Pepper (Schinus Terebinfolius).

k. Chinese Tallow Tree (Spaium Sebiferum).

l. Mimosa (Albizzia Julibrissin).

m. Camphor (Camphora).

n. Australian Pine (Casuarina Equisetifolia).

10. Restricted shrubs - The following shrubs may not be used within the incorporated City to meet the landscaping requirements set forth in this section:

a. Castor Bean (Ricinus Communis).

b. Rice Paper Plant (Tetrapanax Papyriferus).

11. Prohibited trees – All species listed in the Florida Exotic Pest Plant Council's *Invasive Plant Species List*, as amended, shall not be planted within the incorporated City.

SECTION 4-5.7. BUFFERING AND SCREENING

A. Buffering and screening - Buffering and screening requirements shall apply along all property lines as required by the provisions of this Section. Unless otherwise provided in this Article, the buffer and screening shall be located within the required zoning setback area and the required vegetative landscape screening shall be located within the buffer. A buffer may also contain a barrier, such as a fence, wall, hedge or berm.

B. Determination of buffering and screening requirements

1. Required buffering and screening – Buffering and screening shall be required for all new development and redevelopment. Schedule E shall be utilized in determining the requirements based on the proposed land use and the land uses of adjacent properties. Buffer width requirements shall be determined on an individual project basis as required by this Part and approved by the Chief Administrative Officer or his designee.

2. Location - A buffer shall be provided along all property lines and abutting all street right-of-way lines and shall not be located on any portion of an existing, dedicated or proposed right-of-way, easement or private street. The depth of the required buffer shall be measured and provided parallel to the property line or abutting street right-of-way. No part of a buffer required for any use shall be included as fulfilling the buffer requirements for another use unless specifically provided for in this Article. Buffers shall not be required between various constituent parts of a proposed Planned Development Project containing mixed uses, except that any nonresidential use shall be separated from residential use by at least the minimum required buffer.

SCHEDULE E
BUFFER REQUIREMENTS

Adjacent Land Use	Proposed Property Land Use				
	R	C	CIS	PLI	I
	Buffer Type				
*Residential (R)	A	C	C	B	C
Commercial (C)	C	A	B	B	B
Commercial/Industrial Storage (CIS)	C	B	A	B	B
Public Lands and Institutions (PLI)	B	B	B	A	C
Industrial (I)	C	B	B	C	A

* Includes multi-family developments, manufactured/mobile home developments and platted subdivisions. Single-family and two-family developments are not required to provide a buffer.

3. Buffer types - The following descriptions define the buffer types as required per Schedule E.

   a. Type "A" buffer - A minimum 5-foot wide buffer which includes the required planting of 25 shrubs per 100 linear feet of property, plus, one tree per every 50 linear feet of property, or portion thereof. Earthen berms may be used in conjunction with required landscaping. Such berms shall utilize a slope of 4:1 or less, and shall include such landscaping as necessary to ensure soil stabilization.

   b. Type "B" buffer - A minimum 10-foot wide buffer which includes a continuous hedge of dense shrubbery, plus, one tree per every 50 linear feet of property, or portion thereof. At the time of planting, the required hedge shall not be less than four feet in height, and not exceed a maximum of two feet between shrubs.

   c. Type "C" buffer - A minimum 15-foot wide buffer, except where industrial abuts residential, where there shall be a 30-foot wide buffer. A type "C" buffer shall include a continuous, opaque wall at least six feet in height constructed of masonry, wood or other material as may be approved by the Chief Administrative Officer or his designee. If the wall is constructed of cement block, the side facing the abutting use shall be faced with stucco or another similar decorative finish. In addition, one tree shall be planted along the wall every 25 feet, or portion thereof.

4. Permitted uses within buffers. The following uses shall be permissible within a required buffer:

a. Vehicular ingress/egress to off-street parking, loading, unloading, service area space and vehicular circulation areas.

b. Permitted public service/utility structures.

c. Pedestrian ways with improved surfaces.

d. Stormwater retention or detention areas, provided the required buffer plantings are included, the design and landscaping of the buffer does not interfere with the proper functioning of the drainage system, and the design water depth does not harm the viability of the plantings.

e. Required project improvements upon approval of the Chief Administrative Officer or his designee.

f. Permitted signs upon approval of the required site plan by the administrative official.

5. Restricted uses within buffers. The following uses shall not be allowed within required buffer areas:

a. Off-street parking, loading, unloading, service areas or vehicle circulation areas. In addition, all off-street parking spaces shall be provided with appropriate stops, curbs or other vehicle bumper guards designed to prevent any encroachment of vehicles upon the required buffer.

b. Barbed wire, electric fence or other potentially harmful objects or articles.

6. Mining considerations - For any mining application, landscape and buffer requirements shall be set by the City Council. The basis for determining required landscape and buffering shall at a minimum take into consideration site and ecologic conditions, extraction procedures, and the processing, storage and distribution systems to be used in resource extraction. In addition, conformance with the provisions of F.S. Chapter 378 and F.A.C. Chapter 16C-17 shall apply in determining landscape and buffer requirements.

SECTION 4-5.8. SINGLE-FAMILY RESIDENTIAL AND DUPLEX LANDSCAPE AND TREE REQUIREMENTS.

A. Single-family residential and duplex units shall be required to obtain a tree removal permit prior to any action to cut down, destroy, remove or move, poison or destroy through damaging, or authorizing the same, any living tree with a diameter of 10 inches or greater.

B. One tree, with a minimum one inch DBH, for each 5,000 square feet, or portion thereof, of lot area shall be required for all single-family residential or duplex land uses.

C. Use of drought-tolerant (Xeriscape) landscaping (as defined by the Southwest Florida Water Management District's *A Guide to Florida-Friendly Landscaping*) is recommended in landscape design and construction.

SECTION 4-5.9. PENALTIES

Violators of this Part shall be subject to code enforcement penalties set out in this Code. Any person or persons who remove a specimen or canopy tree without the required permit shall also be subject to providing replacement trees or contribute to the Mitigation Fund as required by this Article. In addition, no development permits or certificates of occupancy shall be issued on lands where violations of this Part exist, until such time as appropriate corrective action is taken by the developer and approved by the City.

PART 4-6

FENCES AND WALLS

SECTION 4-6.1. GENERALLY

A. Purpose - The purpose of these provisions is to prescribe standards for fences and walls for the conservation and protection of property, the assurance of safety and security, the enhancement of privacy and the improvement of the visual environment including the provision of a neat appearance in keeping with neighborhood character.

B. Permit required prior to construction - Prior to construction, all fences and walls shall receive a permit in accordance with this Part and the permitting requirements in effect at that time. Applications for a permit shall be accompanied by a fee as set by the City Council. The City shall not inspect or approve the location of a fence or wall in regard to property boundary issues and is not liable for the legal location of the fence or wall.

SECTION 4-6.2. REGULATIONS

A. Conformity to construction codes - All construction shall conform to Article X of this Code.

B. General Regulations for Fences

1. Height shall be determined from the lowest point of average grade of the lots on either side of and immediately contiguous to the fence, to the average top elevation of said fence. Berms, when used in conjunction with fences, shall be included in height determinations.

2. No fence exceeding two feet shall be constructed within the visibility triangle at roadway intersections.

3. No fence shall impede or divert the flow of water through any drainage way unless by adequate investigation and approval from the City's Public Works Department director, it is shown that the fence will not adversely impact any surrounding property owner and will contribute to an improvement in the overall drainage pattern.

4. Fences shall be constructed in a workmanlike manner and shall be of sound and sturdy construction. Privacy fences shall be installed with the rails to the enclosed areas. The finished (smooth) side shall face rights-of-way or adjoining properties. All posts and support beams shall be placed on the unfinished side of the fence. This does not preclude the installation of post columns with spanning members of metal, wood, or other materials; in which case, the posts are equal in presentation to both sides of the fence.

C. Regulations for required fences and walls - Required fences and walls shall be provided for buffering and screening purposes as provided in Section 4-5.7. Required fences and walls may be permitted up to six feet in height (or eight feet as permitted in D.1.g., h., and i. below) in front yards at the outer boundaries of the development or at the boundaries of distinct portions of the project (such as where multi-family adjoins single-family or commercial adjoins residential development) provided that:

1. No drive or street pierces the wall except at development entrance/exit streets; and

2. The fence or wall is approved by City Council as part of a Planned Development District project or subdivision final plat.

D. Regulations for fences and walls

1. Residential districts

a. Fences and walls over four feet in height shall not be allowed within the required front yards, except as indicated in b., g., h. and i. below.

b. For corner lots, fences and walls up to six feet in height shall be allowed within a front yard which functions as a side yard, provided the fence or wall is located no more than ten feet into the required front yard, as measured from the required minimum front yard setback line.

c. For through lots, fences and walls up to six feet in height shall be allowed within one front yard which functions as the rear yard of the lot when the yard is adjacent to an arterial or collector road.

d. In general, the design of fences and walls shall be in keeping with neighborhood appearance. Fences may be constructed of commonly used materials such as chain link, masonry, wood or PVC.

e. In the HCBRD Overlay district, fences located in the required front yard shall be plain or decorative wrought iron, rounded picket, pointed picket or split rail type.

f. The following materials shall be prohibited in the construction of fences and walls: house siding, scrap metal, second-hand materials not typically utilized for fences and other offensive materials. In addition, fences and walls in any residential district shall not contain any substance such as broken glass, spikes, barbs, nails, electronically charged wiring or similar materials designed to inflict pain or injury to any person or animal. These restrictions shall not be varied.

g. The maximum average height of any fence or wall shall be six feet, except as described in h., i. and j. below.

h. Fences and walls surrounding public utility structures within residential districts shall be exempt from the setback requirements and height requirements (up to a maximum of eight feet) and may use up to three strands of barbed wire on security chain link fences provided that such barbed wire is a minimum of six feet above average grade.

i. Walls, and combination walls and berms, up to eight feet in height, may be erected in yards which abut arterial streets or collector streets, provided that no access is provided to said arterial or collector and the fence is two feet or less in height within the sight visibility triangle. Column height shall be allowed as in k. below.

j. When a six-foot fence or wall height is required for the purpose of screening, height shall be measured from the finished grade at the minimum required setback or buffer line (whichever is greater) of the property which is required to provide the fence or wall. Notwithstanding, in no instance shall fence or wall height exceed eight feet nor be less than six feet measured from the finished grade immediately contiguous to the fence or wall.

k. Columns and posts, including decorative caps and finials, may exceed permitted fence height by a maximum of one foot. Columns and posts which exceed permitted fence height shall be not more than three feet in width and shall be spaced at least six feet apart. Additionally, averaging of fence height may be allowed under special circumstances, such as with a

fence located on a slope, at the discretion of the Chief Administrative Officer or his designee.

2. Agricultural districts - Fence and wall regulations shall be the same as for residential districts except as provided below. Additionally, on parcels with stables or bona fide agricultural operations, fences and walls up to eight feet in height shall be allowed in any yard, although fences and walls in required front yards shall not be more than 60 percent opaque above the height of four feet. Barbed wire fences and electrically charged fences may be allowed in Agricultural districts subject to the requirements of applicable local, State and Federal laws and regulations.

3. Commercial and Office districts - In commercial and office districts, fence and wall regulations shall be the same as for residential districts, except fences in the C-2 or CIS-1 districts. In these districts, fences and walls shall conform to the requirements for fences and walls in residential districts except that six-foot chain link security fences (with 30 percent or less opacity) shall be allowed within any yard.

4. Industrial districts

   a. The maximum height of fences and walls shall be eight feet.

   b. Within front yards, solid fences and walls (i.e., fences or walls with greater than 30 percent opacity) shall be restricted to a height of four feet.

   c. Barbed wire and electrically charged fences may be used if all requirements of all applicable local, Federal and State laws and regulations are met.

PART 4-7

INDUSTRIAL PERFORMANCE STANDARDS

SECTION 4-7.1. GENERALLY

Manufacturing, processing and assembly operations shall observe the following performance standards. Proof shall be provided that all required permits for particular discharges can be met. Since zoning compliance does not substitute for requirements of other agencies, all necessary environmental permits shall be obtained.

A. Lighting - Lighting shall be in accordance with Subsection 4-4.2.M. of this Code.

B. Sound

1. Receiving use: Residential - Sound levels shall not exceed the following standards if the receiving use is residential:

   - 60 dBA between 7:00 A.M. and 10:00 P.M.
   - 55 dBA between 10:00 P.M. and 7:00 A.M.

2. Receiving use: Commercial - Sound levels shall not exceed the following standards if the receiving use is commercial:

   - 65 dBA between 7:00 A.M. and 10:00 P.M.
   - 60 dBA between 10:00 P.M. and 7:00 A.M.

3. Receiving use: Industrial - Sound levels shall not exceed 75 dBA at any time if the receiving use is industrial.

4.

C. Vibration - Vibration levels shall not exceed the following standards:

   Maximum Peak Particle Velocity

   steady state 0.02 inches/second

   impact 0.04 inches/second

   Note: The maximum particle velocity shall be the maximum displacement vector sums of three mutually perpendicular components, recorded simultaneously, multiplied by the frequency in cycles per second. For purposes of this Code, steady-state vibrations are vibrations which are continuous, or vibrating in discrete impulses more frequent than 60 per minute. Discrete impulses which do not exceed 60 per minute, shall be considered impact vibrations.

D. Airborne discharges - Airborne discharges shall be minimized so as to not cause or contribute to an objectionable odor off the operator's property. For the purpose of this Code, objectionable odor shall be defined as the property of a substance which materially offends the sense of smell of a considerable number of persons of the public.

E. Dust - Dust discharges from the operator's property shall be minimized by taking reasonable precautions to include but not limited to: paving and maintenance of roads, parking areas and yards; periodic application of water or chemicals to unpaved roadways and open stock piles; landscaping of yards; use of hoods, fans, filters, and other similar equipment to capture the dust; and use of wet abrasive blasting equipment (when possible) where abrasive blasting is necessary.

F. Measurement provisions - All measurements to determine compliance shall be made at the nearest boundary of the zoning district to the use being evaluated.

PART 4-8

SUPPLEMENTAL DESIGN STANDARDS FOR CONDITIONAL USES, SPECIAL EXCEPTIONS AND SPECIAL USES

SECTION 4-8.1. GENERALLY

A. Conditional uses contained in this Part have been determined to require additional design standards to ensure compatibility with adjacent uses and the surrounding neighborhood. The standards described for each use below shall supplement and be in addition to the standards and criteria otherwise required within this Code. Unless otherwise required herein, compliance with these supplemental standards shall be determined during development review and shall not require any additional procedural steps or review processes.

B. Special Exception Uses contained in this Part shall be considered and approved, approved with conditions, or denied in accordance with the requirements of Article VIII for the issuance of development orders. Changes to previously approved Special Exception Uses contained in this part shall also be considered and approved, approved with conditions or denied in accordance with the requirements of Article VIII for the issuance of development orders. The special exception uses contained in this Part may only be permitted upon demonstration of compliance with all of the requirements of this Part.

C. Special Uses contained in this Part shall be considered and approved, approved with conditions, or denied in accordance with the requirements of Article VIII for the issuance of development orders. Changes to previously approved Special Exception Uses contained in this part shall also be considered and approved, approved with conditions or denied in accordance with the requirements of Article VIII for the issuance of development orders. The special exception uses contained in this Part may only be permitted upon demonstration of compliance with all of the requirements of this Part.

D. To determine if a use contained in this Part is a conditional, special exception or special use, refer to Table 2-2.

SECTION 4-8.2. ACCESSORY DWELLING STANDARDS

A. The accessory dwelling shall be located on a conforming residential lot. Unless otherwise expressly permitted in a Planned Development Project, a minimum lot area of 7,000 square feet shall be required.

B. The residential lot shall be occupied by a principal detached single-family dwelling that is owner occupied.

C. Living space in the accessory dwelling shall be limited to a maximum of 900 square feet. For purposes of this regulation, living space shall include all areas within the dwellings

utilized for living, sleeping, eating, cooking, bathing, washing, sanitation, laundry and storage purposes. Notwithstanding the above, living space shall not include motor vehicle garages and attics, provided such areas are not conditioned and are utilized solely for parking and storage purposes, and covered patios as defined by this Code. Living space shall be measured from the outside faces of the exterior walls.

D. The accessory dwelling may be a detached structure or attached to the principal single-family dwelling on the lot. Detached accessory dwelling units shall, at minimum meet accessory structure setbacks rather than principal structure setbacks. Total building coverage on the lot shall not exceed district standards.

E. The accessory dwelling shall be located on the same lot as the principal dwelling. No more than one accessory dwelling unit shall be permitted on the lot. These requirements shall not be varied.

F. Any detached structure, or any portion of a structure or dwelling that cannot be accessed internally from within the structure or dwelling, which does not meet the requirements for an accessory dwelling as described in this Code shall not be utilized for living or sleeping purposes, including guest visits, at any time.

SECTION 4-8.3. ACCESSORY RETAIL

A. All accessory uses shall be located wholly within a structure containing a permitted use.

B. Not more than one exterior public entrance shall be permitted to serve the accessory use.

C. Accessory uses shall not individually occupy more than 20 percent of the floor area of the total permitted use and all accessory uses in the structure shall not collectively account for more than 20 percent of the total floor area.

D. Parking shall be calculated as if the entire site were developed for the principal use.

SECTION 4-8.4. ACCESSORY STRUCTURES

A. Generally

Accessory structures shall conform to the following regulations, except as may otherwise be provided in this Code. Accessory structures do not include accessory dwellings as regulated by this Code. Accessory structures shall not be utilized for living or sleeping purposes, including guest visits, at any time.

B. Height

Accessory structures shall not exceed 15 feet in height, except 1) where the accessory structure meets the primary structure setback of the district, in which case the maximum

height of the accessory structure may be that of the district, or 2) accessory agricultural structures such as barns and silos (See subsection D below).

C. Location

1. Accessory structures shall not be erected in any required front yard except as outlined in 4., 6. and 7. below. Accessory structures shall be permitted in front yards at twice the depth of the required front yard, or 50 feet, whichever is less. Such structures shall not occupy required side yards.

2. Accessory structures may occupy required side yards provided that such structures are more distant from the street than any part of the principal building on the same lot and any lot abutting said required side yard; provided, however, that such accessory structures are not closer than three feet from any side lot line, including architectural features such as cornices, eaves and gutters.

3. Accessory structures may occupy required rear yards provided that such structures do not occupy more than 20 percent of the required rear yard, excepting swimming pools and swimming pool screened structures, and are not closer than three feet to any rear lot line.

4. On any corner lot no part of any accessory structure shall be located in the required front yards except where one front yard functions as a side yard. On these lots, accessory structures shall be permitted to intrude up to ten feet into the required front yard functioning as a side yard. In zoning districts which require side yards greater than ten feet, the permitted intrusion shall be increased up to a distance equal to said required side yard. The intrusion is measured from the required yard line, toward the street.

5. On corner lots which do not have a required rear yard, accessory structures may be located in the functional rear yard (the area behind what is designed to be the rear of the house) provided the accessory structures meets all other requirements.

6. Through lots may have accessory structures located in the front yard that functions as a rear yard provided that any accessory use or structure of a height greater than two feet shall be set back a minimum of ten feet from the front yard which functions as a rear yard.

D. Agricultural Structures

Accessory agricultural structures shall not be limited to a maximum height, but shall be set back from the zoning lot line as follows:

1. An agricultural accessory structure 15 feet or less in height shall be located a minimum of three feet away from the side and rear zoning lot line and shall not be located in a required front yard.

2. An agricultural accessory structure over 15 feet up to 51 feet in height shall be set back a minimum of one additional foot from the side and rear zoning lot line (in addition to the requirements of paragraph 1 immediately above) for every three feet of increased height up to 51 feet. Therefore an agricultural accessory structure 45 feet in height shall be located a minimum of 13 feet from the zoning lot line. Said agricultural accessory structure shall not be located in a required front yard.

SECTION 4-8.5. ADULT CARE FACILITY

A. Adult care facilities shall be permitted without regard to subsequent standards set forth in this Section if such uses are accessory to the following permitted uses: churches, social service agencies, health care facilities, community centers, or elderly housing developments. Said adult care facility uses may be on a lot with the aforementioned permitted uses, or on an adjoining lot, may be a part of the principal structure, or may be housed in a second structure on such lots.

B. The location and extent of the facility shall not adversely affect the character of the existing neighborhood. The adult care facilities not governed by Section 4-8.5.A. shall be located in a building that is in scale with the buildings located within 200 feet of said building. Said adult care facility buildings shall not deviate by more than 30 percent from the median scale of neighboring buildings as determined by site volume ratio and total building volume.

C. No overnight lodging shall be permitted for any type of adult care facility.

D. Adult care facilities with a capacity of ten or less individual may be requested in any zoning district. Those with a capacity for accommodating 11 to 25 individuals may be located in residential districts no more than two lots distant from the boundary of a nonresidential zoning district. Those adult care facilities with a capacity of more than 25 individuals shall be located contiguous to at least a collector roadway.

SECTION 4-8.6. ADULT AND SEXUALLY ORIENTED BUSINESSES

A. Purpose and findings.

1. Purpose.

It is the purpose of this Article to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the city. The provisions of this Article have neither the purpose nor

effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this Article to condone or legitimize the distribution of obscene materials.

2. Findings.

Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the City Council, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 426 U.S. 50 (1976); and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); Arcara v. Cloud Books, Inc., 478 U.S. 697, (1986); California v. LaRue, 409 U.S. 109 (1972); Iacobucci v. City of Newport, Ky, 479 U.S. 92 (1986); United States v. O'Brien, 391 U.S. 367 (1968); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Kev, Inc. v. Kitsap City, 793 F.2d 1053 (9th Cir. 1986); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); ILQ, Inv. Inc. v. City of Rochester, 25 F.3d 1413 (8th Cir. 1994); Z.J. Gifts, L.L.C. v. City of Aurora, 136 F.3d 683 (10th Cir. 1998); and South Florida Free Beaches, Inc. v. City of Miami, 734 F.2d 608 (11th Cir. 1984), as well as studies conducted by other local governments, including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Manatee County, Florida; and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the City Council finds that:

a. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are often not effectively controlled by the operators of the establishments. Further, there is presently no adequate mechanism to make owners of these establishments responsible for the activities that occur on their premises.

b. Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g., Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.

c. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. See, e.g., California v. LaRue, 409 U.S. 109, 111 (1972); see also Final Report of the Attorney General's Commission on Pornography (1986) at 377.

d. Offering and providing such booths or cubicles encourages such activities, which creates unhealthy conditions. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

e. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses. See, e.g., Arcara v. Cloud Books, Inc., 478 U.S. 697, 698 (1986); see also Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

f. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. See, e.g., Study of Fort Myers, Florida.

g. For the period 1985 through 1995, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 523,056. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

h. Since 1981 and to the present, there has been an increasing cumulative number of persons testing positive for HIV antibody test in Florida.

i. The total number of cases of early (less than one year) syphilis in the United States reported during the ten-year period 1985-1995 was 367,796. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

j. The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,250,581 cases reported during the period 1993-1995. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

k. The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to

infected blood and blood components, and from an infected mother to her newborn.

l. According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g., Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

m. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.

n. Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.

o. Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity. See, e.g., Barnes v. Glen Theatre, 501 U.S. 560, 583 (1991).

p. Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use. See, e.g., Kev, Inc. v. Kitsap City, 793 F.2d 1053, 1056 (9th Cir. 1986).

q. Location of sexually oriented businesses proximate to residentially zoned property has an adverse effect on property values and leads to deterioration of neighborhoods and community blight. See the St. Paul, Minnesota, and Indianapolis, Indiana, studies in particular and the findings approved in ILQ, Inv. Inc. v. City of Rochester, 25 F.3d 1413 (8th Cir. 1994); and Z.J. Gifts, L.L.C. v. City of Aurora, 136 F.3d 683 (10th Cir. 1998), for example. Location of such businesses proximate to religious establishments, schools, parks, licensed day care centers, and other areas or establishments frequented by families and children pose particular issues of safety and concern in view of the previous findings herein.

r. The findings noted in subsections A.2.a through A.2.q. of this section raise substantial governmental concerns.

s. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

t. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

u. Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the unlawful and unsanitary sexual activity occurring in adult establishments.

v. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.

w. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct this Article is designed to prevent or who are likely to be witnesses to such activity.

x. The fact that an applicant for a sexually oriented business license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this Article.

y. The barring of such individuals from operation or employment in sexually oriented businesses for a period of ten years for a previous felony conviction serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

z. The general welfare, health, morals, and safety of the citizens of the city will be promoted by the enactment of this Article.

aa. Substantial case law from the U.S. Circuit Court of Appeals for the 11th Circuit, as applicable to federal court jurisdiction in Florida, supports the

validity of a licensing ordinance with provisions similar to those contained herein based on findings of the type cited in this section.

3. Conclusions.

a. It is the finding of the City Council that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale or consumption of alcoholic beverages in establishments offering live nude entertainment or "adult entertainment," (whether such alcoholic beverages are sold on the premises or not) begets criminal behavior and tends to create undesirable community conditions. In the same manner, other adult businesses have the same deleterious effects on the community.

b. Among the acts of criminal behavior found to be associated with the commercial combination of live nudity and alcohol, commercial nudity in general, and other adult businesses are disorderly conduct, prostitution, public solicitation, public indecency, drug use and drug trafficking. Among the undesirable community conditions identified with the commercial combination of live nudity and alcohol, commercial nudity in general, and other adult businesses are depression of property values and acceleration of community blight in the surrounding neighborhood, increased allocation of and expenditure for law enforcement personnel to preserve law and order, and increased burden on the judicial system as a consequence of the criminal behavior herein above described. The City Council finds it is reasonable to believe that some or all of these undesirable community conditions would result in the city as well.

c. The City Council therefore concludes that it is in the best interests of the health, welfare, safety and morals of the community and the preservation of its businesses, neighborhoods, churches, schools, residential areas, public parks and playgrounds to prevent or reduce the adverse impacts of adult business establishments. Therefore, the City Council finds that licensing and regulations are necessary for any adult business establishment. The City Council finds that these regulations promote the public welfare by furthering legitimate public and governmental interests, including but not limited to, reducing criminal activity and protecting against or eliminating undesirable community conditions, and further finds that such regulations will not infringe upon the protected constitutional rights of freedom of speech or expression.

B. Classification.

Sexually oriented businesses are classified as follows:

1. Adult arcades;

2. Adult bookstores, adult video stores or other adult store;

3. Adult cabarets or adult performance establishments;

4. Adult motels;

5. Adult motion picture theaters;

6. Adult theaters;

7. Escort agencies;

8. Nude model studios; and

9. Sexual encounter centers.

C. License required.

1. It shall be unlawful:

a. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City Manager pursuant to this Article.

b. For any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license issued to such employee by the City Manager pursuant to this Article.

c. For any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the City Manager pursuant to this Article.

d. It shall be a defense to subsections (1)(b) and (1)(c) of this section if the employment is of limited duration and for the sole purpose of repair or maintenance of machinery, equipment, or the premises.

2. An application for a sexually oriented business license must be made on a form provided by the city. The application must be accompanied by a site plan drawn to appropriate scale of the proposed establishment, including but not limited to: (i)

exterior elements including all property lines, rights-of-way and the location of buildings, parking areas and spaces, curb cuts and driveways; (ii) interior elements including all windows, doors, entrances and exits, fixed structural features, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters and other similar structures; and (iii) all proposed improvements or enlargements to be made, which shall be indicated in calculated terms of percentage increase in floor size. Prior to issuance of a license, the premises must be inspected by the Health Department, Fire Department, Building Division, and Community Development Department.

3. An application for a sexually oriented business employee license must be made on a form provided by the city.

4. All applicants for a license must be qualified according to the provisions of this Article. The application may request, and the applicant shall provide, such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established under this chapter. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.

5. If a person who wishes to own or operate a sexually oriented business is an individual, he must sign the application for a business license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent or greater interest in the business must sign the application for a business license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten percent or greater interest in the corporation must sign the application for a business license as applicant.

6. Applications for a business license, whether an original or a renewal, must be made to the City Manager by the intended operator of the enterprise. Applications must be submitted to the office of the City Manager or the City Manager's designee during regular working hours. Application forms shall be supplied by the City Manager. The following information shall be provided on the application form:

   a. The name, street address (and mailing address if different) and telephone number of the applicant;

   b. A recent photograph of the applicant;

   c. The applicant's driver's license number, Social Security number, and state or federally issued tax identification number;

d. The name under which the establishment is to be operated and a general description of the services to be provided, including, if the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the sexually oriented business's fictitious name and a copy of the required fictitious name registration documents;

e. Whether the applicant, or a person residing with the applicant, has been convicted, or is awaiting trial on pending charges, of "specified criminal activity" as defined by this Code, and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each;

f. Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinance from another city or any county denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant is or has been a partner in a partnership or an officer, City Manager or principal stockholder of a corporation that is or was licensed under a sexually oriented business ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;

g. Whether the applicant or a person residing with the applicant holds any other licenses under this Article or other similar sexually oriented business ordinance from another city or any county and, if so, the names and locations of such other licensed businesses;

h. The single classification of license, as found in section B., for which the applicant is filing;

i. The telephone number of the establishment;

j. The address and legal description of the tract of land on which the establishment is to be located;

k. If the establishment is in operation, the date on which the owner acquired the establishment for which the business license is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the business license is sought;

l. If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the

business license). If the expected startup date is to be more than ten days following the date of issuance of the business license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;

m. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section P.

7. Each application for a business license shall be accompanied by the following:

a. Payment of the application fee in full;

b. If the establishment is a Florida corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

c. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

d. If the establishment is a limited partnership formed under the laws of Florida, a certified copy of the certificate of limited partnership, together with all amendments thereto;

e. If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto;

f. Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;

g. If the persons identified as the fee owner of the tract of land pursuant to Subsection 7.f. of this section, are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment;

h. The information and documentation required by Subsections 7.b. through 7.g. of this Section, shall not be required for a renewal application if the

applicant certifies by notarized affidavit that the documents previously furnished the City Manager with the original application or previous renewals thereof remain correct and current.

8. Applications for an employee license to work or perform services in a sexually oriented business, whether original or renewal, must be made to the City Manager by the person to whom the employee license is requested to be issued. Each application for an employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the City Manager. Applications must be submitted to the office of the City Manager or the City Manager's designee during regular working hours. Each applicant shall be required to give the following information on the application form:

   a. The applicant's given name and any other names by which the applicant is or has been known, including "stage" names or aliases;

   b. Age, and date and place of birth;

   c. Height, weight, hair color, and eye color;
   d. Present residence address and telephone number;

   e. Present business address and telephone number;

   f. Date, issuing state, and number of photo driver's license, or other state issued identification card information;

   g. Social Security number; and

   h. Proof that the individual is at least 18 years old.

9. Attached to the application form for a license shall be the following:

   a. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

   b. A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant, in this or any other city, state, or country, has ever had any license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name under which the license was sought or issued, the name of the issuing or denying jurisdiction, and describe in full

the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

c. A statement whether the applicant has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined by this Code, and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each.

10. Every application for a license shall contain a statement under oath that:

a. The applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therewith is true and correct; and

b. The applicant has read the provisions of this Article.

11. A separate application and business license shall be required for each sexually oriented business classification as set forth in Section B.

12. The fact that a person possesses other types of state or city or county permits or licenses does not exempt such person from the requirement of obtaining a sexually oriented business or employee license.

13. Violation of any provision within this section shall constitute a misdemeanor, and may be subject to any other remedy for enforcement, as provided by Section Z.

D. Issuance of license.

1. Generally.

Upon the filing of an application for a sexually oriented business employee license the application shall be referred to the appropriate city departments for investigation to be made on the information contained in the application. The application process shall be completed within 30 days from the date of the completed application. After the investigation, the City Manager shall issue an employee license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

a. The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

b. The applicant is under the age of 18 years;

c. The applicant has been convicted of a "specified criminal activity" as defined by this Code;

d. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this Chapter; or

e. The applicant has had a sexually oriented business employee license revoked by the city within two years of the date of the current application.

2. Denial of license.

Denial, suspension, or revocation of a license issued pursuant to this section shall be subject to appeal as set forth in Subsection 10 of this Section.

3. Contents of individual license; inspection.

A license issued pursuant to Subsection 1. of this Section shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The employee shall keep the license on his person at all times while engaged in employment or performing services on the sexually oriented business premises so that said license may be available for inspection upon lawful request.

4. Renewal of Individual license issued pursuant to subsection 1 of this section.

A license issued pursuant to Subsection 1 of this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the City Manager that the applicant has not been convicted of any "specified criminal activity" as defined in this Article, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within 30 days of the completed application. The renewal of a license shall be subject to the fee as set forth in Section E. Nonrenewal of a license shall be subject to appeal as set forth in Subsection 10 of this Section.

5. Issuance when City Manager fails to approve or deny business license.

If application is made for a sexually oriented business license, the City Manager shall approve or deny issuance of the license within 45 days of receipt of the completed application. In the event that the City Manager fails to approve or deny issuance of the license within 45 days of receipt, then the sexually oriented business license applied for shall be deemed to have been issued. The City Manager shall issue a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

a. An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

b. An applicant is under the age of 18 years;

c. An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding 12 months, or whose license to operate a sexually oriented business has been revoked within the preceding 12 months;

d. An applicant or a person with whom the applicant is residing is overdue in payment to the city in taxes, fees, fines, or penalties assessed against or imposed upon him in relation to any business;

e. An applicant or a person with whom the applicant is residing has been convicted of a "specified criminal activity" as defined by this Code;

f. The premises to be used for the sexually oriented business have not been approved by the Health Department, Fire Department, the Building Division and the Community Development Department as being in compliance with applicable laws and ordinances;

g. The license fee required under this Article has not been paid;

h. An applicant of the proposed establishment is in violation of or is not in compliance with one or more of the provisions of this Article.

6. Information on business license; posting.

A license issued pursuant to Subsection 5. of this Section shall state on its face the name of the person to whom it is granted, the expiration date, the address of the sexually oriented business, and the classification, as identified in Section B, for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

7. Certification of premises by city departments.

The fire department, police department, building division and zoning division shall complete their certification that the premises are in compliance or not in compliance within 20 days of receipt of the completed application by the City Manager. The certification shall be promptly presented to the City Manager.

8. Business license issued for one classification.

A sexually oriented business license shall be issued for only one classification, as set forth in Section B.

9. Notice of denial.

In the event that the City Manager determines that an applicant is not eligible for a sexually oriented business license, the applicant shall be given notice in writing of the reasons for the denial within 45 days of the receipt of the completed application by the City Manager, provided that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not more than ten days in order to make modifications necessary to comply with this Article.

10. Appeals.

An applicant may appeal the decision of the City Manager regarding a denial to the City Council by filing a written notice of appeal with the City Manager within 15 days after service of notice upon the applicant of the City Manager's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The City Manager may, within 15 days of service upon him of the applicant's memorandum, submit a memorandum in response to the memorandum filed by the applicant on appeal to the City Council. After reviewing such memoranda, as well as the City Manager's written decision, if any, and exhibits submitted to the City Manager, the City Council shall hold a quasi-judicial hearing and, upon the memoranda and such additional competent and substantial evidence, vote to uphold, modify or overrule the City Manager's decision. Such vote shall be taken within 21 calendar days after the date on which the City Manager receives the notice of appeal. However, all parties shall be required to comply with the City Manager's decision during the pendency of the appeal. Judicial review of quasi-judicial action by the City Council may be sought pursuant to section J.

11. Renewal of business license issued under Subsection 5 of this section.

A license issued pursuant to Subsection 5 of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the City Manager that the applicant has not been convicted of any "specified criminal activity" as defined in this Article, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within 45 days of the completed application. The renewal of a license shall be subject to the fee as set forth in Section E.

E. Fees.

The annual non-refundable fee for a sexually oriented business license, whether new or renewal, is $500.00. The annual fee for a sexually oriented business employee license, whether new or renewal, is $50.00. The annual license fees collected under this chapter are declared to be regulatory fees that are collected to pay for the cost of the administration and enforcement of this Article. Fees may be amended by Resolution of the City Council.

F. Inspection.

1. Authority.

The City Manager and other City departments or offices with jurisdiction, including but not limited to the police, building and code enforcement divisions, shall periodically inspect all premises licensed hereunder as shall be necessary to determine compliance with the provisions of this Article and all other applicable laws and ordinances.

2. Licensee cooperation.

A licensee shall permit authorized persons hereunder to inspect the licensed premises for the purpose of determining compliance with the provisions of this Article and all other applicable laws and ordinances at any time during which the licensed premises is occupied or open for business.

3. Interference or refusal unlawful.

It shall be unlawful for the licensee, any employee of the licensed premises, or any other person to prohibit, interfere with, or refuse to allow, any lawful inspection conducted pursuant to this Article or any other authority.

4. Suspension or revocation.

Any such prohibition, interference, or refusal shall be grounds for suspension or revocation of the sexually oriented business license pursuant to Sections H and I.

G. Expiration of license.

1. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section C. Application for renewal should be made at least 30 days before the expiration date; when made less than 45 days before the expiration date, the expiration of the license will not be affected.

2. When the City Manager denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial.

H. Suspension.

The City Manager shall suspend a license for a period not to exceed 30 days if he determines that licensee or an employee of licensee has:

1. Violated or is not in compliance with any provision of this Article;

2. Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;

3. Refused to allow prompt inspection of the sexually oriented business premises as authorized by this Article; or

4. With knowledge, permitted gambling by any person on the sexually oriented business premises.

I. Revocation.

1. The City Manager shall revoke a license if a cause of suspension in section H occurs and the license has been suspended within the preceding 12 months.

2. The City Manager shall revoke a license if he determines that:

a. A licensee gave false or misleading information in the material submitted during the application process;

b. A licensee, or a person with whom the licensee is residing, was convicted of "specified criminal activity" on a charge that was pending prior to the issuance of the license;

c. A licensee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;

d. A licensee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises;

e. A licensee has, with knowledge, permitted prostitution on the premises;

f. A licensee has, with knowledge, operated the sexually oriented business during a period of time when the licensee's license was suspended;

g. A licensee is delinquent in payment to the city or state for any taxes or fees;

h. A licensee has, with knowledge, permitted a person under 18 years of age to enter the establishment;

i. A licensee has attempted to sell his business license, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee;

j. A licensee has, with knowledge, permitted a person to engage in specified sexual activities on the premises of the sexually oriented business;

k. A licensee, any employee of the licensed premises, or any other person has prohibited, interfered with, or refused to allow, any lawful inspection conducted pursuant to this Article or any other authority; or

l. A licensee, any employee of the licensed premises, or any other person has violated a requirement set forth in Sections L through T, with either knowledge or constructive notice of such violation, regardless of whether or not such violation is prosecuted as a misdemeanor.

3. When the City Manager revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented license for one year from the date revocation became effective.

J. Judicial review.

After denial or modification, as applicable, of an initial or renewal application, or after suspension or revocation of a license, by the City Manager as affirmed or modified in a quasi-judicial hearing by the City Council, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction. To the extent consistent with court rules and procedures, the action of the City Council shall be promptly reviewed by the court.

K. No transfer of license.

A licensee shall not transfer his license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

L. Additional regulations for adult motels.

1. Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two or more times in a period of time that

is less than ten hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this Code.

2. It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he rents or subrents the same sleeping room again.

3. For purposes of Subsection 2 of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

4. Violation of Subsection 2 of this section shall constitute a misdemeanor, and may be subject to any other remedy for enforcement, as provided by Section Z.

M. Additional regulations for escort agencies.

1. An escort agency shall not employ any person under the age of 18 years.
2. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

3. Violation of this section shall constitute a misdemeanor, and may be subject to any other remedy for enforcement, as provided by Section Z.

N. Additional regulations for nude model studios.

1. A nude model studio shall not employ any person under the age of 18 years.

2. A person under the age of 18 years commits a misdemeanor if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this section if the person under 18 years was in a restroom not open to the public view or visible by any other person.

3. A person commits a misdemeanor if the person appears in a state of nudity, or with knowledge, allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

4. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

O. Additional regulations concerning public nudity.

The following regulations are additional and supplemental to, and not in derogation or modification of, any other provisions of this Code regulating public nudity, including but not limited to Chapter 58, Article II, of the Brooksville Code of Ordinances.

1. It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a nude or semi-nude condition in a sexually oriented business, unless the person is an employee who, while semi-nude, is at least ten feet from any patron or customer, on a stage at least two feet from the floor, and is not in violation of any other ordinances regulating public nudity.

2. It shall be a misdemeanor for an employee, while nude or semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity to any employee, while said employee is nude or semi-nude in the sexually oriented business.

3. It shall be a misdemeanor for an employee, while nude or semi-nude, to touch a patron or the clothing of a patron, or for a patron to touch a nude or semi-nude employee or the clothing of a nude or semi-nude employee.

4. Nothing herein shall operate to preclude any other lawful remedy for enforcement of this Article as provided in Section Z.

P. Regulations pertaining to exhibition of sexually explicit films and videos.

1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

   a. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint is required. Each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City Manager may waive the foregoing diagram for renewal applications if the applicant adopts a

diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

b. The application shall be sworn to be true and correct by the applicant.

c. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City Manager or his designee.

d. It is the duty of the owners and operators of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

f. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in Subsection 1e of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to subsection 1a of this section.

g. No viewing room may be occupied by more than one person at any time.

h. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five footcandles as measured at the floor level.

i. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

j. No licensee shall allow an opening of any kind to exist between viewing rooms or booths.

k. No person shall make any attempt to make an opening of any kind between the viewing booths or rooms.

l. The operator of the sexually oriented business shall, during each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

m. The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

n. The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

2. A person having a duty under Subsections 1a through 1n of this Section commits a misdemeanor if he, with knowledge, fails to fulfill that duty, and may be subject to any other remedy for enforcement, as provided by Section Z.

Q. Sale, use or consumption of alcoholic beverages prohibited.

1. The sale, use, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.

2. Any violation of this section shall constitute a misdemeanor, and may be subject to any other remedy for enforcement, as provided by Section Z.

R. Persons younger than 18 years of age prohibited from entry; attendant required.

1. It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.

2. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented businesses' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of 18 years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 years unless such attendant asked for and was furnished:

a. A valid operator's, commercial operator's, or chauffeur's driver's license; or

b. A valid personal identification certificate issued by the State of Florida reflecting that such person is 18 years of age or older.

3. Violation of this Section shall constitute a misdemeanor, and may be subject to any other remedy for enforcement, as provided by Section Z.

S. Massages or baths.

It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business. Violation of this Section shall constitute a misdemeanor, and may be subject to any other remedy for enforcement, as provided by Section Z.

T. Hours of operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 8:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 12:00 p.m. on Sundays.

U. Notices.

1. Any notice required or permitted to be given by the City Manager or any other city office, division, department or other agency under this Article to any applicant, operator or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the City Manager. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the City Manager or his designee shall cause it to be posted at the principal entrance to the establishment.

2. Any notice required or permitted to be given to the City Manager by any person under this Article shall not be deemed given until and unless it is received in the office of the City Manager.

3. It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the City Manager in writing of any change of residence or mailing address.

V. Location restrictions.

Sexually oriented businesses shall be permitted in those commercial districts designated as C-1 or C-2, as set forth in Article II, provided that:

1. The specific retail or service activities of a sexually oriented business, such as sale or rental of products or services, would be a permitted use without regard to the sexually oriented nature of the business; and

2. Without regard to whether or not such other establishment or facility is in the same zoning district or classification, and without regard to whether there are any intervening municipal, city or other jurisdictional boundaries between the sexually oriented business and such other establishment or facility, the sexually oriented business may not be operated within:

   a. Fifteen hundred feet of a religious establishment;

   b. Twenty-five hundred feet of a public or private primary or secondary school, or public community college campus;

   c. Five hundred feet of a boundary of any residential district;

   d. Fifteen hundred feet of a state, county or city park or similar facility;

   e. Fifteen hundred feet of a licensed day care center; or

   f. Fifteen hundred feet of another sexually oriented business.

3. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business classified pursuant to this Code.

4. For purposes of this Article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of premises on which is located a religious establishment, or on which is located another sexually oriented business, or on which is located a public or private elementary or secondary school or public community college, or on which is located a licensed day care center, or to the nearest boundary of an affected state, county or city public park, residential district.

W. Nonconforming uses; amortization.

1. Any business lawfully operating on the effective date of the ordinance from which this Article is derived that is in violation of the locational or structural configuration requirements of this Article shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed five years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operated at a particular location is the conforming use and the later-established business is nonconforming.

2. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a religious establishment, licensed day care center, or public park within 1,500 feet of the sexually oriented business, or a public or private elementary or secondary school within 2,500 feet of the sexually oriented business, or by the subsequent rezoning of an area within 500 feet of the sexually oriented business to a residential district. This provision applies only to the renewal of a valid business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked.

X. Exterior portions of sexually oriented businesses.

1. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

2. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this Article.

3. It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

   a. The establishment is a part of a commercial multi-unit center; and

b. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

4. Nothing in this Article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

5. A violation of any provision of this section shall constitute a misdemeanor, and may be subject to any other remedy for enforcement, as provided by Section Z.

Y. Signage.

1. Notwithstanding any other ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one primary sign and one secondary sign, as provided in this section.

2. Primary signs shall have no more than two display surfaces. Each such display surface shall:
   a. Not contain any flashing lights;

   b. Be a flat plane, rectangular in shape;

   c. Not exceed the maximum size permitted under the applicable land development regulations, or 75 square feet in area, whichever is lesser; and

   d. Not exceed ten feet in height or ten feet in length.

3. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

4. Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

5. Secondary signs shall have only one display surface. Such display surface shall:

   a. Be a flat plane, rectangular in shape;

   b. Not exceed 20 square feet in area;

c. Not exceed five feet in height and four feet in width; and;

d. Be affixed or attached to any wall or door of the enterprise.

6. The provisions of Subsection 2a of this section and Subsections 3 and 4 of this section shall also apply to secondary signs.

7. Violation of any provision of this Section shall constitute a misdemeanor, and may be subject to any other remedy for enforcement, as provided by Section Z.

Z. Injunction; other enforcement.

A person who operates or causes to be operated a sexually oriented business without a valid business license issued under this Article or otherwise commits any act in violation of this Article is subject to a suit for injunction as well as prosecution or other enforcement action for criminal or noncriminal violations, in a judicial, quasi-judicial or administrative forum, as applicable. Each day a person operates an unlicensed sexually oriented business or commits any act in violation of this Article shall constitute a separate offense or violation. Nothing herein relating to remedies or penalties for violation of this Article shall preclude enforcement of each and every provision of this Article by any other lawful means, including but not limited to code enforcement or license revocation proceedings.

SECTION 4-8.7. AGRICULTURAL EQUIPMENT STORAGE

A. Agricultural equipment storage is an accessory use and shall be located only on a lot with a permitted principal use.

B. Equipment storage shall be located a minimum of 200 feet from the zoning lot boundaries.

C. Agricultural equipment shall not include junk or inoperable equipment.

D. Agricultural equipment storage shall not include equipment sales.

SECTION 4-8.8. AGRICULTURAL STANDS

A. Agricultural stands shall be permitted on agriculturally zoned parcels, commercially zoned parcels, and on all parcels with a current Agricultural Classification for property tax purposes as determined by the Hernando County Property Appraiser, irrespective of zoning category.

B. Permit Review Standards

1. When applicable, proof of current Agricultural Classification for the subject parcel shall be submitted prior to approval of the agricultural stand permit.

2. Only one agricultural stand shall be permitted on a parcel at any time.

3. The agricultural stand permit shall be valid for a maximum of one year from date of issue. Renewal of the permit shall require submission of a complete application.

4. Building permits shall be obtained for all structures utilized by agricultural stands in accordance with the requirements of the Florida Building Code, unless otherwise exempted by state statute.

5. All structures, tents and displays shall conform with minimum building setbacks required by the zoning of the parcel.

6. A site plan shall be submitted with the agricultural stand permit application clearly showing the location of existing buildings and other uses on the parcel; proposed location of the agricultural stand and setbacks from parcel boundaries; proposed and/or existing access points; and proposed parking areas. Final location of the agricultural stand on the parcel shall be subject to approval by the City of Brooksville to ensure public safety and welfare.

7. Restroom facilities shall be available for use by employees and patrons.

8. A current occupational license for retail sales valid at the proposed location of the agricultural stand shall be required if produce not grown on the parcel is to be sold. A copy of the license shall be provided prior to approval of the agricultural stand permit.

C. Operational Requirements

1. Sales shall be restricted to legumes in the shell (parched, roasted or boiled), fresh fruits and vegetables, unprocessed agricultural products, plants, flowers and trees. Additionally, the sale of processed or prepared foods other than legumes as previously described, shall be allowed subject to permitting requirements of the Florida Department of Agriculture.

2. All employees and patron vehicles shall be parked on the permitted parcel. Parking in road rights-of-way shall be prohibited and there shall be no interference with safe traffic movement on adjacent streets.

3. Sales shall be limited to the hours between 7:00 a.m. and 10:00 p.m.

4. Permits shall be obtained by a licensed contractor for all electric connections.

5. A copy of the approved agricultural stand permit and site plan shall be kept at the agricultural stand location at all times and shall be made available upon demand for inspection by the City of Brooksville.

6. All signs utilized by the agricultural stand shall comply with the City of Brooksville's sign regulations and permit requirements.

D. Failure to comply with any of the above standards or requirements shall result in revocation of the agricultural stand permit. Additionally, should it be determined by the Chief Administrative Officer or his designee that the activity or associated traffic is adversely affecting public safety and welfare, or constitutes a public nuisance, the permit shall be revoked.

SECTION 4-8.9. ALCOHOLIC BEVERAGE USE PERMITS

A. General Objectives

1. It is the intent of this Section to provide uniform regulations pursuant to the authority granted by Section 562.45(2), Fla. Stat., for all establishments in the City of Brooksville in which the sale of alcoholic beverages or the public consumption of alcoholic beverages is to occur. The granting of an Alcoholic Beverage Special Use Permit is a prerequisite for allowing alcoholic beverage uses to be established in the City of Brooksville. It is the intent of this Code to generally permit such uses only in certain commercial, industrial, and mixed use districts with the exception of the 11-C, 11-CX, 4-COP-SGX and GC Alcoholic Beverage Special Use Classifications which will be allowed in all zoning districts. Notwithstanding the above, in office, residential and agricultural zoning districts where an 11-C or 4-COP-SGX permit is inapplicable, other permit classifications may be approved for restrictive uses such as a private dining hall in a community residential home. In such cases the permit shall be subject to approval of the City Council in accordance with Article VIII of this Code, irrespective of whether the proposed use meets proximity requirements. In granting approval, the permit shall be conditioned to limit the sales and/or consumption of alcoholic beverages to the specifically proposed use.

2. The regulations presented herein are to protect the health, safety, and welfare of the residents of the City of Brooksville as stated in the purpose and intent provisions of Article I of this Code. It is intended that the City requirements herein be no less restrictive than those permitted by the State alcoholic beverage licenses.

3. The procedures for applicants who desire to receive a Special Use Permit for the establishment and maintenance of a specific alcoholic beverage land use designation are described herein.

B. Consumption and Use of Alcoholic Beverages in Public Places and on Private Property

1. It shall be unlawful for any person to consume or possess any alcoholic beverage in an open container in a publicly-owned park or recreation area or on any public school property or on any public street, thoroughfare, sidewalk, alley or on any publicly owned parking facility within the City; provided, however, this subsection shall not apply when the alcoholic beverages are possessed or are being consumed thereon with the consent of the person, group or organization lawfully in charge of the premises and in compliance with any applicable laws.

2. It shall be unlawful for any person to consume or possess any alcoholic beverage in an open container on any private property, unless such person is a lawful guest and has the consent of the owner or person placed in charge of the private property by the owner.

3. No person shall consume any alcoholic beverages on any property which is only licensed to sell alcoholic beverages in sealed containers for off-premises consumption.

4. It shall be unlawful for any person to consume or possess any alcoholic beverages in any open container while occupying a vehicle in any of the places identified in this subsection.

C. Application for Permitting of Land Use for Sale or Public Consumption of Alcoholic Beverages

Any owner, lessee, or tenant who desires to have any lot, plot, or tract of land permitted for the sale or public consumption of alcoholic beverages in the City of Brooksville shall meet the application requirements for a Development Permit as specified in Article VIII of this Code. Notwithstanding the above, applications for temporary alcoholic beverage special event permits shall not require a public hearing. Alcoholic beverage wholesale distributors that do not directly sell to the general public and only store sealed alcoholic beverage containers shall not be required to obtain an Alcoholic Beverage Special Use Permit.

No more than one (1) permit shall be issued to any owner, lessee, or tenant for an establishment in which the sale of alcoholic beverages or the public consumption of alcoholic beverages is to occur. Any owner, lessee, or tenant may voluntarily rescind an existing alcoholic beverage special use permit when the owner, lessee, or tenant seeks to obtain a new alcoholic beverage special use permit.

D. Alcoholic Beverage Special Use Permit Classifications

1. The Alcoholic Beverage Special Use Classification desired for the lot, plot, or tract of land on which the sale or public consumption of alcoholic beverages is to be permitted shall be one of the following:

a. 1-APS

Beer to be sold in sealed containers only for consumption off the licensed premises (package sales). Notwithstanding the provisions of general law, vendors holding malt beverage off-premises sales licenses under State beverage laws shall be subject to alcoholic beverage regulations of the City of Brooksville, Florida (Ch. 81-385, Section 1, Laws of Florida).

b. 2-APS

Beer and wine to be sold in sealed containers only for consumption off the licensed premises (package sales).

c. 3-PS

Beer, wine, and liquor to be sold in sealed containers only for consumption off the licensed premises (package sales).

d. 2-COP

Beer and wine for sale and consumption on and off the licensed premises.

e. 2-COP-X

Beer and wine for sale and consumption on the licensed premises only.

f. 2-COP-R

Beer and wine for sale and consumption on and off the licensed premises (package sales) in connection with a restaurant. To be considered a restaurant for the purposes of alcoholic beverage sales, the restaurant shall have a seating capacity of no less than 100 seats and gross floor area of 4,000 square feet or greater (Ch. 70-718, F.S.).

g. 2-COP-RX

Beer and wine for sale and consumption on the licensed premises only in connection with a restaurant, see paragraph f. above.

h. 4-COP

Beer, wine, and liquor for sale and consumption on and off the licensed premises (package sales).

i. 4-COP-X

Beer, wine, and liquor for sale and consumption on the licensed premises.

j. 4-COP-RX

Beer, wine, and liquor for sale and consumption on the licensed premises only in connection with a restaurant, see paragraph f. above.

k. 4-COP-SX

Beer, wine, and liquor for sale and consumption on the licensed premises only when in connection with a hotel/motel. The sale and/or consumption of alcoholic beverages is limited to the main building structure and specific outdoor areas.

l. 4-COP-SBX

Beer, wine, and liquor for sale and consumption on the licensed premises only when in connection with a bowling establishment with 12 or more lanes.

m. 11-C

i. Social Club.

Beer, wine, and liquor for sale and consumption on the licensed premises only to members and their guests. The establishment shall be a chartered club.

ii. Golf Club.

Beer, wine, and liquor for sale and consumption on the licensed premises to club members and their guests only. The club shall be chartered and located on a bona fide golf course owned or leased by the club consisting of at least nine holes, clubhouse, locker rooms, and attendant golf facilities comprising at least 35 acres of land. Under the 11-C classification, alcoholic beverages are to be sold only in Special Use permitted areas at the golf club.

Consumption may occur on the remainder of the golf club property. For the sale of alcoholic beverages on the golf course see paragraph n. below (11-CX).

iii. Tennis and/or Racquetball Club.

Beer, wine, and liquor for sale and consumption on the licensed premises for club members and their guests only. The club shall be chartered and have bona fide tennis and/or racquetball facilities owned or leased by the club consisting of either:

1) ten regulation size tennis courts, or

2) ten regulation sized four-walled indoor racquetball courts, or

3) a combination of courts totaling at least ten regulation size courts. The club shall include clubhouse facilities, pro shop, locker rooms, and attendant tennis or racquetball facilities.

iv. Wedding and Special Occasion Reception Halls.

Beer, wine, and liquor for sale and consumption on premises only when the premises are leased for special events which serve alcoholic beverages and which occur more than six times per year at that specific location.

n. 11-CX

Portable Temporary Bar for Licensed Golf Clubs only. Beer, wine, and liquor for sale and consumption from portable or temporary bars on a golf course which is part of a golf club which has an 11-C permit.

o. 4-COP-SGX

Beer, wine and liquor for sale or consumption on the permitted premises for patrons of a public (non-chartered) golf club. The club shall be located on a bona fide golf course owned or leased by the club that has at least nine holes and comprises a minimum of 35 acres of land. Alcoholic beverages shall be sold only within the permitted areas of the club, although consumption may occur on the remainder of the club property. For the sale of alcoholic beverages from mobile carts and temporary bars on the golf course, see paragraph q. below.

p. GC

Beer, wine and liquor for sale or consumption from mobile carts and temporary bars on a golf course that is part of a public golf club which has a 4-COP-SGX alcoholic beverage permit.

E. Procedures for Consideration of Alcoholic Beverage Application

Applications for Alcoholic Beverage Special Use Permit shall be filed and reviewed in accordance with Article VIII of this Code.

F. Restaurant Classification Guidelines

The owner or operator of a restaurant from which alcoholic beverages sales and/or consumption are made pursuant to an "R" category permit (2-COP-R, 2-COP-RX, 4-COP-R, and 4-COP-RX) shall maintain records to verify that total biannual sales at the restaurant are derived primarily from the sale of food and nonalcoholic beverages, as required by the permit category. The records shall distinguish the gross sales of alcoholic beverages and the gross sales of food and nonalcoholic beverages for each half of a calendar year, or portion thereof, the restaurant is in operation. The records shall be preserved for a minimum of three years, beginning January 1, 2010. Within 14 days of a request by the City of Brooksville, the restaurant owner or operator shall provide a summary sales report for review verifying the restaurant's sales for the period of time requested by the City of Brooksville. The report shall separately identify the gross sales of alcoholic beverages and the gross sales of food and nonalcoholic beverages during that period, or portion thereof, the restaurant has been in operation. The report shall include a signed affidavit from the restaurant owner or operator, or the accountant or bookkeeper who prepared the report, attesting to its accuracy. If the City of Brooksville determines the report needs further verification, an Independent Certified Audit shall be provided by the owner or operator of the restaurant at his expense in a timely manner. Failure to provide the sales report and/or Independent Certified Audit when requested, or failure of the owner or operator to adequately demonstrate the restaurant has had at least 51 percent of total sales derived from the sales of food and nonalcoholic beverages on a biannual basis, shall constitute grounds for the City Council to revoke the "R" category Alcoholic Beverage Use Permit of the property on which the restaurant operates.

G. Expansion of Alcoholic Beverage Use Permits

The expansion of an Alcoholic Beverage Use Permit shall require a new application in accordance with this Section.

H. Revocation of Alcoholic Beverage Use Permits

Any Alcoholic Beverage Use Permit may be reviewed for revocation by the City Council. The violation of any of the provisions stated in subsection 1, below, shall be grounds for the revocation of an Alcoholic Beverage Use Permit. At least sixty (60) days prior to the setting of a date for a revocation hearing, notice of the alleged violation(s) shall be sent to the property owner at the property owner's address and the address of the alleged violations via certified mail (return receipt requested) by the party petitioning the City Council to revoke the Alcoholic Beverage Use Permit. The City Council shall hold a public hearing, pursuant to Subsection 2, below, before any Alcoholic Beverage Use Permit may be revoked.

1. The City Council shall hold a public hearing to consider the revocation of any Alcoholic Beverage Use Permit if it is alleged that the owner of the property, his or her agents, lessees, or employees, while on the subject property, has violated any of the conditions listed below. For the purposes of this provision, "employees" means any person who performs a service on the premises of an establishment dealing in alcoholic beverages on a full time, part time, or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

    a. Conviction of any felony under Florida law or the laws of the United States; or

    b. Conviction of any misdemeanor relating to prostitution, obscenity, nuisance, indecent exposure, disorderly conduct, or gambling; or

    c. Operating the subject establishment in a manner other than that expressly permitted herein, under which the Alcoholic Beverage Use Permit was granted or any other manner prohibited by law; or

    d. Failing to comply with any Florida law, the City of Brooksville Code of Ordinances, or the City of Brooksville Land Development Code provision which relates to alcoholic beverages, including selling, giving, serving, or permitting alcoholic beverages to be served to persons under twenty-one (21) years of age, or permitting a person under twenty-one (21) years of age to consume alcoholic beverages on the subject property; or

    e. Revocation of a license for sale of alcoholic beverages by Florida's Department of Business & Professional Regulation, Division of Alcoholic Beverages and Tobacco; or

    f. Allowing the sale of alcoholic beverages at or from the subject establishment while the license for the sale or alcoholic beverages is suspended by Florida's Department of Business & Professional Regulation, Division of Alcoholic Beverages and Tobacco; or

g. The inclusion of material, false information in any application or petition filed under any section of this Land Development Code relating to an Alcoholic Beverage Use Permit.

2. Any hearing wherein the City Council is to consider the revocation of an Alcoholic Beverage Use Permit shall be held under the following criteria:

a. Notice - Notice of the hearing shall be sent by the petitioner to the property owner at the property owner's address and the address of the alleged violations via certified mail (return receipt requested). Notice shall be sent at least thirty (30) days prior to the date of the hearing. The notice provided shall specifically state:

i. The date, time, and place of the hearing

ii. The purpose of the hearing

iii. The alleged violations for which the Alcoholic Beverage Use Permit's revocation is sought

iv. That the property owner will be afforded the opportunity to present evidence as to why the Alcoholic Beverage Use Permit should not be revoked, to introduce supporting testimony, and to cross-examine opposing witnesses.

Additionally, upon establishment of a hearing date, notice of the hearing shall be given by the Chief Administrative Official, causing the publication of a notice one time at least 15 calendar days prior to the public hearing date in a newspaper of general circulation in the City of Brooksville.

b. Continuances - The public hearing may be continued by the petitioner or the respondent to a date certain if the continuance request is filed with the Chief Administrative Official no less than 14 calendar days before the public hearing date. The party requesting the continuance shall send notice of said continuance to all previously noticed parties via certified mail (return receipt requested) no less than 11 calendar days before the public hearing.

c. Participants - The participants in the Alcoholic Beverage Use Permit revocation hearing shall be the petitioner, the respondent property owner, City staff, City agencies, and witnesses with relevant testimony.

d. Nature of Hearing - The hearing shall be informal to the maximum extent practicable. Council members may ask questions during the presentations of the petitioner and the respondent, respectively. Following direct testimony, the petitioner and respondent may cross-examine each other's witnesses.

e. Evidence - Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Any part of the evidence may be received in written form, and all testimony shall be under oath.

f. Record of Hearing - Any person who decides to appeal the decision of the City Council will need a record of the proceedings, and for such purposes may need to insure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is based.

g. City Council Decision - The City Council shall take one of the following actions upon the conclusion of the hearing:

i. Maintain the Alcoholic Beverage Use Permit.

ii. Maintain the Alcoholic Beverage Use Permit, subject to additional conditions that are deemed reasonable and necessary by the City Council in order to ensure compliance with Florida law, the City of Brooksville Code of Ordinances and the City of Brooksville Land Development Code.

iii. Revoke the Alcoholic Beverage Use Permit.

h. Appeals - The final decision of the City Council may be appealed in any manner provided by law.

2. In those instances where an Alcoholic Beverage Use Permit is revoked pursuant to the terms of this Section, no petition requesting an Alcoholic Beverage Use Permit shall be considered by the Administrative Official for said property for a period of 12 months from the date of final action on the revocation.

3. The City Council may revoke an Alcoholic Beverage Use Permit if the sale of alcoholic beverages has been discontinued for a continuous period of at least six months. Said review of revocation shall occur in the same manner as referenced above.

I. Hours of Sale

All places within the City of Brooksville licensed to sell alcoholic beverages may be open for business and sell and serve such alcoholic beverages, from Monday through Sunday

of each week: between 6:00 a.m. and 2:00 a.m. of the following day. No alcoholic beverages may be sold, served or consumed at alcoholic beverage permitted establishments at any other times than those specified above.

SECTION 4-8.10. AMUSEMENT AND THEME PARKS

A. An amusement or theme park shall be enclosed with a masonry wall of at least eight feet or more in height so as to discourage entrance from areas other than the designated entrances to said facilities; or enclosed by an earthen berm of at least eight feet in height or higher and a chain-link fence, fully screened from view by vegetation so as to discourage entrance from areas other than the designated entrances to said facilities.

B. If the property abuts a residential zoning district, then a buffer with a minimum width of 100 feet comprised of an earthen berm equal to the height of the top of the roofs shall be constructed with a slope of no greater than two to one (2:1) and landscaping installed to provide 100 percent canopy cover over said buffer area.

C. If the amusement park property abuts or is within 300 feet of a residential zoning district, the following restrictions on lighting and loudspeakers shall apply.

1. The total cutoff of light shall be at an angle of less than 90 degrees and shall be located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five feet above the ground at the point where the cutoff angle intersects the ground and so that no light can be viewed from said residential districts.

2. Loudspeaker and announcement systems shall be so located with respect to the zoning district boundaries that the level of sound, as measured in decibels, at the property line shall not exceed 40 db during the hours of 9:00 a.m. to 6:00 p.m. or 35 db during the time period from 6:00 p.m. to 10:00 p.m. when any amusement park so located shall close.

SECTION 4-8-11. ANIMAL HOSPITAL, VETERINARY CLINIC, GENERAL AND SMALL

A. All activities, with the exception of animal exercise yards, shall be conducted within an enclosed building.

B. If completely enclosed with four solid walls, buildings housing animal hospitals or veterinary clinics shall be located no closer than 50 feet from any adjacent residentially zoned property. Buildings housing animal hospitals or veterinary clinics, which are not fully enclosed, shall be located no closer than 150 feet from any adjacent residentially zoned district.

C. Exercise areas shall be not less than 100 feet from any dwelling unit on adjacent property and 75 feet from any residentially zoned property with the exception of farm animal grazing areas containing a density of less than three farm animals per acre. Such grazing areas may be located anywhere on the lot. The operator of the animal hospital/veterinary clinic shall be responsible for using good management practices to discourage undesirable odors, insects, and excessive noise.

SECTION 4-8.12. ANIMALS

A. Prohibitions.

Except for animals and fowl for sale in licensed pet stores and animals trained and prescribed as service animals for the disabled, and except as otherwise specifically permitted herein, no person shall raise or keep any exotic/wild animal, livestock animal or livestock fowl on property within the Brooksville City Limits.

B. Exceptions for livestock animals and livestock fowl.

1. Except as provided in Section 4-8.12.B.3. below, a minimum lot size of 10 acres shall be required to raise or keep livestock animals and livestock fowl on residentially-zoned property. No minimum lot size shall be required for properties zoned Agricultural.

2. A maximum of four livestock animals and ten livestock fowl shall be permitted on residentially-zoned properties.

3. Individuals with bonafide event projects for organizations such as the 4-H Council, the Hernando County Fair Association or the Hernando County School District, may raise and keep livestock animals and/or livestock fowl on property less than ten acres in size. Approval of such proposals shall be subject to appropriate conditions and considerations, which may include but not be limited to setback and buffer requirements from adjacent properties, time limits, and noise and odor reduction criteria. Permits issued pursuant to this section may be revoked if it is determined that the use adversely impacts surrounding residential uses.

4. Properties annexed into the City but not yet designated with a City zoning category shall be permitted to continue agricultural operations, including the raising and keeping of livestock, in accordance the rules and regulations of the properties' Hernando County zoning district designation.

C. Confinement

1. Livestock animals shall be confined in areas enclosed by fencing constructed and located in accordance with the fencing requirements of this Code. No livestock

animal confinement area shall be located in front of the front façade of the property's principal structure, unless said principal structure is a barn or similar structure.

2. Livestock fowl shall be confined in coops, pens or cages. Such confinement structures shall be located a minimum of 50 feet from adjacent properties and shall not be located in the required front or side yards.

SECTION 4-8.13. APARTMENT/COMMERCIAL

To further the provision of affordable housing and to recognize existing residential uses in commercial zoning districts, the opportunity for the development of commercial apartments is herein provided. Commercial apartment units shall be subject to the following criteria:

A. Except as provided in B. below, this dwelling unit type shall be located on the ground level, second or third story or level, of a building containing a commercial or office use. Commercial apartments shall be regulated on the basis of floor space rather than units per acre. Floor space devoted to commercial apartments shall contribute to site FAR (floor area ratio) calculations as follows. In cases where the commercial apartment space does not exceed 6,000 square feet or the amount of nonresidential floor space within the building, whichever is less, the commercial apartment space shall be excluded from site FAR calculations. In cases where the floor space devoted to commercial apartments exceeds 6,000 square feet or the amount of nonresidential floor space within the building, whichever is less, the amount of commercial apartment space in excess of the lesser figure shall be included in site FAR calculations. In all cases the nonresidential floor space in the building shall fully contribute to site FAR calculations.

B. In lieu of the provision of commercial apartments within the same building of a commercial use, not more than one single-family detached dwelling unit may be constructed on the same zoning lot as a commercial use. Such a unit shall be placed to the rear of the building containing the commercial use, relative to the functional front yard of said commercial use. Notwithstanding the above, single-family detached or mobile/manufactured homes not meeting this locational standard but built in compliance with zoning regulations applicable at the time of construction, shall be recognized as conforming uses as per this Code.

C. On-site parking for the residential component of the apartment/commercial use shall not be required.

D. Development proposed on parcels abutting commercial apartments shall comply with buffering and screening standards as if no commercial apartment exists.

SECTION 4-8.14. BED AND BREAKFAST ESTABLISHMENTS

A bed and breakfast establishment shall comply with the regulations of this Code for a single-family dwelling unit in the zoning district in which it is located and the following:

A. The bed and breakfast establishment, for the purposes of calculating density, shall constitute one dwelling unit.

B. Parking in excess of that required for a single-family dwelling shall be located along the side or rear yard, behind the primary structure and shall not be required to be paved.

C. Bed and breakfast establishments in residential zoning districts shall be allowed no more than five lodging units.

D. Signage shall be limited to a maximum of four square feet, and non-illuminated.

E. Activities which are customary and incidental to the function of the bed and breakfast establishment may be permitted.

F. Bed and breakfast establishments must be owner occupied and operated and maintain an affiliation with a Bed and Breakfast Industry registry.

SECTION 4-8.15. BOARDING HOUSE

A. In each boarding house, for the purposes of calculating density, every 2.5 residents shall constitute one dwelling unit. Therefore the facility must be located on a lot large enough to meet the density requirements of the Comprehensive Plan for the equivalent number of dwelling units or the minimum requirements of the Zoning District in which it is located, whichever is more restrictive.

B. All boarding houses containing more than 15 residents shall have direct access to a collector or arterial street.

C. Where boarding houses shall be located within two lots, or 100 feet, from the boundary of a single-family residential zoning district of lesser density than permitted in the zoning district in which said boarding house is located, then said boarding house shall be in scale with the building located within 200 feet of said boarding house. Said boarding house shall not deviate by more than 30 percent from the median scale of such neighboring buildings as determined by site volume ratio and total building volume.

SECTION 4-8.16. BUS TERMINAL

A. Such use shall not adjoin a residential zoning district of less than six dwelling units per acre.

B. Such uses shall be separated from any residentially zoned property by a minimum 30-foot buffer.

SECTION 4-8.17. CAMPS

A. In camps, for purposes of calculating density, every ten campers shall constitute one dwelling unit, based on maximum camp capacity. Therefore, the facility must be located on a lot large enough to meet the density requirements of the Comprehensive Plan for the equivalent number of dwelling units or the minimum requirements of the zoning district in which it is located, whichever is more restrictive.

B. The length of stay for campers is limited to a maximum of 180 days.

SECTION 4-8.18. CANOPIES AND GASOLINE PUMP ISLANDS AS ACCESSORY USES

The canopies provided over the pump islands at gas stations, service stations and convenience stores, and the pump islands themselves shall meet the yard requirements of a principal structure. However, if the following requirements are met, the canopy and pump islands may intrude a limited amount into a front yard:

A. The outside edge of the canopy may intrude up to ten feet into the required front yard as measured from the rear of the required front yard.

B. Pump islands, their surrounding structures and the canopy support structures may encroach up to ten feet into the required front yard provided that traffic movements between the pump island and the street right-of-way are restricted to one-way.

C. Neither the canopy nor the pump islands shall block visibility at intersections of rights-of-way or drives.

SECTION 4-8.19. CEMETERIES, HUMAN

A. A minimum lot size for the entire cemetery site shall be 85,000 square feet.

B. There shall be adequate space within the site for the parking and maneuvering of funeral corteges.

C. No interment shall take place within 30 feet of any adjoining lot line.

D. All structures shall be set back a minimum of 25 feet from any boundary line of the cemetery property.

E. All structures over 25 feet in height must be set back from any boundary line of the cemetery a minimum of 25 feet plus two feet for each one foot of height over 25 feet to the maximum height permitted by the zoning district in which it is located or 50 feet, whichever is more restrictive.

SECTION 4-8.20. CEMETERIES, PET

A. A minimum lot size of one acre is provided for the entire cemetery property.

B. No interment shall take place within 30 feet of any adjoining lot line.

C. All structures shall be set back a minimum of 25 feet from any boundary line of the cemetery property.

D. All structures over 25 feet in height must be set back a minimum of 25 feet plus two feet for each one foot of height over 25 feet to the maximum height permitted by the zoning district in which it is located or 50 feet whichever is more restrictive.

SECTION 4-8.21. CHILD CARE CENTER

A. Required patron parking shall be adjacent to the facility and clearly designated by raised directional signage and pavement or wheel stop markings. Each parking space shall be fronted with wheel stops set two feet from a continuous five foot wide sidewalk leading to the building entrance, or a raised curb and a continuous seven-foot wide sidewalk leading to the building entrance.

B. If a circular driveway is provided for pick-up/drop-off of children, the following shall be required in addition to Paragraph A above; a paved circular driveway, 12 feet in width with a minimum inside turning radius of 20 feet, and an area a minimum of 15 feet from the designated discharge point where the children are picked up or dropped off, into which cars shall not park or back. If fire regulations require the designation of a fire lane, then the width of the circular driveway shall be at least 20 feet.

C. Employee and van parking shall be designated by raised directional signage and pavement or wheel stop markings.

D. A fenced outdoor play area for the children shall be provided. The use of the play yard shall be limited to between 8:00 a.m. and 6:00 p.m. if the fenced play area is within 100 feet of a residential zoning district unless otherwise specifically approved by the Planning and Zoning Commission.

E. The location and extent of the facility shall not adversely affect the character of the existing neighborhood.

F. The Child Care Center shall be of a design, intensity and scale to serve the surrounding neighborhood and to be compatible with the surrounding land uses and zoning.

G. These regulations shall not apply to Family Child Care Homes as defined in this Code. Family Child Care Homes are permitted as an accessory residential use without special zoning approval or review, subject to child care licensing requirements.

SECTION 4-8.22. CHURCHES/SYNAGOGUES

A. In all residential zoning districts, the sanctuary or main place of worship (excluding all classrooms, administrative offices, and fellowship halls) may exceed 30 feet in height provided that the structure is set back an additional one foot for every one foot of structure height over 30 feet at all boundaries (added to yards or buffer areas required elsewhere.)

B. A minimum lot size of 20,000 square feet shall be provided.

C. If the church or synagogue has a seating capacity of more than 300 persons, the site shall have direct access to an arterial or collector street.

D. Family Support Services, as defined by this Code, shall be permitted accessory uses, regardless of the property's zoning and provided said services are offered by a non-profit organization.

SECTION 4-8.23. CIRCUS

A. The duration of the use shall not exceed ten calendar days.
B. Where said circus use is adjoining a residential district, there shall be a minimum setback of 100 feet between parking areas and any circus equipment or vehicles and a minimum of 300 feet from the circus itself.

SECTION 4-8.24. COLLEGE/COMMUNITY COLLEGES/UNIVERSITY

A. The site shall have a minimum area of ten acres.

B. The use shall qualify for accreditation by the Southern Associates of Colleges and Schools.

SECTION 4-8.25. COMMUNITY RESIDENTIAL HOME

The following specific standards shall be used in deciding an application for approval of these uses:

A. Community Residential Homes housing six or fewer residents shall be deemed a single-family unit and non-commercial residential use for the purposes of this land development code. Such homes shall not be located within a radius of 1,000 feet of another such existing home with six or fewer residents. The measurement of the 1,000-foot separation

shall be from the boundary of the zoning lot containing the Facility to the boundary of the zoning lot containing the other Facility measured in a straight line. Community Residential Homes Type "B" and "C" shall not be located so as to result in a concentration of such community residential homes in an area. No community residential home type "B" or "C" shall be located within a radius of 500 feet of an area of single-family zoning. The 500-foot distance shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home.

B. The requirements and standards of the Florida Agency for Health Care Administration shall be met.

C. In all Community Residential Homes Type A, each home shall be considered a dwelling unit for the purposes of calculating density. In all other Community Residential Homes, for the purposes of calculating density, each "placed" resident in the facility shall equal one-fifth of a dwelling unit.

D. Each facility shall provide adequate parking spaces as required elsewhere in this Code.

E. The specific requirements for the type of Congregate Living Facility proposed shall be as follows:

1. Community Residential Home B

   Each facility shall be designed and built to appear as similar to a residential structure as possible.

2. Community Residential Home C

   a. Each facility shall provide a buffer and screening area as required elsewhere in this Code.

   b. Each facility shall be designed and built to appear as similar to a residential structure as possible.

   c. Each facility shall be located with direct access to a roadway.

SECTION 4-8.26. COMMUNICATION FACILITIES, WIRELESS

A. Purpose and intent.

The purpose and intent of this chapter is to regulate the establishment of wireless communication support facilities in recognition of the Telecommunications Act of 1996

and the public need and demand for advanced telecommunication and information technologies and services. These regulations:

1. Provide for the appropriate location and development criteria for wireless communication support facilities and wireless communication antennas within the city.

2. Encourage the location of wireless communication support facilities in areas having the least impact on residential uses.

3. Seek to minimize the visual impact of such facilities through careful design, siting and screening criteria.

4. Seek to maximize the use of existing and future wireless communication support facilities and the locations already set aside for utility infrastructure, telecommunications and public use.

5. Seek to minimize the visual impact on the archeological, architectural and historical character of neighborhoods and designated historic districts and landmarks.

6. Seek to minimize negative impacts on the habitat and water quality of designated conservation lands.

B. Applicability.

Wireless communication support facilities (WCSF) and antennas installed and maintained in accordance with this Article are exempt from the height limitations for buildings and structures set forth elsewhere in this Code.

C. Location

1. A WCSF shall be permitted in all industrial, commercial industrial storage and agricultural zoning districts and those properties identified for utility use.

2. A WCSF may be permitted as a special use in all commercial, professional office, commercial planned development project and nonresidential portions of planned development project zoning districts.

3. A camouflaged WCSF tower may be permitted as a special use in all residential, residential planned development project and nonresidential portions of planned development project zoning districts, and designated historic and conservation areas.

D. Existing nonconforming WCSFs.

Any lawfully existing nonconforming WCSF shall be subject to the following requirements:

1. A nonconforming WCSF may be utilized for collocation.

2. A nonconforming WCSF may not be increased in height.

3. If a nonconforming WCSF ceases to be utilized and is determined by the City Manager to be abandoned, then the WCSF shall be removed at the owner's expense within 180 days of written notification.

E. Development criteria for new WCSFs.

All WCSFs shall be subject to the following regulations, except where otherwise provided for in this Article:

1. Color. Communication towers, except camouflaged towers, shall have a galvanized finish or shall be painted with a gray or blue-gray finish, unless required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC) to be painted in another color scheme.

2. Illumination. Communication towers shall not be lighted except to ensure human safety or as required by the FAA or FCC.

3. Fencing. A chain link fence or wall eight feet in height shall be installed by the owner/operator of the communication tower. The fence shall be erected around the base of the communication tower and all accessory structures. All anchor points of the guide wires of a guide tower shall be fenced in a similar manner.

4. Signage. Except for warning signs such as "No Trespassing" and signs that state ownership and emergency telephone numbers, no signage will be permitted on the communication tower. No WCSF shall have more than five signs and at no time shall a single sign be greater than two square feet. Signs shall be spaced to provide maximum warning to the public.

5. Landscaping. The following landscaping and buffering shall be required around the perimeter of communication tower sites, except that the standards may be waived by the designated official for those sides of the proposed tower that are located adjacent to undevelopable lands or lands not in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting the landscaping requirements.

a. A row of shade trees a minimum of eight feet in height at the time of planting and spaced a maximum of 30 feet apart shall be planted around the perimeter of the fence.

b. A continuous hedge at least 30 inches in height at planting and capable of growing to at least 36 inches in height within 18 months shall be planted on the outside of the perimeter fence and tree line referenced above.

c. All landscaping shall be of the evergreen variety.

d. All landscaping shall be drought tolerant and properly maintained to ensure good health and viability.

6. Structural design. All communication towers shall be constructed in accordance with the most current standards of the electronic industries association, all city construction and building codes, all applicable land development regulations and federal and state laws.

7. Collocation.

a. All new or replacement communication towers, greater than 100 feet in height, erected within the city shall be structurally designed to support no less than two antenna arrays.

b. A single communication tower and antenna array that does not add more than 60 feet to the height of any existing or new structure that carries an electric line of 69 kv or greater shall be a permitted use in any nonresidential zoning district for the purpose of collocation.

c. A single communication tower and antenna array that does not add more than 20 feet to the height of any existing or new 35-foot or taller structure shall be a permitted use in any nonresidential zoning district for the purpose of collocation.

d. Any existing communication tower, within any zoning district, may allow for collocation as a permitted use.

e. Antennas that are mounted directly on a structure with brackets or a similar type of device shall not be subject to the single communication tower and antenna array requirement.

f. Communication towers and antenna arrays that are collocated on existing structures and are camouflaged shall not be subject to the single communication tower and antenna array requirement.

8. Setbacks. Communications towers and accessory structures shall meet the following setbacks:

   a. The minimum setback shall be 125 percent of the fall radius of the tower or 150 percent of the length of the longest component of a breakaway tower, as stated in a signed, certified statement from a professional engineer, or the setback of the zoning district in which the communication tower is located, whichever is greater.

   b. Communication towers shall not be located within 175 percent of its height to any residentially zoned property.

   c. Setbacks for communication towers shall be measured from the base of the tower.

   d. Anchors for guide wires shall meet the required setbacks of the zoning district.

9. Replacement of communication towers. All communication towers, whether conforming or nonconforming, shall be subject to the following replacement requirements, as applicable:

   a. A communication tower may be replaced with the same type of tower construction or a monopole.

   b. A communication tower may be replaced with a tower of equal or lesser height.

   c. Any replacement communication tower must be located within 30 feet of the communication tower it will be replacing, or a new permit will be required.

   d. A replacement tower must meet all the requirements of this Article for color, illumination, fencing, signage, structural design, collocation and setbacks.

10. Abandonment.

   a. In the event that the use of any communication tower has been found to be discontinued, as determined by the City Manager, for a period of 180 consecutive days, the communication tower shall be deemed to have been abandoned.

   b. Once a communication tower has been found by the City Manager to be abandoned, a certified letter shall be sent to the owner/operator. Within 90

days of the date of mailing the certified letter, the owner/operator shall either:

i. Reactivate the use of the communication tower or transfer the tower to another owner/operator who must make use of the tower site within 90 days; or

ii. Dismantle and remove the tower.

c. Towers abandoned for a period of 180 days must be brought into conformity for reuse.

11. Height restrictions.

a. Monopole towers 150 feet or less in height are permitted uses in industrial, commercial industrial and agricultural zoning districts and those properties identified for utility use.

b. A single communication tower and antenna array that does not add more than 20 feet to the height of any existing structure; or antennas that are mounted directly on a structure with brackets or a similar type of device, are permitted uses in all commercial zoning districts.

12. Special regulations. The following criteria must be met prior to the approval of a WCSF:

a. Have a setback of no less than the fall radius as stated in a signed, certified statement from a professional engineer or the setback of the zoning district, whichever is greater.

b. All other requirements of this Article.

c. As part of the procedure when applying for a WCSF location, an applicant must submit search rings to the city showing all structures that are available for collocation and all existing WCSF sites within the search rings that have already been approved for a communication tower.

d. Be compatible with the surrounding land uses:

i. Shall not have a negative material impact on surrounding land uses;

ii. Shall not have a negative material impact on infrastructure; or

iii. Shall not have negative material environmental impacts as allowed to be reviewed by applicable laws.

F. Inspection fees.

The City Council shall have the power to adopt, by resolution, fees and regulations concerning the planning, zoning and permitting services related to wireless communication support facilities siting and construction.

SECTION 4-8.27. CONVENIENCE STORE

A. The use shall have direct access to an existing roadway, except where it is part of a nonresidential development where access is provided by a parallel access road or reverse frontage road where nonresidential uses will be on both sides of the street.

B. Where the use abuts residentially zoned property, a minimum 20-foot buffer shall be provided. Said buffer shall include a wood or PVC fence six feet in height or a masonry wall six feet in height and architecturally finished on both sides, and a row of evergreen trees, excluding exempted trees, which are not less than six feet high at the time of planting and are spaced not more than 40 feet apart. No more than 10 feet of the width of said 20-foot buffer shall be utilized as a retention area.

C. All convenience stores abutting residentially zoned property shall use the same architectural materials (excluding windows) on all sides of the building.

D. The canopies provided over the pump islands at convenience stores which dispense gasoline shall meet the yard requirements of a principal structure. However, if the following requirements can be met, the canopy may intrude a limited amount into a front yard.

1. The outside edge of the canopy may intrude up to ten feet into the required front yard as measured from the rear of the required front yard.

2. Pump islands, their surrounding structures and the canopy support structures may encroach up to ten feet into the required front yard provided that traffic movements between the pump island and the street right-of-way are restricted to one-way.

3. Neither the canopy nor the pump islands shall block visibility at intersections of rights-of-way or drives.

SECTION 4-8.28. CORRECTIONAL FACILITY

A. General Standards

1. All correctional facilities shall have direct frontage onto a roadway.

2. At the time of the request for approval, the operator of the correctional facility shall provide information on, and if approved, shall utilize adequate measures to prevent the unauthorized exit of the inmates. The more dangerous the inmates are to the public, the more elaborate and secure the security measures shall be.

3. Buffers and screening shall be as required as specified in the buffering and screening requirements provided elsewhere in this Code.

4. The facility shall comply with all applicable Federal, State and local requirements.

B. Major Correctional Facilities

1. The minimum lot size shall be five acres with minimum frontage of 200 feet.

2. The structures occupied by the facility residents shall be located a minimum of 2,640 feet from any residential development or zoning district developed to or permitting a density of two units per acre or greater; 500 feet from any existing dwelling unit developed at a density of less than two units per acre and a minimum of 200 feet from any zoning lot boundary.

C. Community Correctional Facilities

1. The minimum lot size shall be one acre with a minimum frontage on a public street of 150 feet.
2. All structures occupied by the facility residents shall be located a minimum of 200 feet from any existing adjacent dwelling unit or residential or agricultural zoning districts. All such structures shall be located a minimum of 30 feet from any zoning lot boundary if adjacent to a zoning district other than residential or agricultural zoning districts.
3.

SECTION 4-8.29. EATING ESTABLISHMENT, DRIVE-THROUGH

A. Drive-Through Service

Eating establishments providing drive-through service wherein a patron is served through a window or other device while remaining in a motor vehicle shall meet the following criteria:

1. No order box used in the ordering of food or beverages from a drive-through window shall be located within 200 feet of any property zoned residential.

2. Where the use abuts residentially zoned property, a minimum 20-foot buffer shall be provided. Said buffer shall include a PVC fence six feet in height or a masonry wall six feet in height and architecturally finished on both sides, and a row of

evergreen trees, excluding exempted trees, which are not less than six feet high at the time of planting and are spaced not more than 40 feet apart. No more than 10 feet of the width of said 20-foot buffer shall be utilized as a retention area.

4. Adequate automobile stacking space will be provided from the order box to ensure that any public right-of-way or common vehicular use area will not be blocked by or utilized for vehicular stacking.

SECTION 4-8.30. FIRING RANGE, SMALL ARMS, INDOOR

A. The use shall not constitute a nuisance or be a hazard to life or property as determined by the City of Brooksville.

B. The hours of operation shall be between 9:00 a.m. and 7:00 p.m.

C. The design and safety standards of the National Rifle Association shall be met.

SECTION 4-8.31. FIRING RANGE, SMALL ARMS, OUTDOOR

A. The minimum size of the site shall be 20 acres.

B. The maximum caliber for rifled barrels used on the range shall be .45 and for non-rifled barrel shall be 12 gauge.

C. A projectile-proof backstop, consisting of concrete, steel, earth or a combination thereof, at least 15 feet high shall be erected and maintained behind all target areas.

D. The use shall not constitute a nuisance or be a hazard to life or property as determined by the City of Brooksville.

E. The hours of operation shall be between 9:00 a.m. and 7:00 p.m.

F. The design and safety standards of the National Rifle Association, The National Skeet Shooting Association, and the Amateur Trap Shooting Association shall be met.

G. This use shall be permitted only where no more than 15 percent of the adjoining residentially zoned land located within 1,000 feet is developed into lots.

SECTION 4-8.32. FLEA MARKET

Flea markets shall not be permitted abutting a residential zoning district.

SECTION 4-8.33. GARAGE AND YARD SALES

Garage, yard, tag, patio and apartment sales are specifically permitted, as an accessory use, in all residential districts. Such sales shall be limited to two during each six-month period for a duration not to exceed three days.

SECTION 4-8.34. GAS STATION

A. The use shall have direct access to an existing arterial or collector roadway at the time of the application, except where it is part of a nonresidential development where access is provided by a parallel access road or reverse frontage road where nonresidential uses will be on both sides of the street.

B. Where the use abuts residentially zoned property, a minimum 20 foot buffer shall be provided. Said buffer shall include a PVC fence or masonry wall, six feet in height and architecturally finished on both sides, and a row of evergreen trees, excluding exempted trees, which are not less than six feet high at the time of planting and are spaced not more than 40 feet apart. No more than 10 feet of the width of said 20 foot buffer shall be utilized as a retention area.

C. All gasoline stations abutting residentially zoned property shall use the same architectural materials (excluding windows) on all sides of the building.

D. The canopies provided over the pump islands at gas stations and service stations shall meet the yard requirements of a principal structure. However, if the following requirements can be met, the canopy may intrude a limited amount into a front yard:

1. The outside edge of the canopy may intrude up to ten feet into the required front yard as measured from the rear of the required front yard.

2. Pump islands, their surrounding structures and the canopy support structures may encroach up to ten feet into the required front yard provided that traffic movements between the pump island and the street right-of-way are restricted to one-way.

3. Neither the canopy nor the pump islands shall block visibility at intersections of rights-of-way or drives.

E. All repair services shall be performed within a completely enclosed building.

F No more than three vehicle parking spaces per service bay plus one space per employee shall be permitted.

G. All storage of vehicles awaiting needed parts shall be within the building or completely screened from off-site view in a yard.

H. All damaged or non-operable parts shall be stored indoors until removed from the premises.

I. A gas station shall store all vehicle parts within a completely enclosed building.

SECTION 4-8.35. GOLF DRIVING RANGE

A. Unless netting is used, the site shall be of such configuration so as to permit a minimum driving distance of 300 yards from each proposed tee area.

B. A site plan of the facility shall be submitted showing the layout of the property with all hitting areas, landing areas, greens, structures, off-street parking areas, fencing and proposed plant materials and location.

C. Lighting used at the site shall be designed, located and constructed so as to prevent glare and minimize reflection onto neighboring property.

D. Minimum required yards on all sides of a golf driving range shall be 50 feet.

E. Baseball hitting cages, miniature golf and putting greens shall be permitted accessory uses.

SECTION 4-8.36. GREEN ROOF

The following requirements shall apply to green roofs which are seeking open space credit.

A. The green roof may not utilize potable water for irrigation; if irrigated, the water source shall be reclaimed water or captured rain water.

B. Prior to construction site plan approval, the applicant shall demonstrate that an adequate soil depth will be provided for plants.

C. Prior to building permit issuance, the applicant shall demonstrate that the roof can support the additional load of plants, soil, and retained water.

D. The roof area must contain sufficient space for future installations (e.g. mechanical equipment) that will prevent adverse impacts (e.g. removal or damage to plants or reduction in area) to the green roof.

E. Vegetation on the green roof must be maintained for the life of the building.

F. The area taken up by the portion of a roof which is comprised of a green roof shall constitute open space for a maximum credit of 50% for extensive green roofs and a maximum credit of 75% for intensive green roofs towards the open space required on site.

SECTION 4-8.37. HOME-BASED BUSINESS

A. No person shall be employed other than members of the immediate family residing on the premises.

B. The use of the dwelling unit for the home-based business shall be clearly incidental and secondary to its use for residential purposes. Not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home-based business; and no outside display, storage, or use of land is permitted.

C. There shall be no change in the outside appearance of the building or premises as a result of such business, with the exception of an unlighted sign or nameplate, not more than one square foot in area, attached to and not projecting from the building.

D. No home-based business shall be conducted in any accessory building.

E. No mechanical equipment shall be used on the premises, except such that is normally used for purely domestic or household purposes, nor shall it create levels of noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses outside the dwelling unit in excess of that normally associated with household use. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television sets off the premises, or causes fluctuations in line voltage in excess of that normally associated with household use.

F. No commodity or good not produced on the premises shall be sold on the premises nor displayed or warehoused on the premises for sale elsewhere. This does not preclude taking orders for sales or provision of services off site.

G. A home-based business shall include, but not be limited to the following: domestic crafts such as beauty salon (limited to one chair), seamstress, sewing, tailoring, weaving, washing and ironing, private tutoring and instruction (limited to three pupils at any one time), food preparation where the food product is sold and delivered, and professional services.

H. A home-based business shall be not be interpreted to include activities such as but not restricted to auto repair and tune-up, clinics, physician's, dentist's and offices of the like, welding shops, animal hospital or kennels.

I. A home-based business shall not be transferred to another owner or lessee of the property unless the identical conditions exist as to the specific occupation, number of persons operating the business, and all site conditions remain the same.

SECTION 4-8.38. HOME SWIMMING INSTRUCTION

A. No persons shall be employed other than members of the immediate family residing on the premise.

B. There shall be no change in the outside appearance of the pool or house as a result of these instructions, with the exception of an unlighted sign or name plate not more than one square foot in area, attached to and not projecting from the house or screening around the pool.

C. Swimming instructions shall be limited to three students per instruction period.

D. Swimming instructions shall be permitted from 9:00 a.m. to one-half hour after sunset.

E. Private residential swimming pool enclosures and barriers are governed by Section 424 of the Florida Building Code.

F. A permit to engage in swimming instruction shall be reviewed pursuant to the Procedures for Issuance of Development Permits and shall not be transferred to another owner or lessee of the property unless the identical conditions exist as to the number of students taught and the time of instructions, and all site conditions remain the same.

SECTION 4-8.39. KENNEL

A. The disposal of all feces and other solid waste generated by the kennel operation shall be reviewed and approved by the Florida Department of Health.

B. All runs and kennel areas shall be fenced with chain link, PVC, solid wood fencing or a masonry wall. The masonry wall shall be, six feet in height and architecturally finished on both sides. The PVC or wooden fence shall be six feet in height.

C. Any training of animals shall not include the use of loud noises or produce smoke or odor.

D. Humane Society of the United States (HSUS) Guidelines shall be used, at a minimum, for the flooring, walls between kennels, drainage, heating and cooling, cage sizes and runs.

E. The kennel facility shall not generate adverse off-site noise or odor impacts.

F. All outdoor runs shall be a minimum of 150 feet from any residential zoning district and all exercise areas shall be a minimum of 50 feet from any residential zoning district.

G. The grooming of animals in the kennel and, on a limited basis, the grooming of pets not kept at the kennel shall be considered a permitted accessory use. The sale of accessories and equipment for pets such as pet food, collars, toys, carriers and other such items shall not be permitted, except when the kennel is located in a commercial zoning district and such sales are incidental to the primary kennel activity.

SECTION 4-8.40. LIFE CARE TREATMENT FACILITY

A. In a life care treatment facility, for the purposes of calculating density, every two and one-half residents shall be considered to equate to one dwelling unit. Number of residents shall be based on the maximum capacity of the facility. Each room or group of rooms containing a separate and individual kitchen shall equal one unit. If an accessory nursing home is provided on the same lot, the density conversion rate for a nursing, convalescent and extended care facility must be met for that portion of the development. (See Nursing, Convalescent and Extended Care Facility). Therefore, the facility must be located on a lot large enough to meet the density requirements of the Comprehensive Plan for the number of dwelling units proposed.

B. Front, rear and side setbacks shall be a minimum of 50 feet.

C. Each life care treatment facility located in a non-residential zoning district shall not exceed a floor area ratio of 0.25.

SECTION 4-8.41. MENTAL HEALTH CARE FACILITY

A. The minimum lot size shall be five acres with a minimum frontage on a public street of 200 feet.

B. The structures shall be located a minimum of 1,200 feet from any residential development or zoning district developed to or permitting a density of two units per acre or greater; 500 feet from any existing dwelling unit developed at a density of less than two units per acre and a minimum of 200 feet from any zoning lot boundary.

C. At the time of development review, the operator of a mental institution shall provide information on, and if approved, shall utilize adequate measures to prevent the unauthorized exit of the patients. The more dangerous the patients are to the public, the more elaborate and secure the security measures shall be.

SECTION 4-8.42. MEMBERSHIP ORGANIZATION

A. The use shall be located so as to discourage traffic through residential areas.

B. Required yards adjacent to residential uses or zoning shall be a minimum of 30 feet.

SECTION 4-8.43. MINI WAREHOUSE/SELF-STORAGE FACILITY

A. Such facilities shall be used only for dead storage of materials or articles and shall not be used for assembly, fabrication, processing, or repair.

B. No services or sales shall be conducted from any storage unit. Garage sales and/or flea market-type activities are prohibited.

C. Facilities shall not be used for practice rooms, meeting rooms, or residences.

D. Except as provided herein, no exterior storage of material or articles shall be permitted.

E. Facilities may provide for the outdoor storage of recreational vehicles, watercraft and moving trucks provided:

1. All recreational vehicles, watercraft and moving trucks stored on the property shall be in operable condition.

2. All recreational vehicles, watercraft and moving trucks shall be stored in a designated outdoor storage area which does not interfere with traffic circulation.

3. The total square footage of the designated outdoor storage area shall not exceed 20 percent of the developed square footage for the enclosed portions of the facility.

4. The designated outdoor storage area shall be internal to the project itself and screened by buildings, so that no portion of any recreational vehicle, watercraft or moving truck is visible from off-site.

5. The maintenance, washing or repair of recreational vehicles, watercraft and moving trucks shall not be permitted at the facility.

F. Storage of explosive or highly flammable material shall be prohibited.

SECTION 4-8.44. MINOR INDUSTRY

A. All activity except storage as provided in C below shall be conducted in a building. Overhead doors are permitted.

B. The activity shall meet the Industrial Performance Standards of this Code.

C. Accessory open storage shall be permitted provided that it meets the screening requirements for Open Storage as specified in this Code.

D. In the C-2 zoning district, the building involved in the minor industry shall be a maximum of 30,000 square feet.

SECTION 4-8.45. MODEL DWELLING UNIT AND PRE-CONSTRUCTION SALES OFFICE

A. In any residential district, the developers, builders or their agents may operate one model dwelling unit as a sales office for the specific project under construction, subject to the following restrictions:

B. The model dwelling unit shall meet all district requirements for lot and yard dimensions.

C. Signs shall not be illuminated after 9:00 p.m.

D. The model dwelling unit shall not be used for any business activity after than 9:00 p.m.

E. One off-street parking space shall be provided for each employee plus one per model dwelling unit. In addition, one space shall be provided for handicapped parking. These spaces shall be provided on the same lot as the model dwelling unit or on a contiguous lot within the specific project.

F. The model dwelling unit shall be discontinued when the specific residential project is sold out and shall comply with regulations generally applicable within the district.

G. Model dwelling units may be erected or displayed in districts which exclude residential uses, provided that such models shall not be used for residential purposes, but only for display as a means to sell homes in districts in which they are permitted and provided that all other requirements of the district in which the model dwelling unit is erected shall be met.

H. In those zoning districts where multi-family dwelling uses are permitted, a temporary structure may be used as a preconstruction sale office for the purpose of displaying a typical dwelling unit arrangement, subject to the following restrictions:

1. The structure shall be limited to two stories in height.

2. Adequate off-street parking facilities (a minimum of five spaces) and access driveways shall be developed within those locations approved for such facilities in conjunction with the permanent multi-family structure, and no additional parking areas or access driveways shall be permitted.

3. The structure shall be completely and totally removed within six months from the date of the issuance of a Building Permit for or upon the completion of the permanent residential dwelling structure whichever date is later.

4. In the event that the structure should not be removed or demolished by the owner or other parties in interest within the terms of this section, the City, to the extent permitted by law, acting through its Administrative Official, is authorized to vacate, demolish or remove, either with forces or by independent contractor submitting the lowest and best bid, any such building or structure. The City shall assess the entire costs of such vacation, demolition or removal against the owner or other parties in interest.

SECTION 4-8.46. NEIGHBORHOOD/COMMUNITY FAIR

A. Publicly-sponsored Neighborhood/Community Fairs. Any outdoor nonresidential temporary use or structure used in an event sponsored or authorized by a governmental agency or held on publically-owned property, i.e., parks, county fairgrounds, school sites, etc., shall be exempt from the requirements of this Section, provided such temporary use or structure associated with the use does not exceed 30 days.

B. Privately-sponsored Neighborhood/Community Fairs. All privately-sponsored Neighborhood/Community Fairs shall comply with the following regulations:

1. All necessary state and local permits shall be obtained.

2. The duration of the use shall not exceed 14 calendar days, except as specified in paragraph 5. below.

3. There shall be a minimum of 30 feet from the parking area to the lot line and a minimum of 30 feet from the fair itself to the lot line, except as specified in paragraph E. below.

4. Parking areas shall be designed to prohibit vehicles from backing onto collector or arterial roadways.

5. If the applicant wishes to extend the duration of the Neighborhood/Community Fair to more than 14 calendar days, or to reduce the setbacks specified in paragraph C. above, the noticed appearance before the Planning and Zoning Commission option associated with the Special Exception procedure shall be mandatory. The Planning and Zoning Commission's decision to extend the duration of the fair or to reduce the setbacks shall be based on a finding of no significant adverse effect on adjoining properties.

6. Outdoor lighting shall not shine directly onto adjacent properties.

7. Permits for Neighborhood/Community fairs shall be valid for five separate fairs, provided no changes to site conditions are proposed. No less than seven days prior to each fair, notification shall be provided to the City with certification that there are no changes to site conditions.

SECTION 4-8.47. NURSING, CONVALESCENT AND EXTENDED CARE FACILITY

A. Minimum lot size shall be one acre with a minimum frontage on a public street of 150 feet.

B. Front, rear and side setbacks shall be a minimum of 50 feet.

C. Each nursing, convalescent, or extended care facility shall not exceed a floor area ratio of 0.25.

SECTION 4-8.48. PAIN MANAGEMENT CLINIC

The following conditions, limitations and regulations shall apply to pain management clinics located or operating in the City of Brooksville:

A. Permit Required.

1. No pain management clinic shall be located or operate in the City of Brooksville by any means without having been issued a Conditional Use Permit by the Community Development Department. A separate application and Conditional Use Permit is required for each pain management clinic location. The Conditional Use Permit shall be prominently displayed in the common public area of the pain management clinic.

2. A Conditional Use Permit for a pain management clinic is non-transferrable and non-assignable. Whenever the ownership or management of a pain management clinic changes, a new application must be filed for a new Conditional Use Permit at the location and all applicable fees must be paid. For the purposes of this Ordinance, the transfer of stock or member-interest by one owning more than 20% of the interest in a non-natural entity shall be deemed a change in ownership. For purposes of this Ordinance, the termination, addition, or replacement of the designated physician or the person who signed the application for permit shall be deemed a change of management.

3. This subsection does not preclude the requirement for existing lawfully permitted pain management clinics to have a permit as required by this Section.

4. The Community Development Department shall have the responsibility to monitor and issue Conditional Use Permits for pain management clinics pursuant to this Section.

B. Location Separation Requirements.

1. There shall be a one-half (½) mile separation between each pain management clinic regardless of the municipal boundaries of the City of Brooksville.

2. There shall be a one-half (½) mile separation for a pain management clinic from a pharmacy regardless of the municipal boundaries of the City of Brooksville.

3. The applicant shall furnish a certified survey from a land surveyor registered in the State of Florida, indicating the distance in linear feet between the pain management clinic and the above uses measured from the nearest point of one (1) establishment to the nearest point of the other establishment in a straight line.

C. Application Required. Any pain management clinic operating in the City of Brooksville shall file a sworn application with the City. Applications for a Conditional Use Permit shall be submitted to the Community Development Department on a form created by the City which shall contain the following information:

1. A copy of the applicant's State application form, including all attachments and information required for the Florida Department of Health registration;

2. Provide an accurate legal description of the property on which the pain management clinic is located including street address and a certified survey from a land surveyor registered in the State of Florida, as provided for in B.3. above;

3. Proof that the applicant has registered with the State Department of Health as of the effective date of this Ordinance as required by Sections 458.309 or 459.005, Fla. Stat. (2009), or any successor state law, or proof that the applicant is exempt from registration with the state;

4. Designation of the physician who shall be responsible for complying with all requirements related to registration and operation of the clinic and the physician's DEA number. The designated physician must have a full, active, and unencumbered license under Florida Statutes Chapters 456 or 459 and shall practice at the clinic location for which the physician has assumed responsibility. Within ten (10) days after termination or absence of a designated physician, the clinic must notify the Community Development Department of the identity of another designated physician for the clinic or forfeit the clinic's permit;

5. Provide an affidavit by the medical director, as defined by Fla. Stat. § 458.3265(1)(c), attesting to the fact that no employees, full-time, part-time, contract, independent or volunteers have been convicted of or who has pled guilty or *nolo contendere* at any time to an offense constituting a felony in this state or in any other state involving the prescribing, dispensing, supplying, selling or possession of any controlled substance prior to the adoption date of this section and that the business shall not employ any such persons thereafter.

6. A list of all persons associated with the management or operation of the clinic, whether paid or unpaid, part-time or full time, including all contract labor and independent contractors. This list will include, but is not limited to, all owners, operators, employees and volunteers. For persons listed, the following additional information must be provided:

   a. The person's name and title,

b. A current home address, telephone number and date of birth,

c. A list of all criminal convictions whether misdemeanor or felony,

d. A copy of a current Florida driver's license or a government issued photo ID, and

e. A set of fingerprints.

This list shall be required to be updated within ten (10) days of any new person becoming associated with the pain management clinic.

7. The property owner's name, address, telephone number, and a copy of a Florida driver's license or a government issued photo ID, if the property owner is different than the manager or operator;

8. Provide a disclosure of interest affidavit to identify the natural persons having the ultimate ownership interest in the business. The disclosure of interest affidavit shall provide in detail as applicable all principal stockholders and percent of stock owned by each, or a list of the trust beneficiaries and the percent of interest held by each, or a list of the principals including general and limited partners. Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or other similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interests.

9. An indication of whether the pain management clinic dispenses controlled substances on the pain management clinic site.

10. Any other information the City deems necessary.

11. A sworn and notarized statement from the designated physician attesting to the veracity and accuracy of the information provided in the application.

12. The application for a permit shall be notarized, typewritten, signed and sworn to by a person who seeks to operate a pain management clinic and the person who is the property owner for property on which the pain management clinic is located and shall include the post office address of the applicant(s) and the property owner. At least one (1) applicant shall be the medical director of the pain management clinic. The application shall not be signed by an authorized agent.

D. Application Processing.

1. Application Fee.

Each application for a Conditional Use Permit for a pain management clinic shall be accompanied by a nonrefundable application and permit fee of $250.00, or such other fee as may be set by resolution of the City Council. Calculation of the appropriate fee shall be based on the cost to the City for implementing and enforcing the provisions of this Ordinance. Fees for applications received after May 31 but before September 30 of any year may be prorated.

2. Incomplete Applications.

The applicant(s) shall be fully responsible for compliance with this Section and each applicant shall be considered a permittee upon the grant of a permit pursuant to this Section. It is the applicant's sole responsibility to provide accurate contact information when submitting the application to the Community Development Department. If the application for a Conditional Use Permit is not fully complete, in the sole discretion of the Community Development Department, the Community Development Department shall notify the contact person listed in the application. The applicant will have fifteen (15) business days after receipt of the deficiency notice from the Community Development Department to provide the information necessary to complete an application. Failure to provide the necessary information within fifteen (15) business days after the mailing of the notification shall result in a denial of the application and a new application must then be submitted, accompanied by a full non-refundable application fee.

E. Permit Issuance, Renewal, Denial or Revocation; Appeals.

1. Time period for granting or denying Permit.

The Community Development Department shall grant, renew, or deny a Conditional Use Permit for a pain management clinic within twenty (20) business days from the date of filing of a fully completed application.

2. Granting of permit.

If there is no basis for denial of a Conditional Use Permit pursuant to the criteria set forth herein, the Community Development Department shall grant the permit, notify the applicant and issue the permit to the applicant. Upon issuance of a permit, a permit holder is required to provide written notice to the Community Development Department within ten (10) business days of any change to the information submitted in the application, including but not limited to: change in physicians, change in officers of a corporation, revocation or suspension of a state permit, change in service person or address, etc.

3. Renewal of Permit.

Conditional Use Permits for pain management clinics shall expire annually on the 30th day of September. At least thirty (30) days prior to expiration of a Permit, a

renewal application, must be submitted, along with a non-refundable renewal application fee of $150.00, or such other fee as may be set by resolution of the City Council. Provided the pain management clinic named in the renewal application and all information on the application are in compliance with this Ordinance, a renewal permit shall be issued by the Department, after payment of the Renewal Application Fee. Renewal permits shall only be issued to businesses that were previously permitted and who timely file a renewal application.

4. Denial or revocation of permit.

The Community Development Department shall deny or revoke a pain management clinic Permit on the basis of any one of the following grounds:

a. An application for a Conditional Use Permit contains material false or missing information;

b. An applicant is not registered pursuant to Sections 458.309 or 459.005, Fla. Stat. (2009), or any successor state law, or has not proven it is entitled to an exemption from state registration;

c. An applicant has had a registration issued under either Sections 458.309 or 459.005, Fla. Stat. (2009), or any successor state law, suspended or revoked;

d. A Permit holder has refused to allow entry and/or inspection of the premises by a law enforcement officer, code enforcement officer, or any other person authorized to enforce ordinance violations in the City at any time someone is present on the premises;

e. A permit holder fails, within ten (10) business days, to provide written notice to the Department of any change to the information submitted in the application;

f. Failure to abide by any provision of this Ordinance;

g. Allowing any person to work or volunteer at the clinic, whether paid or unpaid, who has been convicted of or plead guilty or *nolo contendere* to, (even if sealed or expunged) an offense that constitutes a felony for receipt of illicit and diverted drugs, including any controlled substance listed in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of Florida Statutes Section 893 03, or any other state, or the United States;

h. The facility is owned by or has any contractual or employment relationship with a physician:

1. Whose Drug Enforcement Administration number has ever been revoked, or

2. Whose application for a license to prescribe, dispense, or administer controlled substance has been denied by any jurisdiction, or

3. Who has been convicted of or plead guilty or nolo contendere to, (even if sealed or expunged) an offense that constitutes a felony for receipt of illicit and/or diverted drugs, including any controlled substance listed in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of Florida Statutes Section 893 03, or any other state, of the United States.

The Community Development Department may grant an exception to sub-sections vii and viii above, in its sole discretion, if more than ten (10) years have elapsed since the adjudication date.

i. If the payment for the application fee, permit fee, or renewal fee is invalid or uncollectible for any reason.

j. If the registration of a pain management clinic is revoked or suspended by the Florida Department of Health, the Conditional Use Permit shall be revoked automatically.

k. A Conditional Use Permit may be revoked or denied if the facility restricts itself to a "cash-only" form of payment.

l. A Conditional Use Permit may be revoked or denied if the facility dispenses controlled substances on the same premises as stated on the Permit.

5. Appeals. Appeals of any denial or non-renewal of a Conditional Use Permit for a pain management clinic may be pursued in accordance with Article VIII of this Code.

6. Exemptions. This section shall not apply to the following types of clinics, medical offices, or facilities:

a. Clinics that are licensed as a facility pursuant to Fla. Stat. Ch. 395;

b. The majority of the physicians who provide services in the clinic primarily provide surgical services;

c. The clinic is owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total

assets at the end of the corporation's most recent fiscal quarter exceeded fifty million dollars ($50,000,000.00);

d. The clinic is affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;

e. The clinic does not prescribe and dispense controlled substances for the treatment of pain; or

f. The clinic is owned by a corporate entity exempt from federal taxation under 26 U.S.C. s. 501(c)(3).

7. Other Compliance Requirements.

a. The pain management clinic shall be required to update the disclosure of interest affidavit information prior to October 1 of each year or at any time that there is a change of ownership or natural persons as defined in subsection C. in this Section.

b. The pain management clinic must be registered with the Florida Department of Health pursuant to Fla. Stat. § 458.3265 as, amended from time to time.

c. The pain management clinic shall be fully owned by a physician or a group of physicians each of whom are Florida licensed physicians in good standing; or must be a licensed clinic under Fla. Stat. Ch. 400, Pt. X as, amended.

d. The pain management clinic shall not have employees, full-time, part-time, contract, independent or volunteers who have been convicted of or who has pled guilty or *nolo contendere* at any time to an offense constituting a felony in this state or in any other state involving the prescribing, dispensing, supplying, selling or possession of any controlled substance prior to the adoption date of this section and that the business shall not employ any such persons thereafter.

e. The pain management clinic is prohibited from having any outdoor seating areas, queues or customer waiting areas. All activities of the pain management clinic, including sale, display, preparation and storage shall be conducted entirely within a completely enclosed building.

f. The pain management clinic is prohibited from having an on-site prescription drug dispensary for controlled substances listed in Fla. Stat. § 893.03, Schd. II.

g. Within thirty (30) days of the removal of a pain management clinic from a building, site or parcel of land for any reason, the property owner shall be responsible for removing all signs, symbols and vehicles identifying the premises as a pain management clinic.

h. The pain management clinic shall be in compliance with all federal, state, county and municipal laws and ordinances, as amended.

i. All pain management clinics shall allow representatives of the City of Brooksville to enter and inspect their places of business during business hours or at any time the business is occupied for the purpose of verifying compliance with the permit requirements of this section and with the Code of Ordinances of the City of Brooksville. No person who operates a pain management clinic shall refuse to permit a lawful inspection of the premises by a representative of the City of Brooksville during business hours or at any time the business is occupied.

j. The designated physician shall secure all prescription pads so that only authorized persons may access them. Every prescription written on a prescription pad shall contain the facility's name and Conditional Use Permit number.

F. Applicability of this Section to existing pain management clinics issued Certificates of Occupancy or Change of Use permits prior to the adoption of this Section.

1. All pain management clinics shall comply with the regulations contained herein within sixty (60) days following the adoption of this Section unless otherwise provided for in this subsection.
2. All pain management clinics shall immediately comply with subsection E.7. of this Section.

G. Violations and Penalty. A person who operates or causes to be operated a pain management clinic without a valid Conditional Use Permit issued under this Section or otherwise commits any act in violation of this Section is subject to a suit for injunction as well as prosecution or other enforcement action for criminal or noncriminal violations, in a judicial, quasi-judicial or administrative forum, as applicable. Each day a person operates a pain management clinic without a permit or commits any act in violation of this Section shall constitute a separate offense or violation.

1. The requirements of this Ordinance may be enforced as follows:

a. By citation for civil penalties pursuant to the authority granted by Section 166.0415, Fla. Stat., Chapter 162, Part I, Fla. Stat., and/or as otherwise provided for in the City of Brooksville Code.

b. By revocation or temporary suspension of necessary permits and/or certificates of occupancy and/or licenses;

c. By an action for injunctive relief, civil penalties, or both, through a court of competent jurisdiction.

d. By initiating an action to recover any and all damages that may result from a violation of or refusal to comply with any part of this Ordinance; and

e. By any other action or enforcement method permitted at law or equity. Nothing herein relating to remedies or penalties for violation of this Section shall preclude enforcement of each and every provision of this article by any other lawful means including but not limited to code enforcement, permit revocation proceedings, disconnection of utilities serving the premises, or fines.

2. Persons responsible for violations include:

a. Any person who owns, operates, or manages a pain management clinic;
b. Any physician who prescribes or dispenses controlled substance medications for the treatment of chronic nonmalignant pain for patients of a pain management clinic;

c. The owner of the premises occupied by a pain management clinic;

d. Any person in physical control of the activities which may occur on the premises;

e. If a responsible person is an non-natural entity, the officers, directors, members, managers or other principals of the entity are jointly and severally responsible for violations by the entity; and

f. Any other person causing or contributing to a violation.

SECTION 4-8.49. PLACES OF ASSEMBLY

A. The use shall be located so as to discourage traffic through residential areas.

B. The site plan shall be so designed to facilitate the easy access of emergency vehicles including both fire and rescue vehicles.

C. The location and size of setback for places of assembly shall meet the following criteria:

1. The actual structure or seating areas for places of assembly shall be set back from residential areas as follows, based on the capacity of the place of assembly:

less than 200 people	100 feet
200--500 people	200 feet
501--2,000 people	300 feet
2,001--5,000 people	400 feet
more than 5,000 people	500 feet

2. All places of assembly located within 1,000 feet of a residential district accommodating more than 2,000 people shall submit a noise study prepared by an acoustical engineer demonstrating that the design of the place of assembly either directs the noise away from the residential area or has taken steps to minimize the noise level at the property boundary.

SECTION 4-8.50. PORTABLE TEMPORARY STORAGE UNITS ON SINGLE-FAMILY LOT

A. Portable temporary storage units shall be allowed on properties without prior City review or permit, subject to the following requirements:

1. Each portable temporary storage unit (PTSU) shall not exceed 9 feet in width, 16 feet in length and 10 feet in height.

2. A sticker shall be affixed by the portable storage unit's owner to all portable storage units indicating the most recent delivery date on which the portable storage unit was delivered to a property;

3. The PTSU shall remain on the lot no longer than seven days per stay, including the days of delivery and removal. Multiple units may be utilized per stay, provided all of the units are delivered and removed simultaneously. No more than 6 PTSU stays shall occur on a lot per calendar year, and a minimum of 15 days shall elapse between stays.

4. The PTSU shall be placed in an existing driveway serving the house or business, a side yard or rear yard. The PTSU shall not occupy a front yard, or a front yard functioning as a side yard, unless placed on an existing driveway. No minimum setbacks are required, but in no case shall the PTSU block or encroach upon sidewalks, public or private rights-of-way or other properties, or obstruct motorist visibility.

B. Portable temporary storage units shall be allowed an extended stay of more than seven days on properties in connection with permitted construction activity. In such cases the PTSU may be placed anywhere on the lot, subject to prior approval by the City of Brooksville to minimize impacts on neighboring homes. In no case shall the PTSU block

or encroach upon sidewalks, public or private rights-of-way or other properties, or obstruct motorist visibility. The PTSU may remain on the lot for the duration of the permitted construction activity, but shall be removed prior to the issuance of Certificate of Occupancy or if the construction activity ceases. The placement of the PTSU shall be determined during construction permit review.

SECTION 4-8.51. POWER GENERATION FACILITY

A. Front, rear, and side yards shall be a minimum of 50 feet. When adjacent to residentially zoned property, yards shall be a minimum of 1,000 feet.

B. The Performance Standards required in this Code for industrial uses shall be observed with the point of measurement being the boundaries of the zoning lot.

C. Proof of the ability to meet all applicable local, state, and federal environmental standards shall be provided.

SECTION 4-8.52. PROFESSIONAL RESIDENTIAL FACILITY

A. No such use shall be established within 1,200 feet of another such use or a Community Residential Home type B or C.

B. No signage identifying the facility shall be permitted beyond the name of the facility on the mailbox.

C. In all Professional Residential Facilities, for the purposes of calculating density, each "placed" resident in the facility shall equal one-fifth of a dwelling unit.

D. Each facility shall provide a buffer and screening area as required by this Code. However, if the applicant can provide alternatives providing equivalent protection of adjacent properties from undesirable views, lighting, noise or other external impacts through such techniques as alternative forms of landscaping, berming, building relocations, modifications of mechanical equipment, changes in circulation patterns, provision of open space or modifications of operational characteristics, the required screening may be reduced or eliminated.

E. A Recovery Home A or B shall be designed and built to appear as similar to a residential structure as is possible.

SECTION 4-8.53. PUBLIC SERVICE FACILITY

A. The uses shall be restricted to water pumping stations, water treatment plants, telephone exchanges, electric substations, and similar uses required to serve the needs of the surrounding residential, office and commercial districts.

B. Noise abatement measures or increased setbacks shall be used to insure that noise levels produced by the facility do not exceed ambient noise levels of the surrounding area as measured at the zoning lot boundary.

C. The facility shall be adequately screened and buffered from adjoining land uses which may be of a lower intensity. Buffers and screening shall be as required by this Code for new facilities. Expansions to existing facilities shall be screened and/or buffered so that the expanded facility does not have any greater impact on the adjacent properties than prior to the expansion.

D. In addition to the requirements above, new electric substations and existing electric substations which are expanded beyond their present design capacity in all zoning districts other than industrial districts shall be screened in their entirety from rights-of-way and, where screening is not otherwise required by this Code, from all adjacent properties by an eight-foot-high chain link fence, solid PVC fence or solid masonry wall. If a chain link fence is utilized, the fence shall be clad in green, brown or black vinyl and evergreen vines, such as Confederate Jasmine, Coral Honeysuckle or Beach Elder, shall be planted along the entire length of the fence, excluding gates, no more than six feet apart on centers. The vines shall be in three-gallon containers, at a minimum, at the time of planting and shall vegetate the fence to provide a minimum opacity of 75 percent of total fence area within two years of planting. If a masonry wall is utilized, the wall shall be architecturally finished and painted on all exterior sides. In all cases the screening shall remain clear of required motorist visibility zones.

E. Where the above provisions conflict with the screening, buffering and/or landscaping provisions of zoning overlay districts, community design regulations, or other standards of this Code, the provision imposing the greater requirement shall prevail.

SECTION 4-8.54. PUBLIC USE FACILITY

A. The facility shall be reviewed by the Chief Administrative Officer or his designee to ensure that the facility will not adversely increase traffic or negatively impact existing residential development.

B. Buffers and screening shall be as required by this Code for new facilities. Expansions to existing facilities shall be screened and/or buffered so that the expanded facility does not have any greater impact on the adjacent properties than prior to the expansion. The proposed screening and/or buffering shall be approved by the Chief Administrative Officer or his designee.

C. Whenever possible, such facilities shall be designed and constructed as to have the same height and bulk as adjacent structures.

SECTION 4-8.55. RADIO AND TELEVISION TRANSMITTING AND RECEIVING FACILITY

Radio and Television Transmitting and Receiving Facilities shall be subject to the provisions of Section 4-8.26. of this Article.

SECTION 4-8.56. RECREATION SERVICES, NEIGHBORHOOD LEVEL

A. Where membership is not limited to residents of adjacent residential areas, the site shall have direct access to an arterial or collector street.

B. All courts, pools and playing fields shall meet the principal structure yard requirements of the district in which they are located.

C. All outdoor lighting shall be directional and shall not directly shine onto adjacent properties.

D. When located within or adjacent to a residential zoning district, hours of operation shall be limited from 7:00 A.M. to 10:00 P.M.

SECTION 4-8.57. RECYCLABLE HOUSEHOLD GOODS COLLECTION FACILITY

A. The truck trailer shall not be permanently anchored, but shall be removable to transport the recyclable goods to the recycling center.

B. The truck trailer shall be located behind the yard requirements for a principal structure in the district.

C. The truck trailer shall not interfere with traffic circulation, both on and off-site, shall not be located in any right-of-way or access easement, and shall not occupy any parking spaces required to serve any surrounding development.

SECTION 4-8.58. REPAIRS, VEHICLE

A. In the C-1 and C-4 districts, neighborhood-serving motorized vehicle repair only shall be permitted and shall only be conducted inside an enclosed building.

B. In the C-1 and C-4 districts, car washes shall be self-service and the structure shall have a roof and two sides.

C. The repair and/or maintenance of domestic vehicles, private pleasure craft (watercraft), recreational vehicles and hobby vehicles shall be a permitted accessory use of residentially-developed properties subject to the following restrictions:

1. Repairs and maintenance performed outdoors or in partially enclosed structures shall be limited to the changing and replenishment of fluid levels, such as hydraulic fluid, windshield washer fluid, and lubricating oil; the replacement of

sparkplugs; repairs to minor electrical components; the rotation of tires and checking of adequate pressure; and the replacement of accessory external drive belts and hydraulic lines.

2. All other types of repairs and maintenance, excluding body work and the painting of vehicles, shall be permitted only within totally enclosed structures.

3. Body work and/or the painting of vehicles shall be prohibited.

4. All repairs and maintenance shall be limited to vehicles and craft registered to or owned by the resident of the property on which the services are performed. Repair and/or maintenance of other vehicles shall be prohibited.

SECTION 4-8.59. RESOURCE RECOVERY FACILITY

A. Front, rear, and side yards shall be a minimum of 50 feet. When adjacent to residentially zoned property, yards shall be a minimum of 1,000 feet.

B. The Performance Standards for industrial uses contained in this Code shall be observed with the point of measurement being the boundaries of the Zoning Lot.

C. Proof of the ability to meet all applicable local, state, and federal environmental standards shall be provided.

D. Buffers and screening shall be as required by this Code for new facilities. Expansions to existing facilities shall be screened and/or buffered so that the expanded facility does not have any greater impact on the adjacent properties than prior to the expansion.

SECTION 4-8.60. SCHOOL

A. With the exception of elementary schools, the site shall have direct access to an arterial or a collector.

B. The location, arrangement and lighting of play fields and playgrounds will be such as to avoid interference with the use of adjacent residential property.

SECTION 4-8.61. SERVICE STATION

A. Location of Canopies and Gasoline Pump Islands.

The canopies provided over the pump islands at gas stations and service stations shall meet the yard requirements of a principal structure. However, if the following requirements can be met, the canopy may intrude a limited amount into a front yard:

1. The outside edge of the canopy may intrude up to ten feet into the required front yard as measured from the rear of the required front yard.

2. Pump islands, their surrounding structures and the canopy support structures may encroach up to ten feet into the required front yard provided that traffic movements between the pump island and the street right-of-way are restricted to one-way.

3. Neither the canopy nor the pump islands shall block visibility at intersections of rights-of-way or drives.

B. All repair services shall be performed within a completely enclosed building.

C. No more than three vehicle parking spaces per service bay plus one space per employee shall be permitted.

D. All storage of vehicles awaiting needed parts shall be within the building or completely screened from off-site view in a yard.

E. All damaged or non-operable parts shall be stored indoors until removed from the premises.

F. A service station shall store all vehicle parts within a completely enclosed building.

G. Where the use abuts residentially zoned property, a minimum 20 foot buffer shall be provided. Said buffer shall include a masonry wall, six feet in height and architecturally finished on both sides, and a row of evergreen trees, excluding exempted trees, which are not less than six feet high at the time of planting and are spaced not more than 40 feet apart. No more than ten feet of the width of said 20-foot buffer shall be utilized as a retention area.

H. All service stations abutting residentially zoned property shall use the same architectural materials (excluding windows) on all sides of the building.

SECTION 4-8.62. SLAUGHTERHOUSE

A. All slaughtering, butchering and related operations shall be conducted within enclosed buildings.

B. All offal shall be stored in water tight and odor tight containers.

C. The operation shall meet all Federal and State of Florida requirements and qualify for all Federal, State and local health permits.

D. All animal holding areas shall be located a minimum of 1,320 feet from any residential development or zoning district developed to or permitting a density of two units per acre or greater; a minimum of 500 feet from any dwelling unit existing on adjacent property developed at less than two units per acre at the time of the development or expansion of the use; and a minimum of 200 feet from any property line.

SECTION 4-8.63. SWIMMING CLUB

A. Where membership is not limited to residents of adjacent residential areas, the site shall have direct access to a road.

B. A minimum lot size of 20,000 square feet shall be provided.

C. All pools and pool decks shall meet the principal structure yard requirements of the district in which they are located.

SECTION 4-8.64. SWIMMING POOL

A. Fencing

1. Private nonresidential swimming pools shall be enclosed with a fence not less than four feet in height and may be of approved chain metal fencing which shall include equipping the fence with slats. Such fencing shall be equipped with self-closing and self-latching gate(s) and shall be designed so as to make the swimming pool inaccessible to children. Private residential swimming pool enclosures and barriers are governed by Section 424 of the Florida Building Code.

2. Public swimming pools shall be enclosed with a fence not less than six (6) feet in height and shall be of approved chain metal fencing.

3. The above regulations shall apply to both in-ground and above-ground pools. Above-ground pools can exercise the option of not being fenced if they are four or more feet above ground, any stairs into the pool are retractable, and pool-operational apparatus such as pool pumps or heaters, cannot be conveniently used as makeshift stairs into the pool.

4. Fencing shall not be required for waterfront yards.

B. Required Placement for Pools with Screen Enclosures

1. Swimming pools enclosed by a screen mesh with no solid roof shall be considered a structure and shall be set back a minimum of three feet from side and rear lot lines.

2. Swimming pools enclosed by a screen mesh with a solid roof shall be considered a building. These can be either detached or attached to the main building. If attached, they may intrude a maximum of 13 feet into the required rear yard, provided a minimum setback of 10 feet is maintained in all cases, and they shall not intrude into the required side or front yards except as permitted below. If unattached, they must meet accessory structure requirements.

3. On through lots, swimming pools enclosed by a screen mesh with a solid roof that is attached to the main building may intrude a maximum of 13 feet into the required front yard which functions as a rear yard, provided it has no direct access to a street and a minimum setback of 10 feet is maintained in all cases.

C. Required Placement for Pools with No Enclosures

1. A private pool may occupy required interior side and rear yards, but shall not occupy required front yards, except as described in 2. below.

2. For corner lots, pools, surrounding decking and below-ground mechanical equipment shall be permitted within one front yard, which functions as a side yard, provided they are located no more than 10 feet into the required front yard, as measured from the rear line of the front yard. In districts requiring side yards greater than 10 feet, this permitted intrusion shall be increased up to a distance equal to said required side yard. In all cases, however, a minimum setback of 10 feet shall be required.

3. For through lots, pools and their surrounding decking shall be permitted within the front yard which functions as a rear yard, provided that the pool is screened from the rear street by a fence, wall or hedge.

D. Residential Swimming Pool Barrier Requirements

The owner must ensure compliance with the Florida Building Code, Section 424.2.17., as amended. This provision regulates direct access from the residence to the pool.

SECTION 4-8.65. TENNIS CLUB

A. Where membership is not limited to residents of adjacent residential areas, the site shall have direct access to an existing arterial or collector roadway.

B. A minimum lot size of 20,000 square feet shall be provided.

C. All courts shall meet the principal structure yard requirements of the district in which they are located.

SECTION 4-8.66. VEHICLE PARTS SALES (USED)

Except where a part of a vehicle recycling operation, used vehicle parts shall be sold from a completely enclosed building.

SECTION 4-8.67. VEHICLE RECYCLING

A. Operations which have open storage and are over two acres in size or have permanent on-site open recycling of salvage metal shall be permitted in the Industrial 1 (I-1) zoning district.

B. Operations which have open storage and are less than two acres and do not have permanent on-site open recycling of salvage metal shall be permitted in the Industrial 1 and Commercial 2 (C-2) zoning districts.

C. Open storage of stacked vehicles shall not exceed 20 feet in height on properties zoned I-1 and 8 feet in height on properties zoned C-2.

SECTION 4-8.68. VENDORS, MOBILE

A. Mobile Vendors

No commercial activity shall be permitted to be conducted in a public right-of-way. Said prohibition includes but is not limited to the sale of immediately consumable prepared food products, such as ice cream and non-alcoholic beverages.

SECTION 4-8.69. VENDORS, TEMPORARY

Temporary vendors located on private property shall conform with the following requirements.

A. Event Types

1. Seasonal outdoor sales events. Seasonal outdoor sales of pumpkins, Christmas trees, and fireworks are permitted on any improved or unimproved property in any nonresidential zoning district in accordance with the following conditions, requirements and limitations:

    a. Pumpkins may be sold only from October 1 through November 30;

    b. Christmas trees, from November 15 through January 1; and

    c. Fireworks, from December 15 through January 1 and from June 1 through July 10.

2. Temporary on-site sales. Temporary on-site sales by any business permanently located on a location on the same lot as the temporary sale or display are

permitted on any improved property in any nonresidential zoning district. No outdoor on-site sale shall last for more than 10 consecutive days, and sales by any one business may not exceed 30 days in any consecutive period of 6 months.

3. Temporary offsite sales. Temporary offsite sales (temporary outdoor displays or sales by any person or organization that does not maintain a permanent business location on the same lot as the temporary display or sale) are permitted on any improved property in any nonresidential zoning district. No offsite sale shall last for more than seven consecutive days. Sales by any one offsite business may not exceed 15 days in any consecutive period of six months.

B. Site Requirements

1. Except as noted below, temporary vendors shall be permitted only on parcels zoned for nonresidential uses. Temporary vendors sponsored by non-profit organizations shall also be permitted on parcels owned by the organization in all zoning districts.

2. Multiple vendors shall be allowed to occupy a parcel concurrently.

3. If located on a developed parcel, the vendor shall not obstruct vehicle driveways.

4. Restroom facilities shall be available for use by vendor employees and patrons. Alternatively, portable toilets may be utilized on the host parcel.

5. All elements of the temporary vendor use, including but not limited to merchandise, vehicles and structures, shall maintain a 10-foot setback from all property lines.

6. Building permits shall be obtained for all structures in accordance with the requirements of the Florida Building Code.

C. Operational Requirements

1. All employee and patron vehicles shall be parked on the host parcel. Parking in road rights-of-way shall be prohibited. The vendor activity shall not interfere with safe traffic movement on adjacent streets.

2. One recreational vehicle per vendor shall be permitted on the parcel for sales and security purposes.

3. Sales shall be limited to the hours between 7:00 a.m. and 12:00 midnight.

4. All trash and debris shall be removed nightly.

5. Permits shall be obtained by a licensed contractor for all electric connections.

6. Temporary signs shall only be permitted for the same duration of time and at the same location as have been approved for the associated outdoor temporary use or structure. Any temporary sign in conjunction with an outdoor temporary use or structure shall be limited to banners or affixed signs; provided, the total area of signage does not exceed 32 square feet, or one freestanding two-sided sign not to exceed 24 square feet on each side and not to exceed six feet in height. The signage must be securely and safely affixed or installed.

7. Inflated figures, balloons and similar devices are prohibited, unless expressly approved by the Chief Administrative Officer or his designee in conjunction with a publicly-sponsored event.

8. The vendor shall possess a food permit from the Florida Department of Agriculture if selling any food other than legumes in the shell (parched, roasted or boiled) and fresh fruits and vegetables. The permit shall be kept on site during business hour.

9. The vendor shall posses a valid lease from the property owner. The lease shall be kept on site during business hours.

D. Permit Requirements

No outdoor nonresidential temporary use shall be conducted within the City except in accordance with a permit to be obtained therefor, issued pursuant to the following procedure:

1. Permit application. Application for an outdoor temporary vendor permit shall be made on such form as shall be required by the Community Development Department, along with a permit fee as shall be established by the City Council by resolution. The application form shall include or be accompanied by the following and shall be received no later than 14 business days prior to such event:

    a. A plan, drawn to scale, showing the lot or parcel dimensions; adjoining streets and points of access; the location of all activities and outdoor temporary structures including signage and setbacks from lot lines and driveways; the location and use of any permanent buildings and uses on the lot or parcel; the location and amount of existing parking areas on the lot or parcel and any temporary additional offstreet parking areas proposed to be used in conjunction with the outdoor temporary use.

b. The name and address of the applicant; a general description of the outdoor temporary use; and the proposed date and hours of operation of the outdoor temporary use.

c. The notarized written consent of all persons whose consent to the outdoor temporary use is required.

2. Permit issuance. After a completed outdoor temporary vendor permit application has been filed, the Chief Administrative Officer or his designee shall, within 10 business days thereafter, either approve the temporary vendor permit, deny the temporary vendor permit for not being in compliance with the requirements of this Section or approve the temporary vendor permit with such conditions as may be reasonably necessary to ensure adequate parking of vehicles, safe traffic flow, the reasonable protection, use and enjoyment of nearby properties, and the protection of the public health, safety and welfare.

E. Enforcement and Revocation.

1. It shall be a violation of this Section to operate or conduct any outdoor temporary use or erect any temporary structure within the City without a permit therefor as required in this Section; to fail to comply with the conditions and requirements of this Section and the approved permit in the operation or conduct of any outdoor temporary use; and to continue to operate or conduct any outdoor temporary use after a permit therefor has been revoked.

2. Upon such reasonable notice to the permit holder and such reasonable opportunity for a hearing as may be consistent with the public health, safety and welfare, the Chief Administrative Officer or his designee may revoke any temporary vendor permit issued under this Section for failure to comply with the requirements, conditions and limitations of this Section and the temporary vendor permit. If necessary to protect the public from imminent harm, a temporary vendor permit may be revoked without notice and hearing, provided notice of revocation and an opportunity to be heard are provided to the permit holder as soon as may reasonably be possible.

SECTION 4-8.70. WASTEWATER TREATMENT PLANT AND FACILITIES

A. The Wastewater Treatment Plant and Facilities shall be secured from public access. A solid fence, a minimum of six feet in height, and berms and/or landscaping shall be required around the Wastewater Treatment Plant. A fence, a minimum of six feet in height, shall be required around ponds. Pump/Lift Stations shall be secured either by a fence six feet in height, by enclosing equipment in lockable buildings or enclosures, or by the use of other vandal proof construction measures which will provide protection against entry or damages. These requirements may be waived by the Administrative Official upon demonstration that protection to an equal or greater extent is provided.

B. For all Wastewater Treatment Plants and Facilities, the Engineer of Record shall certify that the design plans for the Plant and Pump/Lift Stations include nuisance control (odor and noise control) mitigation measures approved by the City of Brooksville Public Works Department and Community Development Department and shall ensure that such measures are installed. The mitigation measures shall be designed relative to the facility's size, design, and intensity and may include, in part, landscaping measures. The mitigation measures shall also meet the Industrial performance standards set forth in this Code.

C. Prior to placement of any Wastewater Plant and Facility on-site, the developer shall provide evidence of approval from the applicable permitting agencies.

D. Distance requirements for Wastewater Treatment Plants shall be as follows:

1. Wastewater Treatment Plant Type 1

   For Type 1 Plants there shall be a distance requirement of 150 feet from the plant to any off-site residentially zoned or used land or to any onsite platted lot or dwelling unit.

2. Wastewater Treatment Plant Type 2

   For Type 2 Plants there shall be a distance of 250 feet from the plant to any off-site residentially zoned or used land or to any on-site platted lot or dwelling unit.

3. Wastewater Treatment Plant Type 3

   For Type 3 Plants there shall be a distance requirement of 500 feet from the Plant to the project boundary. There shall be no platted lots or dwelling units within this distance requirement.

4. Neighborhood Pump/Lift Stations serving less than 3,000 equivalent dwelling units (e.d.u.) shall require no minimum distance separation.

5. Master Pump/Lift Stations serving 3,000 e.r.u.s or greater shall provide a minimum of 20 feet from the Master Pump/Lift Station to the edge of the lot. Only nonresidential or agricultural structures and parking may be located within the specified distance. There shall be a distance requirement of 50 feet from the Pump/Lift Station to any surrounding residential structures or building envelopes.

6. A variance to the distance requirements for Wastewater Treatment Plants and Facilities may be approved by the Planning and Zoning Commission in cases involving practical difficulties, unnecessary hardship, or superior alternatives. These difficulties, hardships, and alternatives, may include but not be limited to

adjacency to environmentally sensitive land, major rights-of-way or retention areas.

7. In instances where the distance requirements are modified, additional conditions of approval may be required.

SECTION 4-8.71. YARD WASTE COMPOSTING FACILITY

A. Front, rear and side yards shall be a minimum of 50 feet except when the use is adjacent to residentially zoned property. In such instances, yards adjacent to the residentially zoned property shall be a minimum of 100 feet for non-office type buildings and uses.

B. The site shall be fenced by a six foot high fence.

SECTION 4-8.72. YARD WASTE TRANSFER FACILITY

A. Front, rear and side yards shall be a minimum of 50 feet.

B. The site surrounded be fenced by a six-foot high fence.

CITY OF BROOKSVILLE LAND DEVELOPMENT CODE

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ARTICLE V

NATURAL RESOURCES

PART 5-1

GENERALLY

SECTION 5-1.1. PURPOSE

The purpose of the Natural Resources Regulations is to set forth regulations regarding land alteration, the protection of soil and water, and the protection of environmentally sensitive areas, in order to maintain the quality of life in the City of Brooksville and protect the health, safety, welfare and general well being of the citizens of the City of Brooksville.

PART 5-2

WETLANDS PROTECTION

SECTION 5-2.1. PURPOSE AND INTENT.

Wetlands contiguous to waters of the state, and non-contiguous and isolated wetlands serve important functions in the hydrologic cycle and ecological system and therefore require protection. It is the purpose and intent of this Section to provide for the protection, maintenance, and enhancement of wetlands within the City of Brooksville in accordance with the adopted Comprehensive plan, recognizing the rights of individual property owners to use their lands in a reasonable manner as well as the rights of all citizens to protect and purify the waters of the City of Brooksville and their associated wetland ecosystems. Wetlands shall include natural water bodies, freshwater marshes, wet prairies, hardwood swamps and cypress swamps.

SECTION 5-2.2. GENERALLY.

A. All development shall comply with wetland protection requirements of all Federal, State and Regional agencies having regulatory authority.

B. In order to properly identify and delineate wetlands prior to development, the City shall rely on the delineation of wetlands and surface waters by the Southwest Florida Water Management District (SWFWMD). This delineation shall be reproduced on construction plans which are submitted for review by the City. For other review purposes which do not specifically permit development, (e.g. rezonings, etc.) the areal extent of onsite wetlands shall be estimated and no delineation is required unless specifically required by the City.

SECTION 5-2.3. ACTIVITIES ALLOWED.

A. Existing uses in wetlands may continue, but shall not be expanded unless they are explicitly allowed, permitted or exempted by the current SWFWMD regulations and/or as

indicated in B. below. Existing silviculture in wetlands shall be consistent with "Silviculture Best Management Practices" published by the Florida Department of Agriculture , 1998 .

B. New development which will have no significant impact on the net wetland functions will be allowed, including:

1. Water dependent uses as defined by 9J-5.003(137) F.A.C.

2. Walking trails or elevated wooden boardwalks designed to minimize disturbance to the wetland system shall be allowed to provide limited access for purposes of passive recreation or access to other portions of the site or adjacent waters which are otherwise inaccessible.

3. Insect control structures

4. Temporary impacts associated with the installation of cables, conduits and pipelines that transmit electricity, communication signals, potable water, raw water, reclaimed water, domestic wastewater, propane gas, or natural gas

5. Minor activities by FDOT, the City of Brooksville, and Hernando County within existing ROW or easements

4. Exemptions listed in 40D-4.051, together with projects described in SWFWMD 40D-4.054, 40D-40.040, and 40D-400.

5. Environmental restoration, enhancement, and research uses .

6. Uses that require the dredging and filling of less than 100 square feet of wetlands

C. Road crossings shall be allowed to access developable portions of the development parcel or if shown to be in the overriding public interest (e.g. as necessary local, collector or arterial road linkage). When allowed, road crossings shall occur at the narrowest practical point given the constraints of safe roadway design and shall provide for hydrologic connectivity and aquatic species movement.

SECTION 5-2.4. ACTIVITIES PROHIBITED.

Land alteration activity which destroys, reduces, impairs or otherwise adversely impacts a wetland or natural body of water shall be prohibited unless specifically approved by the above or by the SWFWMD. New lots shall not be created and/or platted that do not contain sufficient buildable upland areas in order to provide a reasonable use for the lot.

SECTION 5-2.5. DEVELOPMENT PROVISIONS.

A. When wetlands are identified on a site and mitigation is not approved, new development (other than listed in Section 5-2.3. above) shall be clustered away from the wetlands on

upland portions of a development site. Development densities/intensities may be transferred out of the undeveloped wetland areas on a one-for-one basis. However, the development density and intensity of the developed portion of the site shall not exceed 150 percent of the maximum density/intensity of the remaining uplands that would be otherwise allowed under the property's Future Land Use designation.

B. If the extent of wetlands on an individual development parcel would prevent the use of the parcel as allowed by the Future Land Use Map designation and which meet the following applicable criteria, the following densities and intensities shall be allowed:

1. For wetland areas less than 20 acres, a single family residence that is not part of a larger plan of common development proposed by the applicant, including associated residential improvements such as a driveway, garage and an on-site sewage disposal system, not to exceed 6,000 square feet. Structures must be elevated when possible to minimize wetland impacts.

2. For wetland areas exceeding 20 acres, residential uses at a density of one dwelling unit per twenty acres.

3. Non-residential uses allowed by the future land use category when elevated above the wetland on pilings and having less than 1,000 square feet of floor space per acre.

SECTION 5-2.6. WETLAND BUFFERS.

A. Buffer areas shall be provided adjacent to wetlands. Buffers shall be a average minimum width of 25 feet beyond the perimeter of the wetland with a minimum width of 15 feet, excepting the point where permitted water conveyance facilities connect to the wetland. Buffers shall not be developed, cleared or landscaped in any fashion that would decrease their effectiveness in supporting wetland functions. Encroachment into the wetland buffers for the purpose of hydrologic connection of drainage systems and creation of mitigation areas shall require no further buffering compensation.

B. The City may require that upland buffers be extended beyond 25 feet if necessary to connect isolated wetlands with other protected wetlands existing within 100 feet, depending on the existence of listed species and habitat valuation. Greenways will be created when possible.

SECTION 5-2.7. MITIGATION.

The purpose of mitigation is to offset environmental impacts. Mitigation activities approved by a federal, state or regional agency are supported by the City. However, the issuance of a permit by any other agency, with or without mitigation, does not exempt the development from the requirements and restrictions of this Article.

SECTION 5-2.8. IMPLEMENTATION.

A. A generalized wetlands map is provided in the City of Brooksville Comprehensive Plan.

B. Wetlands that exist on a proposed development parcel shall be shown by the landowner/developer as a part of the construction plans submitted to the City for review of the proposed project. Additionally, this map must show the delineation of the upland buffer for projects which do not require a SWFWMD permit. For projects requiring a SWFWMD permit, the City shall require as a condition of development approval that wetland buffers shall be protected.

SECTION 5-2.9. EXCEPTIONS.

A. Isolated wetlands:

1. Development may incorporate isolated wetlands into stormwater management systems, provided that the stormwater runoff is pre-treated prior to entering any the wetland, so that the wetland is used for nutrient and volume attenuation. The City shall encourage designs which maintain the existing natural wetlands community, except where permitting agencies agree that the imposition of conditions which favor a different plant community are more desirable for the purpose of providing habitat, improving water quality or enhancing other wetland values.

2. The City shall request that the SWFWMD or a professional biologist comment and render an opinion as to whether the wetland has significant wildlife values based on the following factors:

   a. The extent to which the isolated wetland acts in concert with the broader regional landscape to provide both food web support and habitat for wildlife;

   b. The potential cumulative impacts to isolated wetland wildlife functions at a regional level;

   c. Individual wetland features that are important to wildlife;

   d. Whether the isolated wetland is used by endangered or threatened species or species of special concern; and

   e. The degree to which adjacent existing or planned development will affect the use of the wetland by wildlife.

   If the biological evaluation indicates that the isolated wetland has significant and sustainable wildlife values, the wetland shall be afforded the same level of protection as all other wetlands. However, if the report indicates no significant

and sustainable values, then the property's zoning designation shall bE applied. This does not preclude the application of any regulatory requirements of other federal, state or regional agencies.

B. Wetland buffers.

Buffer widths shall be a minimum of 15 feet excepting permitted water conveyance facilities, and may only be adjusted downward to below a minimum average of 25 feet on a case-by-case basis if the following conditions are present:

1. The developable portion of existing lots of record as of the date of adoption of this Ordinance does not have sufficient size or dimensions to allow for a reasonable use of the property based on the property's zoning. In this instance, the remaining buffer shall be enhanced with native species to minimize development impacts.

2. The proposed development shall provide mitigation for reduction in standard by enhancing the functioning value of the wetland buffer area.

C. Degraded Wetlands:

If the SWFWMD indicates that a wetland (or a portion thereof) is severely degraded and has minimal restoration potential and that beneficial restoration or enhancement mitigation of another wetland would be achieved as a result of mitigation that allows some development in this degraded wetland (or portion thereof) then the property's zoning district designation shall apply. Mitigation shall be permitted with the first priority being mitigation on-site, the second priority being mitigation within the City limits, and the third priority being mitigation within Hernando County under City/County interlocal agreement.

PART 5-3

WELL HEAD PROTECTION AREAS

SECTION 5-3.1. PURPOSE.

The purpose of this Part is to ensure the protection of the quality of existing and future public potable water supplies in the City of Brooksville through the establishment of Well Head Protection Areas (WHPA) around public potable water supply wells and the setback prohibition or regulation of specific activities and facilities in these areas.

SECTION 5-3.2. WELL HEAD PROTECTION AREA MAP.

A Well Head Resource Protection Area Map is provided in the City of Brooksville Comprehensive Plan and consists of the delineation of well head protection areas. Zones around public potable water supply wells that meet the criteria of a public potable water supply well are designated as Well Head Protection Areas to protect the quality of existing and future potable

water resources. The Well Head Protection Areas for the City of Brooksville are designated on the City of Brooksville Well Head Protection Areas Map in two zones: Class 1 - Potable Water Protection Impact Zone and Class 2 - Public Potable Water Supply Well Protection Zone.

SECTION 5-3.3. PROHIBITED ACTIVITIES IN THE WELL HEAD RESOURCE PROTECTION AREAS.

A. Where a Zone of Protection contour or demarcation passes through a facility, the entire facility shall be considered to be in the more restrictive zone.

B. Prohibited Activities In WHPA Class 1 Zone.

1. New sanitary landfills and any other disposal of a solid waste as permitted under Chapter 62-701.020, F.A.C.

2. New industrial zoning designations.

3. New Interim wastewater treatment plants.

4. New concentrated animal feeding operations as defined in Chapter 62-670.200, F.A.C.

5. New dairy farm storage and treatment facilities, high intensity areas and land application areas as defined in Chapter 62-670.200, F.A.C.

6. Discharge of stormwater into depressions with direct or demonstrated hydrologic connection to the Floridan Aquifer.

7. Any new land applications of sludge and septage.

8. New underground storage facilities shall be prohibited within a distance of 1,000 feet from a public potable water supply well.

C. Prohibited Activities In WHPA Class 2 Zone.

1. The use, handling, production, disposal, and storage of Regulated Substances associated with nonresidential activities is prohibited in the WHPAs except as provided under this Part.

2. No installation shall discharge into groundwater, either directly or indirectly, any contaminant that causes a violation in the water quality standards and criteria for the receiving groundwater as established in Chapter 62-520, F.A.C.

3. Discharges through natural or manmade conduits, such as wells and sinkholes, that allow direct contact with class G-1 and class G-2 groundwater are prohibited, except for projects designed to recharge aquifers with surface water of

comparable quality, or projects designed to transfer water across or between aquifers of comparable quality for the purpose of storage or conservation, or residential stormwater discharging through wet retention/detention ponds.

4. Industrial stormwater discharges to retention/detention ponds are prohibited.

5. Discharge of stormwater into depressions with direct or demonstrated hydrologic connection to the Floridan aquifer system is prohibited.

6. There will be no new land use activities which are classified under the definition of Heavy Industrial.

7. Heavy Manufacturing is prohibited.

8. Construction and operation of new solid waste disposal facility as defined by Chapter 62-701.200 F.A.C. shall be prohibited. Operation of all existing sanitary landfills including new phosphogypsum piles, and any other disposal of a solid waste as permitted under Chapter 62-701, F.A.C. will be terminated within one year and a permanent leachate monitoring system installed to monitor movement of leachate.

9. Junkyards are prohibited.

10. Industrial septic tank disposal systems are prohibited.

11. New underground storage tank systems and aboveground storage tank systems, are prohibited within a WHPA Class 2 Zone.

12. Any new land applications of domestic wastewater residuals, sludge, septage and domestic septage are prohibited.

13. New Interim wastewater treatment plants are prohibited.

14. Industrial Wastewater Treatment Plants are prohibited.

15. New concentrated animal feeding operations as defined in Chapter 62-670.200, F.A.C. are prohibited.

16. New dairy farm aboveground or underground storage facilities and wastewater treatment plant, high intensity areas and land application areas as defined in Chapter 62-670.200, F.A.C. are prohibited.

17. New mining operations permitted under Chapters 62-671, -672, and -673, F.A.C. are prohibited.

18. Land application of industrial waste water and industrial reuse water is prohibited.

19. Human cemeteries are prohibited.

20. Land Excavation is prohibited.

21. Reclaimed Aquifer Storage and Recovery (ASR) wells are prohibited.

22. New Class I and Class III underground injection control wells, as regulated in Chapter 62-528, F.A.C., are prohibited.

23. New Class V underground injection control wells, as regulated in Chapter 62-528, F.A.C., are prohibited except as provided below:

    1. Thermal exchange process wells (closed-loop without additives) for use at single family residences; and

    2. Aquifer storage and recovery systems wells, where the injected fluid meets the applicable drinking water quality standards in Chapter 62-550, F.A.C.

24. New hazardous waste treatment, storage, disposal, and transfer facilities requiring permits under Chapter 62-730, F.A.C., are prohibited.

25. New aboveground and underground storage of hazardous wastes regulated under Chapter 62-730, F.A.C., is prohibited.

D. Expansion or Modification of an Existing Prohibited Activity.

Any expansion or modification of, or any other improvement made to an existing prohibited activity or facility identified in Section 5-3.3.A. and B. above which will extend the useful life of the activity or facility, or increase the intensity or productivity of the activity or facility beyond that existing on the effective date of this regulation, shall require authorization by the City of Brooksville City Council. The City Council must make a finding of an overriding public interest being served by the expansion of the prohibited activity in order for the operating permit to be approved.

PART 5-4

WILDLIFE MANAGEMENT

SECTION 5-4.1. ENDANGERED OR THREATENED SPECIES.

A. Purpose and Intent.

It is the purpose of this part to provide standards necessary to protect the habitats of species, both flora and fauna, of endangered, threatened, or special concern status in the

City of Brooksville. It is the intent of this Part to require that an appropriate amount of land shall be set aside to protect habitat of rare, endangered, or special concern plant and animal species.

B. Applicability.

For all new development projects of 20 or more acres in size,, the review process shall include a request by the City of Brooksville to the Florida Game and Fresh Water Fish Commission and the U.S. Fish and Wildlife Service for an assessment of known or potential impacts upon threatened or endangered species or their habitat.

SECTION 5-4.2. WILDLIFE MANAGEMENT.

In the event that threatened or endangered species are identified as provided above, a Habitat Management Plan shall be provided. The Habitat Management Plan shall be prepared by an ecologist, biologist or other related professional and employed by the applicant in cooperation with the Florida Game and Fresh Water Fish Commission. The Plan shall document the presence of affected species, the land needs of the species that may be met on the development site, and shall recommend appropriate habitat management and other measures to protect the subject wildlife. A wildlife management area shall be established, of a size adequate to maintain a viable population of the affected species.

A. On-site Wildlife Management.

The size of the habitat area shall be established by a wildlife biologist employed by the developer in cooperation with the Florida Game and Fresh Water Fish Commission. The habitat area may be retained for use as passive open space and an integral part of the development, or it may be conveyed to public or private, non-profit use. As an incentive to developers, any undeveloped area development rights may be utilized on the remaining portion of the development, at a rate equal to 1.5 times the intensity of use that would have been allowed if the habitat area were not reserved.

B. Off-site Wildlife Management.

In the event that an acreage adequate to maintain a viable population of the affected species cannot be provided on-site, several options are available as follows:

1. The developer may, conditional upon approval of the affected state and federal agencies, relocate the affected population to a suitable public habitat off-site which such habitat is inadequately stocked with the affected species; or,

2. The developer may purchase an alternative site which is potentially suitable for the affected species but currently lacking one (1) or more features essential for suitable habitat, create a suitable habitat pursuant to a wildlife management plan approved by

City Council, and relocate the affected species at such time as the habitat becomes suitable.

3. Pay a fee to the Florida Game and Fresh Water Fish Commission, at a rate to be established by that agency, for the Commission to acquire an alternative site, improve the site and relocate the affected species.

PART 5-5

FLOOD PREVENTION AND PROTECTION AREAS

SECTION 5-5.1. PURPOSE.

It is the purpose of this part 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, which result in damaging increases in erosion or in flood heights and velocities;

B. Require that uses vulnerable to floods including facilities which serve such uses be protected against flood damage throughout their intended life span;

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 floodwaters or which may increase flood hazards to other lands.

SECTION 5-5.2. OBJECTIVES.

The objectives of this part are to:

A. Protect human life, health and to eliminate or minimize property damage;

B. Minimize expenditure of public money for costly flood control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, roadways, and bridges and culverts located in floodplains;

F. 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 blight areas; and

G. Ensure that potential home buyers are notified that property is in a flood hazard area.

SECTION 5-5.3. GENERAL PROVISIONS

A. Applicability.

The provisions of this part shall apply to all areas of special flood hazard within the jurisdiction of the City.

B. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study dated September 18, 1986, as amended, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of these provisions.

C. Compliance.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this part and other applicable regulations.

D. Abrogation and greater restrictions.
This part is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this part and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation.

In the interpretation and application of this chapter all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the City; and

3. Deemed neither to limit nor repeal any other powers granted under State statutes.

F. Warning and disclaimer of liability.

The degree of flood protection required by this part 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 man-made or natural causes. This part 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 part shall not create liability on the part of the City or by any officer or employee thereof for any flood damages that result from reliance on this part or any administrative decision lawfully made thereunder.

G. Penalties for violation.

Violation of the provisions of this part or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance, special use or special exceptions, shall constitute a misdemeanor. Any person who violates this part or fails to comply with any of its requirements shall, upon conviction thereof, be punished as provided in Section 1-7 of the City of Brooksville Code of Ordinances. In addition to all other fines, the person shall be required to pay all costs and expenses involved in the case. Nothing contained in this section shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 5-5.4. DESIGNATION AND DUTIES OF BUILDING OFFICAL.

A. Designation of building official.

The Building Official is appointed to administer and implement the provisions of this part.

B. Duties and responsibilities of building official.

Duties and responsibilities of the Building Official shall include, but not be limited to:

1. Review all building permit applications to assure that the permit requirements of this part have been satisfied;

2. Advise applicant that additional Federal, State or local permits may be required, and if such additional permits are necessary, require that copies of such permits be provided and maintained on file with the building permit;

3. Notify adjacent communities, the Department of Community Affairs, Division of Emergency Management, the Southwest Florida Water Management District, the Federal Emergency Management Agency and other Federal and/or State agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;

4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;

5. Verify and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement of all new or substantially improved buildings, in accordance with Section 5-5.5.;

6. Verify and record the actual elevation, in relation to mean sea level, to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 5-5.5.;

7. The Building Official shall review certified plans and specifications for compliance. When flood-proofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect certifying that all areas of the building 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 effects of buoyancy in compliance with Subsection 5-5.6.B.

8. When base flood elevation data or floodway data have not been provided in accordance with Subsection 5-5.3.B., the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or any other source, in order to administer the provisions of Section 5-5.6;

9. Coordinate all change requests to the FIS, FIRM and FBFM with the requester, State and FEMA, and

10. Where Base Flood Elevation is utilized, obtain and maintain records of lowest floor and flood-proofing elevations for new construction and substantial improvements in accordance with Section 5-5.6., Subsections 5-5.6.A. and 5-5.6.B., as applicable.

SECTION 5-5.5. ADMINISTRATION.

A. Building permit required.

A building permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

B. Procedures.

Application for a building permit shall be made to the Building Official on forms furnished by him 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, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Application Stage:

   a. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;

   b. Elevation in relation to mean sea level to which any non-residential building will be flood-proofed;

   c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Subsection 5-5.6.B.; and

   d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage:

   Upon placement of the lowest floor, or flood-proofing by whatever construction means, or bottom of the lowest horizontal structural member it shall be the duty of the permit holder to submit to the Building Official a certification of the NGVD or NAVD elevation of the lowest floor or flood-proofed elevation, or bottom of the lowest horizontal structural member as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building 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 Building Official shall review the lowest floor and flood-proofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct violations detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

SECTION 5-5.6. PROVISIONS FOR FLOOD HAZARD REDUCTION.

A. General standards.

In all areas of special flood hazard, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:

1. New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. 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;

3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

4. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

5. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

7. 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;

8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter shall meet the requirements of new construction as contained in this chapter;

10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not furthered, extended, or replaced;

11. All applicable additional Federal, State, and local permits shall be obtained and submitted to the Building Official. Copies of such permits shall be maintained on file with the building permit. State permits may include, but not be limited to the following:

    a. Southwest Florida Water Management District: in accordance with Chapter 373.036 Florida Statutes, Section (2)(a) – Flood Protection and Floodplain Management.

    b. Department of Community Affairs: in accordance with Chapter 380.05 F.S. Areas of Critical State Concern, and Chapter 553, Part IV F.S., Florida Building Code.

c. Department of Health: in accordance with Chapter 381.0065 F.S. Onsite Sewage Treatment and Disposal Systems.

12. Standards for Subdivision Proposals and other Proposed Development (including manufactured homes):

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

B. Specific standards.

In all A3 Zones where base flood elevation data have been provided as set forth in Section 5-5.3, Subsection 5-5.3.B., the following provisions shall apply:

1. Residential Construction. All new construction or substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of Section 5-5.6., Subsection 5-5.6.B.3. below.

2. Non-Residential Construction. All new construction or substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings located in A Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot 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 effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Building Official.

3. Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor 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.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

   i. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

   ii. The bottom of all openings shall be no higher than one foot above foundation adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and

   iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they contain the required net area of the openings and permit the automatic flow of floodwaters in both directions.

b. Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and

c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

4. Standards for Manufactured Homes and Recreational Vehicles

a. All manufactured homes that are placed, or substantially improved within Zones A3, A5 and AH on sites in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, the lowest floor must be elevated on a permanent foundation to no lower than one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

b. All manufactured homes to be placed or substantially improved in an existing manufactured home park or subdivision within Zone AH that are not subject to the provisions of paragraph 4.a. above, must be elevated so that either:

i. The lowest floor of the manufactured home is elevated to no lower than one foot above the base flood elevation, or

ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength that are no less than 36 inches in height above the grade and securely anchored to an adequate foundation system to resist flotation, collapse, and lateral movement.

c. All recreational vehicles placed on sites within Zones A3, A5 and AH must either:

i. Be on the site for fewer than 180 consecutive days,

ii. Be fully licensed and ready for highway use (a 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 has no permanently attached additions), or

iii. Meet all the requirements for new construction, including anchoring and elevation requirements in accordance with Subsections 5-5.6.B.4.a. and 5-5.6.B.4.b.

5. Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

6. Standards for streams with established base flood elevations, without regulatory floodways.

7. If located within the areas of special flood hazard established in Subsection 5-5.3.B. where streams exist for which base flood elevation data has been provided by the Federal Emergency Management Agency without the delineation of the regulatory floodway (Zones A3 and A5), the following additional provisions shall also apply:

a. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development including fill shall be permitted within the areas of special flood hazard, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

b. Development activities which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies for a conditional FIRM revision, and receives the approval of the Federal Emergency Management Agency.

8. Floodways. Located within areas of special flood hazard established in Subsection 5-5.3.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 have significant erosion potential, the following additional provisions shall also apply:

a. Prohibit encroachments, including fill, new construction, substantial improvements and other developments within the regulatory floodway unless certification (with supporting technical data) by a registered professional engineer is provided through hydraulic and hydrologic analyses performed in accordance with standard engineering practice demonstrating that encroachments would not result in any increase in flood levels during occurrence of the base flood discharge.

b. 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 a lot in an existing manufactured home park or subdivision provided the anchoring standards of Subsection 5-5.6.B.2., the elevation standards of Subsection 5-5.6.B.1. and 5-5.6.B.2., and the encroachment standards of Subsection 5-5.6.7.a. are met.

c. Development activities including new construction and substantial improvements that increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies for a conditional FIRM revision, and receives the approval of FEMA.

d. When fill is proposed, in accordance with the permit issued by the Florida Department of Health, within the regulatory floodway, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood in accordance with Subsection 5-5.6.7.a.

C. Specific standards for A-zones without base flood elevations and regulatory floodways. Located within the areas of special flood hazard established in Subsection 5-5.3.B., where there exist A Zones for which no base flood elevation data and regulatory floodway have been provided or designated by the Federal Emergency Management Agency, the following provisions shall apply:

1. Require standards of Subsection 5-5.6.A.

2. The Building Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State of Florida, or any other source, in order to administer the provisions of this chapter. When such data is utilized, the provisions of Subsection 5-5.6.B. shall apply. The Building Official shall:

   a. Obtain the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures,

   b. Obtain, if the structure has been flood-proofed in accordance with the requirements of Subsection 5-5.6.B.2., the elevation in relation to the mean sea level to which the structure has been flood-proofed, and

   c. Maintain a record of all such information.

3. Notify, in riverine situations, adjacent communities, the Department of Community Affairs, NFIP Coordinating Office, and the Southwest Florida Water Management District prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

4. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

5. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and 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 requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

6. When the data is not available from any source as in Subsection 5-5.6.C.2., the lowest floor of the structure shall be elevated to no lower than three feet above the highest adjacent grade.

7. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data.

D. Standards for AO Zones.

Located within the areas of special flood hazard established in Subsection 5-5.3.B. are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential structures in all AO Zones shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Flood Insurance Rate Map. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to no less than two feet above the highest adjacent grade.

2. All new construction and substantial improvements of non-residential structures shall:

   a. Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Flood Insurance Rate Map. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to at least two feet above the highest adjacent grade, or

   b. Together with attendant utility and sanitary facilities be completely flood-proofed to that level to meet the flood-proofing standard specified in Subsection 5-5.6.B.2.

   c. Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

SECTION 5-5.7. VARIANCES.

A. Variance procedures.

The Planning and Zoning Commission, as established by the City, shall hear and decide requests for variances from the requirements of this chapter. The Planning and Zoning Commission shall also hear and provide to City Council a recommendation regarding appeals to administrative decisions relative to the administration and/or enforcement of the regulations contained herein. Appeals shall be permitted when it is alleged there is an error in any requirement, decision or determination made by the Building Official in the enforcement or administration of this chapter. Any person aggrieved by the decision of the Planning and Zoning Commission relative to a variance request may appeal such decision to the City Council. The decision of the City of Brooksville City Council is final and may be challenged by any person in circuit court, as provided in F.S. § 163.3243.

1. Variances may be issued for the reconstruction, rehabilitation or restoration of buildings listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this Section, except for Subsections 5-5.7.B.1. and 5-5.7.B.4., and provided the proposed reconstruction, rehabilitation or restoration will not result in the building losing its historical designation.

2. In acting upon such applications, the Planning and Zoning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Part, and:

   a. The danger that materials may be swept onto other lands to the injury of others;

   b. The danger of life and property due to flooding or erosion damage;

   c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

   d. The importance of the services provided by the proposed facility to the community;

   e. The necessity to the facility of a waterfront location, where applicable;

   f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

   g. The compatibility of the proposed use with existing and anticipated development;

   h. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;

   i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

   j. The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

   k. 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.

3. Upon consideration of the factors listed in Subsection 5-5.7.A.2. above, the Planning and Zoning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

4. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

B. Conditions for variances.

1. 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 a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

2. Variances shall be only issued upon: a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship; and 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.

3. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

4. The Building Official shall maintain the records of all variance actions, including justification for their issuance or denial, and report upon request to FEMA and the State.

CITY OF BROOKSVILLE LAND DEVELOPMENT CODE

ARTICLE VI

ADEQUATE PUBLIC FACILITIES

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ARTICLE VI

ADEQUATE PUBLIC FACILITIES

PART 6-1

GENERALLY

SECTION 6-1.1. INTENT AND PURPOSE.

It is the intent of this Article to establish minimum criteria for the concurrency management system and authorize the preparation of an administrative procedure for determining that public facilities and services meet or exceed the adopted level of service standards set forth in the City of Brooksville Comprehensive Plan.

SECTION 6-1.2. CAPACITY REVIEW AND CERTIFICATES OF CONCURRENCY

A. Available Capacity Review.

1. In order to determine if an application for a rezoning, special use or special exception is consistent with the provisions of the Comprehensive Plan, an available capacity review may be conducted by the City. This procedure is a review and does not constitute a binding determination by the City.

2. The following public facilities will be reviewed for adequacy to serve the subject site: potable water, sewage treatment, drainage, solid waste, parks and recreation facilities, public schools and transportation:

    a. For potable water, sewage treatment, drainage, solid waste, parks and recreation facilities, and transportation, where capacity will not be available to serve the property seeking a development permit and alternative mitigation is not available or agreeable, then the City may use the lack of such infrastructure capacity as a basis for denial of the development permit.

    b. For public schools, where capacity will not be available to serve students from the residential property seeking a development permit and alternative mitigation is not available or agreeable, then the City may use the lack of school capacity as a basis for denial of the development permit.

3. Available capacity review is not a concurrency determination and does not relieve the applicant from applying for a concurrency determination.

4. Any person may request an available capacity review at any time for the public facilities identified in this Article.

5. A nonrefundable available capacity review fee will be established by resolution of the City Council.

B. Certificate of Concurrency.

1. A valid certificate of concurrency must be issued to a property owner or his designated representative prior to the issuance of the following development orders or approvals, as applicable:

   a. Zoning permit.

   b. Building permit.

   c. Preliminary subdivision plat approval.

   d. Final subdivision plat approval.

   e. Development orders for Developments of Regional Impact (DRIs). At the written request of the school district, the concurrency determination for public school facilities may be made at a later point in time pursuant to a separate agreement between the developer and the school district, and which agreement shall be incorporated by reference in the DRI development order.

   f. Construction drawing approval.

   g. Development agreements. At the written request of the school district, the concurrency determination for public school facilities may be made at a later point in time pursuant to a separate agreement between the developer and the school district, and which agreement shall be incorporated by reference in the development order.

2. The property owner or his designated representative shall apply for a certificate of concurrency by filing a technically complete sworn application and application fee with the Community Development Department upon a form to be provided by the Department.

3. The City Council shall establish an appropriate fee structure by resolution and such fees shall be filed with the application for a certificate of concurrency.

4. If the proposed development is to be developed in different parts, stages or phases, then the certificate of concurrency shall only apply to that specific part, stage or phase for which a concurrency determination is sought.

5. If the application is deemed concurrent, a certificate of concurrency will be issued by the City.

6. If the application is deemed not to be concurrent, the applicant will be notified in writing by the City.

7. The burden of meeting the concurrency test shall be upon the applicant. The City will direct the applicant to the appropriate staff to assist in the preparation of the necessary documentation and information for inclusion into their application.

8. It is the responsibility of the applicant to ensure that the application for a certificate of concurrency is complete and sufficient and all required information has been provided to the City and, for public school facilities, the Hernando County School Board.

9. Application process.

   a. Within ten (10) working days of receipt of a complete school concurrency application, the City will transmit said application to the school district for a determination of whether there is adequate school capacity, for each level of school, to accommodate the proposed development, based on the level of service (LOS) standards, concurrency service areas, and other standards set forth in this Article.

   b. Within thirty (30) days of receipt of the initial transmittal from the City, the school district will review the school concurrency application and, based on the standards set forth in this Article, report in writing to the City:

      i. whether adequate school capacity exists for each level of school, based on the standards set forth in this Article and its adopted Comprehensive Plan; or

      ii. if adequate capacity does not exist, whether appropriate mitigation can be accepted, and if so, acceptable options for mitigation, consistent with this Article.

C. Concurrency certificate validity.

1. An application for a certificate of concurrency shall be applied for at the time an application is made for any development order or approval referenced in the preceding Section.

2. A certificate of concurrency shall expire simultaneously with the development order or approval it accompanied including any extensions or renewals thereof unless a different expiration period is provided in a valid development agreement between the property owner and the City or in a DRI development order issued by the City pursuant to s. 380.06(15), Florida Statutes. Furthermore and notwithstanding anything in this Article to the contrary, no person may claim any vested or grandfather rights to concurrency absent either: i.) a valid and current written certificate of concurrency; ii.) a valid and current development agreement between the property owner and the City as approved by the City Council and signed by the mayor; or iii.) a valid DRI development order issued by the City pursuant to s. 380.06(15), Florida Statutes.

3. The certificate of concurrency shall apply to the land and is therefore transferable from owner to owner of the subject parcel(s) for the specific project upon which the certificate of concurrency was issued; however, in no event may the certificate of concurrency be transferred off-site or to any other project or parcel(s).

4. Any alteration in scope, density, magnitude, location, project traffic circulation and/or distribution for the subject property must be reported to and approved by the City for certificate re-evaluation. If such alterations are not reported, the certificate of concurrency will be subject to revocation.

5. Public facilities must serve land development in accordance with the adopted level of service standards contained within the City Comprehensive Plan. This certificate of concurrency when issued by the City verifies adequate capacity until its stated expiration date as provided in sub-paragraph (b) above. Notwithstanding anything to the contrary, a certificate of concurrency offers no other assurance, does not approve any development order, and does not grant any development rights.

D. Exemption from adequate public facilities review and concurrency review.

1. The purpose of the concurrency review is to determine a project's impact on the provision of public facilities/services. The following will be exempt from the concurrency review for potable water, sewage treatment, drainage, solid waste, parks and recreation facilities and transportation:

   a. single-family home or duplex and

   b. nonresidential projects consisting of less than one thousand five hundred (1,500) square feet of floor space, generating less than twenty (20) average daily trips (ADT), and using less than five hundred (500) gallons of water per day.

2. The following shall be exempt from the requirements of public school concurrency:

   a. Single-family lots of record established prior to the effective date of this ordinance.

   b. Duplex lots of record established prior to the effective date of this ordinance.

   c. Amendments to any residential development approval which do not increase the number of residential units or change the type of residential units proposed.

   d. Any residential development that has a current and valid certificate of concurrency issued prior to the effective date of this ordinance.

e. A project or any portion of a project that is age restricted and subject to deed restrictions prohibiting the permanent occupancy of a resident under the age of 55, or is restricted to affordable housing as defined in s. 420.5095, Florida Statutes, as such statues may be amended or renumbered from time to time. The City shall require a separate development agreement with the applicant and/or evidence of recordable deed restrictions ensuring such commitment to provide senior or age restricted housing, affordable housing, and/or workforce housing.

f. Any residential development which has been determined exempt by the Hernando County School District.

g. All non-residential uses.

h. Residential development that generates less than one student (The applicable student multipliers in effect at the time of submittal shall be utilized).

SECTION 6-1.3. MINIMUM REQUIREMENTS FOR CONCURRENCY.

A development order will be issued only if the proposed development does not lower the existing level of service of a facility/service below the adopted level of service in the City Comprehensive Plan or provides mitigation in accordance with the terms of the concurrency management requirements. The minimum criteria to satisfy concurrency requirements are as follows:

A. For potable water, sewer, solid waste and drainage the following standards must be met, at a minimum, to satisfy the concurrency requirement:

1. The necessary facilities and services are in place at the time a development permit is issued; or

2. A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or

c. The necessary facilities are under construction at the time a permit is issued; or

d. The necessary facilities and services are guaranteed in an enforceable development agreement. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

B. For parks and recreation facilities, the criteria under Subsection A above may be applied or the following minimum standards may be applied:

1. At the time the development permit is issued, the necessary facilities and services are the subject of a binding executed contract which provides for the

commencement of actual construction of the required facilities or the provision of services within one year of the issuance of the development permit; or,

2. The necessary facilities and services are guaranteed in an enforceable development agreement which requires commencement of actual construction of the facilities or the provision of services within one year of the issuance of the applicable development permit. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Chapter 163, Florida Statutes or an agreement or development order issued pursuant to Chapter 380, Florida Statutes.

C. Transportation.

1. Transportation supply (capacity) shall be determined in accordance with the requirements of the City's Comprehensive Plan and the terms of this Article. Capacity will be based either on FDOT's generalized capacity tables or individual capacity studies utilizing professionally accepted standards and methodologies approved by the City Community Development and Public Works Departments' Directors.

2. Transportation supply is as follows:

a. The segment's existing peak hour, peak season, peak direction capacity; or

b. The segment's new roadway capacity if facility expansion for the segment is proposed and if:

i. At the time the development order or permit is issued, the facility expansion is under construction; or

ii. A development order or permit is issued subject to a condition that the facility expansion needed to serve the new development is included in the City's or County's adopted five-year schedule of capital improvements and is scheduled to be in place or under actual construction not more than three years after issuance of the project's first building permit or its functional equivalent. For purposes of this Section, the City may recognize and include transportation projects included in the first three years of the adopted Florida Department of Transportation five-year work program. In order to apply this provision to a facility expansion project, the capital improvements element (CIE) must include the following policies:

1. The estimated date of commencement of actual project construction and the estimated date of project completion, and

2. A provision that a plan amendment is required to eliminate, defer, or delay construction of any road which is needed to maintain the adopted level of service standard and which is listed in the five-year schedule of capital improvements of the City's or County's adopted Comprehensive Plans; or

iii. At the time a development order or permit is issued, the facility is the subject of a binding executed agreement which requires the facility to be in place or under actual construction no more than three years after the issuance of the project's first building permit or its functional equivalent; the agreement may assign all or a portion of the created capacity; or

iv. At the time a development order or permit is issued, the facility is guaranteed in an enforceable development agreement, pursuant to Chapter 163, Florida Statutes or an agreement or development order issued pursuant to Chapter 380, Florida Statutes to be in place or under actual construction not more than three years after issuance of a building permit or its functional equivalent; the agreement may assign all or a portion of the created capacity; or

v. The segment is the subject of a proportionate fair-share agreement. In such case, the segment capacity increase reflected in the proportionate fair share agreement shall be available only to the parties to a proportionate fair share agreement.

D. For public school facilities the following standards must be met, at a minimum, to satisfy the concurrency requirement:

1. All new residential development shall be subject to public school facilities concurrency unless exempted herein.

2. Concurrency service areas (CSAs):

a. CSAs will be developed based upon school attendance zones so that there is school capacity in each concurrency service area or contiguous concurrency service area to meet the adopted level of service standard within the 5-year time frame contained in the School Board's adopted 5-year work program (as such work program is updated annually by the School Board) and incorporated by reference into the City's Capital Improvement Element.

b. CSAs shall be subsequently modified to maximize available school capacity and make efficient use of new and existing public school facilities in accordance with the adopted LOS standards, and taking into account policies which:

i. minimize transportation costs;

ii. limit maximum student travel times;

iii. affect desegregation plans;

iv. achieve socio-economic, racial and cultural diversity objectives;

v. recognize capacity commitments resulting from the development approvals by the City for the CSA; and,

vi. recognize capacity commitments resulting from development approvals by the City for contiguous CSAs.

c. All CSAs will be described geographically and appropriately mapped.

E. Calculation of capacity:

The school district will determine whether adequate school capacity exists for a proposed residential development based on the adopted LOS as follows:

1. Calculate total public school facilities by adding the capacity provided by existing public school facilities, except magnet/lottery schools, to the capacity of any planned school facilities.

2. Calculate available public school capacity by subtracting from the total public school facilities the sum of:

a. used capacity;

b. the portion of reserved capacity projected to be developed within three (3) years;

c. the portion of previously approved development projected to be developed within three (3) years; and

d. the demand on public schools created by the proposed development.

F. Determination of sufficient school capacity for residential development:

1. In determining whether there is sufficient school capacity to accommodate a proposed residential development, the School district will consider:

a. Subject CSA. Available capacity will be determined based upon permanent FISH capacity of existing and planned facilities at each public school type (*i.e.* elementary, middle and high); and,

b. Contiguous CSA. If the projected student growth from a residential development causes the adopted LOS to be exceeded in the subject CSA,

then each contiguous CSA will be reviewed for available capacity pursuant to this Article and shall take into account:

i. Travel time and distance (school bus route from the school to the site of the proposed development should not exceed 50 minutes);

ii. Where school capacity is reserved for a specific academic or magnet program(s) at a particular school or for establishing student diversity, then such capacity cannot be claimed in a contiguous concurrency service area for purposes of determining available capacity; and,

iii. Where two CSAs are separated or divided by the Withlacoochee State Forest, then they shall not be deemed contiguous for purposes of determining available capacity.

c. In conducting the contiguity review, the school district shall first use the contiguous CSA with the most available capacity to evaluate projected enrollment and, if necessary, shall continue to the CSA with the next most available capacity until all contiguous CSAs have been evaluated or the available capacity has been identified to allow a determination letter approving school concurrency to be issued. If a contiguous CSA is identified having available capacity, then the actual development impacts shall be shifted to that CSA having available capacity (this shift shall be accomplished in accordance with School Board Policy and which may include, without limitation, appropriate boundary changes or shifting future student assignments).

G. Issuance of residential development orders predicated on sufficient public school facility capacity:

1. The issuance of development orders for new residential units shall be predicated on the availability of public school capacity.

2. Whether there is adequate public school capacity to accommodate students generated by the proposed development for each type of public school within the affected CSA consistent with the adopted LOS standard will take into consideration that:

a. Adequate public school facilities will be in place or under actual construction within three (3) years after the issuance of the subdivision approval or site plan (or functional equivalent); or,

b. Adequate public school facilities are available in an adjacent CSA and the impacts of development can be shifted to that area; or,

c. The developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be

created by the actual development of the property subject to the subdivision approval or site plan (or functional equivalent) pursuant to this Article.

3. If the impact of the proposed development will not occur until years 2 or 3 of the School Board's work plan, then any relevant programmed improvements in those years shall be considered available capacity for the project and factored into the level of service analysis. If the impact of the project will not occur until years 4 or 5 of the work plan, then any relevant programmed improvements shall not be considered available capacity for the project unless funding of the improvements is assured through School Board funding to accelerate the project, through proportionate share mitigation, or some other means.

4. If the school district determines that adequate capacity does not exist but that the developer's proffered proportionate share mitigation agreement is an acceptable alternative, the development application will remain active pending the conclusion of the mitigation negotiation period.

5. The City will issue a certificate of concurrency for public schools only upon:

   a. the school district's written determination that adequate school capacity will be in place or under actual construction within three (3) years after the issuance of subdivision approval or site plan approval (or functional equivalent) for each level of school without mitigation; or,

   b. the execution of a legally binding mitigation agreement between the applicant, the school board and the City.

H. In determining the availability of services or facilities, a developer may propose and the City may approve developments in stages or phases so that the facilities and services needed for each phase will be available concurrent with the impacts of the proposed development.

SECTION 6-1.4. FACILITY/SERVICE DEMAND CALCULATIONS.

A. The following calculations shall be used to determine the projected demand of the proposed project described in an application for a development permit on the public facilities and services. The information necessary to enable the City to perform the facility/service demand calculations in the following shall be provided by the applicant to the City.

1. Potable water: Adopted LOS = 250 gal./day/equivalent residential unit (ERU) 250 gal x _____ ERU's = demand

2. Sewage treatment: Adopted LOS = 200 gal./day/ERU. 200 gal x _____ ERU's = demand

3. Drainage: Adopted LOS is equivalent to and no less than the regulations of the Southwest Florida Water Management District for closed basins, as provided for in the Florida Administrative Codes 40D-4 and 40D-40.

4. Solid waste: Adopted LOS = 6.2 lbs./day/person (nonresidential uses are included in the City's Comprehensive Plan adopted LOS). Solid waste will be calculated on a City-wide basis at regular intervals. Current estimate is 6.2 lbs. per capita. Population x 6.2 lbs. per day = Demand.

5. Parks and recreation facilities:

Recreation and Open Space	Minimum Standards
Picnic table	20 per 6,000 persons
Swimming pool	1 per 10,000 persons
Baseball field (regulation)	1 per 6,000 persons
Tennis court	1 per 2,000 persons
Basketball court	1 per 5,000 persons
Volleyball court	1 per 5,000 persons
Recreational building	1 per 15,000 persons
Outdoor theater	1 per 20,000 persons
Shooting range	1 per 50,000 persons
Golf course	1 per 25,000 persons
Equipped play area	1 per 3,000 persons
Multi-use court	1 per 10,000 persons
Shuffleboard	1 per 6,000 persons
Handball court	1 per 10,000 persons
Horseshoe court	1 per 5,000 persons
Multi sport play field	1 per 5,000 persons

6. Transportation:

   a. Level of Service Standards. The LOS requirement shall be as provided for in the City Comprehensive Plan.

   b. Traffic Study Requirements.

      The purpose of the traffic study or assessment is to identify the potential impacts of new development on the City and County roadway network. Such a study or assessment shall provide information for making a concurrency determination on each impacted segment of the road network. The study or assessment shall identify traffic volumes on each impacted roadway, identify where the adopted level of service is exceeded, and recommend potential solutions or improvements. The study or assessment

will include segment and intersection analysis where appropriate or otherwise required.

i. Land Development Traffic Assessment ("LDTA") shall refer to a traffic study which has been prepared in accordance with the standards and methodology set forth in "Hernando County Traffic Study Procedures," by Tindale-Oliver & Associates (January 2008), as may be updated from time to time. The LDTA may be classified as "Minor" or "Major."

ii. Determine the number of average daily trips generated by the proposed project using the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation manual (most current edition). No traffic study will be required for developments generating less than 100 average daily trips according to the ITE Trip Generation manual (most current edition). Trips will be assigned by the County to determine if adequate capacity is available on the road network in the impacted area. If the adopted level of service on the impacted roadway is exceeded, the applicant, at its expense, will be required to submit a Minor LDTA in accordance with the adopted study criteria.

iii. If the project is calculated to generate more than one hundred (100), but less than one thousand (1,000) average daily trips according to the ITE Trip Generation manual (most current edition), a Minor LDTA shall be submitted by the applicant.

iv. If the project is calculated to generate more than one thousand (1,000), average daily trips, according to the ITE Trip Generation manual, current edition, a Major LDTA shall be submitted by the applicant.

v. Comprehensive Plan Amendment. For applications that involve large scale plan amendments (i.e. 10 acres or more of land), and for small scale plan amendments that generate over 1,000 average daily trips according to the ITE Trip Generation manual (most current edition), a Comprehensive Plan amendment traffic study meeting LDTA standards and requirements shall be submitted by the applicant. Notwithstanding the foregoing, if the plan amendment encompasses 10 acres or more of land but generates less than 1,000 average daily trips, then the applicant may perform a 5-year concurrency analysis in lieu of the foregoing if approved in advance by the City.

vi. Development of Regional Impact. For all applications which involve a development of regional impact (DRI), the applicant's traffic study shall include data and analysis relative to the Application for Development Approval (for the DRI) prepared in

accordance with Chapter 380.06, Florida Statutes, as may be amended or renumbered from time to time.

vii. Signed and Sealed by Engineer. All traffic studies and assessments required under this Section shall be prepared, signed, and sealed by a Professional Engineer registered and practicing in the State of Florida, qualified to perform traffic studies and assessments, and in accordance with professionally recognized industry standards.

viii. If a Land Development Traffic Assessment (LDTA), a Comprehensive Plan amendment traffic study, or a development of regional impact traffic study pursuant to this Section is required, it shall be prepared and submitted by the applicant at the applicant's expense.

7. Public Schools:

a. Level of Service (LOS) standards contained herein shall be used to determine whether sufficient public school capacity exists to accommodate future development projects, and evaluate the sufficiency of the Five-Year Schedule of Capital Improvements. The Five-Year Schedule of Capital Improvements shall be reviewed, updated, and adopted annually thus ensuring those projects necessary to address existing deficiencies, and to meet future needs based upon the adopted level of service standards. The annual update to the Five-Year Schedule of Capital Improvements shall ensure the level of service standards will continue to be achieved and maintained.

b. The Level of Service standards shall be applied consistently on a district-wide basis to all schools of the same type (*i.e.* elementary schools, middle schools, high schools).

c. The LOS standards to for schools shall be calculated as a percentage of FISH Capacity as follows:

i. Elementary: 100% of Permanent FISH Capacity for Permanent Student Stations, and 100% of Permanent FISH Capacity for Core Facilities (whichever is the greater number will be used for calculating student capacities for LOS).

ii. Middle School: 100% of Permanent FISH Capacity for Permanent Student Stations, and 100% of Permanent FISH Capacity for Core Facilities (whichever is the greater number will be used for calculating student capacities for LOS).

iii. High School: 100% of Permanent FISH Capacity for Permanent Student Stations, and 100% of Permanent FISH Capacity for Core

Facilities (whichever is the greater number will be used for calculating student capacities for LOS).

iv. Magnet schools will maintain the level of service standard for the type of school for which it is constructed whether an elementary, middle, or high.

v. For purposes of this Subsection, "Core Facilities" shall mean 'Permanent Cafeteria Capacity' based on FISH standards.

B. Alternative demand calculations.

If the applicant claims the standards provided in the demand calculations are not applicable to the proposed project, the applicant shall submit appropriate documentation based on professionally accepted methodology and practices supporting the proposed alternative demand calculation to the City. Any alternative calculation standard shall be subject to approval of the City and, if related to the determination of demands on public school facilities, the Hernando County School Board.

C. Appellate procedures.

Any appeal of a denial of a certificate of concurrency for potable water, sewage treatment, drainage, solid waste, parks and recreation facilities and transportation shall be to the City Council within 30 days of receipt of written notification of denial. The notification of denial shall be provided via certified mail. Pursuant to Hernando County School District Policy 8.54., any appeal of a finding of no available school capacity by the school district for public schools shall be to the school district within 30 days of the issuance of the determination.

PART 6-2

PROPORTIONATE FAIR-SHARE MITIGATION

SECTION 6-2.1. TRANSPORTATION FACILITIES PROPORTIONATE FAIR-SHARE MITIGATION.

A. Purpose and intent.

The purpose of this Section 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, in a manner consistent with F.S. § 163.3180.

B. Findings.

The City Council finds and determines that transportation capacity is a commodity that has a value to both the public and private sectors and that the City proportionate fair-share program:

1. Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative and creative efforts of the public and private sectors;

2. Allows developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair share of the cost of expanding or improving a transportation facility;

3. Contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic congestion; and

4. Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the City to expedite transportation improvements by supplementing funds currently allocated for transportation improvements in the capital improvements element.

C. Applicability.

The proportionate fair-share program shall apply to any development project in the City where the project's traffic impact study or the City's Community Development or Public Works Directors determine that there is insufficient capacity on one or more segments to satisfy the development project's transportation concurrency requirements. The proportionate fair-share program does not apply to developments exempted from concurrency as provided in this Article.

D. General requirements.

1. An applicant whose project meets the criteria of this Section may choose to satisfy transportation concurrency requirements 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, and

   b. The five-year schedule of capital improvements in the City or County capital improvements element (CIE) includes one or more transportation improvements that, upon completion, will provide sufficient capacity for the deficient segments to accommodate the traffic generated by the proposed development.

2. The City may choose to allow an applicant to satisfy transportation concurrency for a deficient segment, through the proportionate fair-share program, by the developer contributing to an improvement that, upon completion, will create additional capacity on the deficient segment sufficient to accommodate the additional traffic generated by the applicant's proposed development even if the

improvement project for the deficient segment is not contained in the five-year schedule of capital improvements in the CIE where:

a. The City Council holds an advertised public hearing to consider the proportionate share agreement and corresponding future changes to the five-year CIE, and

b. The City adopts, by ordinance or resolution, a commitment to add the improvement to the five-year CIE. To qualify for consideration under this Section, the proposed schedule of capital improvements in the CIE must be reviewed by the City Council.

3. If the funds allocated for the five-year schedule of capital improvements are insufficient to fully fund construction of a transportation improvement required by the concurrency management system, the City may 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 government entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system.

4. Improvements funded by the proportionate fair-share component must be adopted into the five-year capital improvements schedule at the next annual capital improvements update.

5. Any improvement project proposed to meet a developer's fair-share obligation must meet design standards of the City or County for locally maintained roadways in their jurisdiction and those of the Florida Department of Transportation (FDOT) for the state highway system.

E. Application process.

1. Upon identification of a lack of capacity to satisfy transportation concurrency, an applicant may choose 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, the applicant shall attend a pre-application meeting with appropriate staff to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the strategic intermodal system (SIS), then the Florida Department of Transportation (FDOT) will be notified and invited to participate in the preapplication meeting.

3. Eligible applicants shall submit an application to the City that includes nonrefundable application fee as established by resolution, and the following:

a. Name, address, and phone number of owner(s), developer and agent;

b. Property location, including parcel identification numbers;

c. Legal description and survey of property;

d. Project description, including type, intensity, and amount of development;

e. Phasing schedule, if applicable;

f. Description of requested proportionate fair-share mitigation method(s);

g. Copy of concurrency application;

h. Copy of the project's traffic impact statement (TIS) or traffic impact analysis (TIA); and

i. Location map depicting the site and affected road network.

4. Within ten business days, the Chief Administrative Officer shall review the application and certify that the application is sufficient and complete. If an application is determined to be insufficient, incomplete, or inconsistent with the general requirements of the proportionate fair-share program as indicated in this Section, then the applicant shall be notified in writing of the reasons for such deficiencies within ten business days of submittal of the application. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application shall be deemed abandoned. The City Council may, in its discretion, grant an extension of time not to exceed 60 days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.

5. Pursuant to Chapter 163.3180, Florida Statutes, proposed proportionate fair-share mitigation for development impacts to facilities on the strategic intermodal system requires consultation with the Florida Department of Transportation (FDOT). If an SIS facility is proposed for proportionate share mitigation, 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, 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, including a copy to the FDOT for any proposed proportionate fair-share mitigation on a strategic intermodal system (SIS) facility, no later than 60 days from the date at which the application was determined to be sufficient and no fewer than 14 days prior to the City Council meeting when the agreement will be considered.

7. The City shall notify the applicant regarding the date of the City Council meeting at which the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the City Council.

F. Determining proportionate fair-share obligation.

1. Proportionate fair-share mitigation for concurrency impacts may include, 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 Chapter 163, Florida Statutes as follows:

   The cumulative number of peak hour, peak direction trips from the complete build out of the proposed development, or build out of the stage or phase being approved, that are assigned to the proportionate share program segment divided by the change in the peak hour directional maximum service volume (MSV) of the proportionate share program segment resulting from construction of the proportionate share program improvement, multiplied by the anticipated construction cost of the proportionate share project in the year that construction will occur.

   This methodology is expressed by the following formula:

   Proportionate fair share = $\sum[[(\text{Development Trips}_i) \div (\text{SV Increase}_i)] \text{ X } \text{Cost}_i]$

(Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of a development.)

Where:

$\sum$= Sum of all deficient links proposed for proportionate fair-share mitigation for a project.

$\text{Development Trips}_i$ = 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 concurrency management system.

SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment "i".

Cost_i = Adjusted cost of the improvement to segment "i". Cost shall consist of all improvements and associated costs, including design, right-of-way acquisition, planning, engineering, inspection, and physical development costs, directly associated with construction at the anticipated cost in the year that construction will occur.

In using the proportionate-share formula provided herein, the applicant, in its traffic analysis, shall identify those roads or facilities that have a transportation deficiency in accordance with the transportation deficiency as defined below. The proportionate-share formula provided in this subsection shall be applied only to those facilities that are determined to be significantly impacted by the project traffic under review. If any road is determined to be transportation deficient without the project traffic under review, the costs of correcting that deficiency shall be removed from the project's proportionate-share calculation and the necessary transportation improvements to correct that deficiency shall be considered to be in place for purposes of the proportionate-share calculation. The improvement necessary to correct the transportation deficiency is the funding responsibility of the entity that has maintenance responsibility for the facility. The development's proportionate share shall be calculated only for the needed transportation improvements that are greater than the identified deficiency.

When the provisions of this subsection have been satisfied for a particular stage or phase of development, all transportation impacts from that stage or phase for which mitigation was required and provided shall be deemed fully mitigated in any transportation analysis for a subsequent stage or phase of development. Trips from a previous stage or phase that did not result in impacts for which mitigation was required or provided may be cumulatively analyzed with trips from a subsequent stage or phase to determine whether an impact requires mitigation for the subsequent stage or phase. In projecting the number of trips to be generated by the development under review, any trips assigned to a toll-financed facility shall be eliminated from the analysis.

As used in this subsection, the term "transportation deficiency" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

4. For purposes of determining proportionate fair-share obligations, the City shall determine improvement costs based upon the actual and/or anticipated costs of the improvement in the year that construction will occur. These costs will be determined by the City's Public Works Department. Accepted sources for determining improvement costs may include, but not be limited to, the most recent issue of FDOT transportation costs, as adjusted, based upon the type of cross-section, and locally available data from recent projects.

5. If the City has accepted an improvement project proposed by the applicant, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the City's Public Works Director or other method approved by the City's Public Works Director.

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 valued on the date of the dedication at 120 percent of the most recent assessed value by the County Property Appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the City and will be at no expense to the City. Said appraisal shall assume no approved development plan for the site. 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 (based on a City-approved appraisal) is less than the City estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. If the estimated value of the right-of-way dedication proposed by the applicant (based on a City-approved appraisal) is more than the City estimated total proportionate fair-share obligation for the development, then the City will give the applicant roads impact fee credit for the difference.

G. Impact fee credit for proportionate fair-share mitigation.

1. Proportionate fair-share mitigation payments for a development project shall be applied as a credit toward the roads impact fees assessed to that development project 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 applicable impact fee ordinance.

2. Impact fee credits for a proportionate fair-share contribution will be determined when the roads impact fee obligation is calculated for the proposed development. If the applicant's proportionate fair-share obligation is less than the development's anticipated roads impact fee for the specific stage or phase of development under review, then the applicant must pay the remaining impact fee amount.

3. A proportionate fair-share contribution is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any roads impact fee credit based upon proportionate fair-share contributions for a proposed development may not be transferred to any other location.

4. The amount of roads impact fee (RIF) credit for a proportionate fair-share contribution may be up to but shall not exceed the project's proportionate fair share amount.

5. A proportionate fair share impact fee credit shall be applied consistent with the following formula:

Applicant payment = [(Total project roads impact fees assessed) + (Proportionate Share Payment)] - (RIF CREDIT)

H. Proportionate fair-share agreements.

1. Upon executing a proportionate fair-share agreement (agreement) and satisfying other concurrency requirements, an applicant shall receive a City certificate of concurrency approval. Should the applicant fail to apply for building permits within the time frame provided for in the City concurrency certificate, then the project's concurrency vesting shall expire, and the applicant shall be required to reapply. Once a proportionate share payment for a project is made and other impact fees for the project are paid, no refunds shall be given. All payments, however, shall run with the land.

2. Payment of the proportionate fair-share contribution for a project and payment of other impact fees assessed to that project shall be due and must be paid prior to the effective date of the proportionate fair share agreement. The effective date shall be specified in the agreement and shall be the date the agreement is approved by the City Council.

3. All developer improvements accepted as proportionate fair share contributions must be completed within three years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement and be accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. The security instrument shall conform to the subdivision construction security requirements utilized by the City Community Development Department. It is the intent of this Article that any required improvements be completed within three years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement.

4. Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must occur prior to the effective date of the proportionate fair share agreement.

5. Any requested change to a development project subsequent to issuance of a development order shall be subject to additional proportionate fair-share contributions to the extent the change would increase project costs or generate additional traffic that would require mitigation.

6. Applicants may withdraw from a proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the City are nonrefundable.

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 capital improvements element, or as otherwise established in the terms of the proportionate fair-share agreement. Proportionate fair-share revenues may also be used as the 50 percent local match for funding under the FDOT Transportation Regional Incentive Program (TRIP).

2. In the event a scheduled facility improvement is removed from the capital improvements element (CIE), then the proportionate fair share revenues collected for its construction may be applied toward the construction of alternative improvements within that same corridor or sector where the alternative improvement will mitigate the impacts of the development project on the congested roadway(s) for which the original proportionate fair share contribution was made.

SECTION 6-2-2. PUBLIC SCHOOL FACILITIES PROPORTIONATE FAIR-SHARE MITIGATION.

A. Purpose and intent.

The purpose of this Section is to establish a method whereby the impacts of proposed residential development on public school 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 Section 163.3180, Florida Statutes. It is acknowledged that State Statutes and standards may change and, given such, that the school district may identify alternatives to the mitigation methods provided in this Section. The City shall therefore recognize a certificate of concurrency issued by the school district that utilizes mitigation methods not identified in this Section.

B. Findings.

The Brooksville City Council finds and determines that public school facilities capacity is a commodity that has a value to both the public and private sectors and that the City proportionate fair-share program:

1. Provides a method by which the impacts of development on public school facilities can be mitigated by the cooperative and creative efforts of the public and private sectors;

2. Allows developers to proceed under certain conditions, notwithstanding the failure of public school facilities concurrency, by contributing their proportionate fair share of the cost of expanding or improving a public school facility

3. Contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby

reducing the potential for moratoria or unacceptable levels of overcrowding at public school facilities; and

4. Maximizes the use of public funds for adequate public school facilities to serve future growth, and may, in certain circumstances, allow the school board to expedite public school facilities improvements by supplementing funds currently allocated for public school facilities improvements in the capital improvements element.

C. Applicability.

The proportionate fair-share program shall apply to any residential development project in the City of Brooksville where the project's impact indicates that there is insufficient capacity to satisfy the development project's public school facilities concurrency requirements. The proportionate fair-share program does not apply to developments exempted from concurrency as provided in this Article.

D. General requirements.

An applicant whose project meets the criteria of this Section may choose to satisfy public schools facilities concurrency requirements by making a proportionate fair share contribution, pursuant to the following requirements:

1. The proposed development is consistent with the Comprehensive Plan and applicable land development regulations, and

2. The school district determines that adequate capacity does not exist but that mitigation is an acceptable alternative, and the developer executes a legally binding commitment to provide mitigation acceptable to the School district proportionate to the demand for public school facilities created by the actual development project.

E. Mitigation Alternatives

1. In the event the proposed project meets the requirements for proportionate fair share contribution, the following procedure shall be used.

   a. The applicant shall initiate in writing a mitigation negotiation period with the school board in order to establish an acceptable form of mitigation.

   b. Acceptable forms of mitigation may include:

      i The donation, construction, or funding of school facilities sufficient to offset the demand for public school facilities to be created by the proposed development.

ii Construction of a charter school that complies with the requirements of s. 1002.33(18), Florida Statutes.

iii The creation of mitigation banking based on the developer's construction and/or financing of a public school facility in exchange for the right to sell excess capacity credits (the selling of excess credits shall be limited to that area within the subject CSA or any abutting CSA) and as may be further limited by this Article.

2. The following standards apply to any proportionate share mitigation agreement:

a. Relocatable classrooms will not be accepted as mitigation.

b. Mitigation shall be directed to projects on the School Board's 5-year work plan that the school district agrees will satisfy the demand created by that development approval, and shall be assured by a legally binding development agreement between the school board, the City and the applicant. The development agreement shall be executed prior to the issuance of the applicable subdivision plat, site plan or functional equivalent in the development review process.

c. The Student Generation Formula used for calculating mitigation shall be as follows:

Number of Student Stations (by school type) = Number of Dwelling units (by housing type) x Student Generation Multiplier (by housing type and school type)*

* Student Generation Multipliers shall be based upon the best available data and professionally accepted methodology as presented in the supporting data and analysis of the Comprehensive Plan Public School Facilities Element.

d. For purposes of this Article, Cost Per Student Station estimates shall include, at a minimum, all costs of providing instructional and core capacity including land, site improvements, design, buildings, equipment, furniture, and costs of financing (if applicable). The capital costs associated with transportation of students shall not be included in the Cost Per Student Station estimate used for mitigation.

e. The proportionate mitigation share amount shall be calculated as follows: Proportionate Share Amount = Number of Student Stations (by school type) x Cost per Student Station (by school type)**

** The above formula shall be calculated for each housing type within the proposed development and for each school type (elementary, middle, high) for which a capacity deficiency has

been identified. The sum of these calculations shall be the proportionate share amount for the development under review.

f. If the School district agrees to the mitigation, the School district must commit to adding the improvement required for mitigation to its work plan and the City shall amend its capital improvements element/capital improvements schedule to adopt the school board's revised work program.

3. The applicant's total proportionate-share mitigation obligation to resolve a capacity deficiency shall be based on the following formula, for each public school type (elementary, middle, high, magnet):

a. Multiply the number of new student stations required to serve the new development by the Cost Per Student Station (as estimated pursuant to Subsection (2) above).

b. The applicant's proportionate-share mitigation obligation will be credited toward any other impact fee or exaction imposed by local ordinance for the same need.

4. Mitigation negotiation period

a. If within 90 days of the date the applicant initiates the mitigation negotiation period, the applicant and the School district are able to agree to an acceptable form of mitigation, a legally binding mitigation agreement shall be executed by the applicant and the School district (together with the City) which sets forth the terms of the mitigation, including such issues as the amount, nature, and timing of donations, construction, or funding to be provided by the developer, and any other matters necessary to effectuate mitigation in accordance with the City's Comprehensive Plan and this Article. The mitigation agreement shall specify the amount and timing of any impact fee credits or reimbursements, if any, that the developer expects to receive in connection with its mitigation payment/donation under said agreement.

b. If, after 90 days, the applicant and the School district are unable to agree to an acceptable form of mitigation, the School district will report an impasse to the City, in writing and the City will not issue a finding of adequate school capacity and associated certificate of school concurrency for the proposed development.

c. The School district may grant up to two (2) ninety 90-day extensions to the mitigation negotiation period.

5. To the extent required under Florida law, mitigation must be proportionate to the demand for public school facilities to be created by the actual development of the property.

TABLE 6-2
Summary of Concurrency Evaluation and Proportionate Share Mitigation

Step 1	Determine number of students generated by development	Number of DUs (by unit type) MULTIPLIED BY Student Generation Rate (by DU type and School type) EQUALS Number of Student Stations needed to serve proposed development.
Step 2	Assess need for mitigation	Available Capacity (see § 101-89(4)c of this Article) MINUS Number of new Student Stations needed to accommodate proposed development EQUALS Shortfall (negative number) or surplus (positive number) of capacity to serve proposed development.
Step 3	Evaluate available capacity in contiguous CSAs	If Step 2 results in a negative number, repeat Step 2 for one or more contiguous CSA. If this remains a negative number, proceed to Step 4.
Step 4	Calculate proportionate share mitigation	Additional Student Stations needed (negative number from Step 3) MULTIPLIED BY Cost per Student Station EQUALS Proportionate Share Mitigation obligation.

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ARTICLE VII

SIGNS

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ARTICLE VII

SIGNS

PART 7-1

SIGN REGULATIONS

SECTION 7-1.1. PURPOSE AND INTENT.

A. This Article shall be construed and implemented to create a comprehensive and balanced system of sign control which accommodates both the need for a well-maintained, safe and attractive community, and the need for effective business identification, advertising and communication in a manner that implements the goals, objectives, policies and standards in the City's Comprehensive Plan, particularly as set forth in the Future Land Use and Conservation Elements. It is the intent of this Article, and it shall be interpreted, to promote the health, safety, convenience, aesthetics and general welfare of the community by controlling signs which are intended to communicate to the public, and to authorize the use of signs which are:

1. Compatible with their surroundings thereby enhancing the attractiveness and economic well-being of the City as a place to live and conduct business;

2. Designed, constructed, installed and maintained in a manner which does not endanger public safety or unduly distract motorists;

3. Appropriate to the type of activity to which they pertain;

4. Large enough to convey sufficient information about the owner or occupants of a particular property, the products or services available on the property, or the activities conducted on the property, and small enough to satisfy the aesthetic and safety needs of the community; and

5. Reflective of the identity and creativity of individual occupants.

B. The standards and regulations are designed to protect the City against:

1. The unlimited proliferation in number and location of offsite and on-site signs, including mobile signs;

2. Construction and placement of oversized, unsightly, animated, flashing and other aesthetically unpleasant signs which dominate and detract from the surrounding visual environment;

3. Commercial and other signs being placed in residential and rural neighborhoods which unpleasantly commercialize and clutter such neighborhoods for residents and travelers;

4. Signs being constructed and placed without first obtaining proper permits as well as permission of the owner of the property on which the signs were placed;

5. Signs failing to be properly maintained once erected and placed; and

6. Signs which are placed dangerously in or near street or driveway intersections and rights-of-way so as to pose actual or potential hazards to traffic.

SECTION 7-1.2. PERMIT REQUIRED.

Any person intending to erect, relocate or alter any sign within the City shall, except as provided hereafter, first apply for and obtain a sign permit from the Community Development Department. The Chief Administrative Officer or his designee is authorized to promulgate rules and procedures to accommodate for the permit application process.

SECTION 7-1.3. FEES.

Each application for signage shall be accompanied by permit fees as shall from time to time be established by resolution by the City Council and are on file with the City Clerk.

SECTION 7-1.4. EXEMPTIONS.

The following signs shall be allowed in any zoning district without the necessity of obtaining a sign permit, providing such sign is not in conflict with any other provision of this Article. Noncompliance with the terms set forth below shall cause such sign to forfeit its exempt status and require the owner to obtain a permit as set forth in Section 7-1.2. Owners or lessees of such signs shall ensure that exempt signs conform to all other applicable regulations and they shall be responsible for the safe and proper erection and maintenance of such signs. Failure to comply with the provisions of this Section shall subject the violator to the penalties as outlined in Section 7-1.9. Each violation shall constitute a separate offense.

A. One non-illuminated sign not to exceed two square feet identifying a residence.

B. One sign customary and necessary in the offering of real estate for sale or to let by the owner or the owner's licensed broker or agent not to exceed six square feet in residential zones or 24 square feet in nonresidential zones. Upon sale of the property, the sign must be removed within 14 days.

C. Signs, memorials or plaques erected by or on behalf of the United States of America, the state or local governments pursuant to and in discharge of any governmental function or required or permitted by any law, ordinance or governmental regulation.

D. On-site banners, when used in conjunction with a specific special event, provided the banner area when combined with the area of existing attached signs does not exceed ten percent of the total area of the exterior wall to which it is affixed. Banners are to be maintained in good condition at all times.

E. Special event banners, when used by governmental, charitable or nonprofit organizations in conjunction with a specific special event of city-wide significance. Special event banners permitted under this Section shall in no instance remain in place for more than 30 days.

F. Sandwich board signs. Such signs must be placed in a location so as not to impede pedestrian or vehicular visibility and general public safety, and may only be placed outdoors in front of the advertised business during business hours. One sandwich board sign will be allowed per building on single lot developments, or one sandwich board sign per unit in buildings designed as multiunit, independent, separate entry storefronts.

G. Political signs are permitted to be erected no more than 90 days prior to the applicable election day and shall be removed within 10 days after said election day. The candidate for office or a designee shall have the responsibility for removal of signs advertising the candidacy. Signs that are not removed within the time period referenced herein shall be subject to removal by the City and may be disposed of pursuant to administrative policies set up by the City manager. The size of such signs shall not exceed six square feet in a residential district and 24 square feet in a nonresidential district. No signs may be posted within public rights-of-way or on utility poles, trees, traffic or regulating signs of any nature.

H. Construction or contractor signs. One per location identifying the project, the building and subcontractors, not to exceed 12 square feet in residential areas and 24 feet in nonresidential areas and must be removed upon completion of the job.

I. Holiday signs are allowed 30 days prior to and 15 days after the specific holiday. Holidays are defined and include all federal, state or local legal holidays.

J. Signs necessary for the identification, operation or protection of public service structures or signs incident to a legal process or necessary to the public safety or welfare.

K. Directing or instructing signs for vehicular or pedestrian traffic and parking on private property, providing such signs bear no advertising matter and do not exceed six square feet in area.

L. Graphic presentations and murals approved by the City Council which feature cultural, civil or historical events containing no commercial advertising material.

SECTION 7-1.5. PROHIBITED SIGNS.

The following signs shall not be permitted in any zoning district within the City:

A. Abandoned or dilapidated signs.

B. Beaconlights.

C. Flags, pennants/streamers and spinners when used solely for the purpose of attracting attention or conveying messages to the public except when associated with new business openings, not to exceed 30 days.

D. Portable signs.

E. Signs which incorporate any flashing, moving or changing illumination or animation or which emit sound, odor or visible matter and signs which incorporate strobe lights in any manner. Time or temperature displays incorporated in signs which otherwise comply with all provisions of this Section, may be approved by the City Council.

F. Signs using the words "stop," "danger" or any other word, phrase, symbol or character in a manner that misleads, confuses or distracts a vehicle driver.

G. Signs which pose a safety hazard to the general public.

H. Signs which exhibit statements, words or pictures of obscene or pornographic subjects.

I. Snipe signs.

J. Tethered balloons, flying paraphernalia and inflatable signs.

K. Vehicle signs. No person shall park any vehicle or trailer on a public right-of-way, or on public property or on private property so as to be visible from a public right-of-way which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of product, or directing people to a business or activity, located on the same or nearby property.

SECTION 7-1.6. NONCONFORMING SIGNS.

A. The following signs shall be removed or made to conform to this Article within 30 days from the effective date of this Article:

1. All prohibited signs as defined by this Article.

2. All temporary signs other than those permitted by this Article.

3. Any nonconforming signs located within a public right-of-way.

B. Subject to the limitation imposed by this regulation, all other nonconforming signs shall be maintained in good condition. However, nonconforming signs shall not be:

1. Structurally altered to prolong the life of the sign, except to meet safety requirements.

2. Altered in any manner that increases the degree of nonconformity.

3. Expanded.

4. Continued in use after cessation or change of the business or activity to which the sign pertains.

5. Reestablished after damage or destruction exceeding 50 percent of the sign.

6. Continued in use when a conforming sign or sign structure shall be permitted and erected on the same premises or unit.

7. Continued in use if the property is sold or leased to another party, or when any land use to which the sign pertains has ceased for a period of 90 consecutive days.

C. Property owners with signs that are required to be removed as a result of any governmental activity may be permitted to move the existing sign to a new location on the same property. The sign's relocation may be permitted provided that the sign structure and new location will not exceed the scope of the structure's existing nonconformity and will not pose a safety hazard at the new location.

SECTION 7-1.7. STREET POLE BANNERS.

The City of Brooksville Street Pole Banner Program allows the placement of banners on certain utility poles by local non-profit organizations for the limited purpose of encouraging and promoting community identity, community organizations, community activities and special events. Applications for a permit to display street pole banners will be accepted only from community organizations, City and County government, the State of Florida, or from governmentally-owned educational institutions.

A. Approved Display Areas

Street pole banners may be placed on existing utility poles that are located along Main Street/Howell Avenue, subject to clearance standards, permission from the utility pole owner and applicable standards as may be found in this Article and Chapter 74 of the City of Brooksville Code of Ordinances.

B. Allowable Displays:

The following displays are permitted on street pole banners:

- Advertisements or promotions of community organizations or community events;

- Advertisements or promotions of activities sponsored by the City, Hernando County, the State of Florida, or a governmentally-owned educational institution; or

- Welcome messages, such as those for class reunions, conventions, conferences, athletic tournaments, or local winners of major events.

C. Non-Allowable Displays

The following displays are not permitted on street pole banners:

- Personal messages;

- Promotion of a commercial for-profit enterprise; or

- Advertisements for clubs, churches or for-profit organizations promoting a private event.

D. Application for Permit

Any person or entity who desires to display street pole banners to be located either within or outside of the boundaries of a coordinated street pole banner program area shall submit an application to the City of Brooksville Department of Public Works. An application form must be submitted to the Department of Public Works not more than six (6) months or less than two (2) months before the first date the street pole banners are proposed to be displayed. An application fee of $50.00 is required with the submission of the application.

E. Street Banner and Hardware Standards

Street pole banners must be constructed of a material that can withstand the normal and reasonably expected forces of nature for the period of time they are displayed. The street pole banners shall not exceed an overall length of 60 inches (60") and a width of thirty inches (30"). Any hardware installed on utility poles to hold banners must first be approved by the Department of Public Works. All street pole banners and hardware shall be installed such that the bottom of the street banner is at least seven feet (7') above the ground. If the street pole banner hardware hangs over or encroaches into the vehicular traffic way, the bottom of the banner must be at least fifteen feet (15') above the ground.

F. Duration of Display

The street pole banners may be permitted to be in place for a period of at least seven (7) days, but not more than thirty (30) days, unless otherwise approved. As long as no other applicant has applied for permission to place street banners in the same location, that initial thirty (30) day maximum period may be extended for additional thirty (30) day periods.

G. Installation, Maintenance and Removal

Street pole banners and any hardware necessary to display them may be installed only by a licensed contractor approved by the City. Except as may be otherwise determined by the City, the applicant is responsible for all costs associated with installation, maintenance and removal of street pole banners and any hardware necessary to display them. The applicant is also responsible for any damage that may occur to the street pole banners, hardware, or utility poles while the street pole banners are being installed, displayed or removed.

SECTION 7-1.8. GENERAL PROVISIONS.

All signs shall be subject to the following regulations except where otherwise provided for in this Article:

A. Freestanding or detached signs.

Only one freestanding or detached sign shall be permitted on the premises. All freestanding or detached signs and all parts thereof shall be located at least 25 feet from all street right-of-way lines and at least 20 feet from all property lines or area of traffic circulation. The maximum height of such signs shall not exceed 16 feet and when such signs are located within a parking lot or area of traffic circulation shall provide for a clearance space of at least eight feet so as not to obstruct the vision of approaching vehicles. No freestanding or detached sign shall exceed 32 square feet in size. Signs excepted from the above provisions may be permitted if one or more of the following circumstances are presented:

1. The parcel fronts 500 feet minimum on each of more than one street in which case one freestanding sign not to exceed 96 square feet or two freestanding signs not to exceed 48 square feet each may be permitted provided the signs maintain a separation of 250 feet.

2. The parcel contains two or more units, each of which contain a business establishment or use with a separate identity from other uses on the premises in which case one freestanding sign not to exceed 72 square feet for under four units or 96 square feet for four or more units may be permitted.

3. Freestanding signs located in the central business district may be permitted to utilize five-foot setbacks from property lines provided such placement does not constitute a visual obstruction for pedestrian or vehicular traffic.

B. Residential entry signs.

Not more than two ground signs are permitted to be installed or erected at each entrance to a platted subdivision, multiple family development (apartments, condominiums and mobile home parks) provided the combined each sign shall not exceed 48 square feet.

C. Attached signs.

No attached sign shall extend or project more than six feet above or beyond the building walls. A clear space of not less than eight feet shall be provided below all parts of such signs. In no case, however, shall an attached sign be permitted to extend or project beyond a line drawn perpendicularly upward from two feet inside the curbline facing a street or alley. No attached sign shall exceed ten percent of the total area of the exterior wall, including any glass area, to which it is being attached.

D. Lighting.

No sign shall be permitted which involves lighting or motion resembling traffic or directional signals, warnings or other similar devices which are normally associated with highway safety or regulations or which constitutes a safety hazard or hindrance because of light, glare, focus, animation, rotation, flashing or intensity of illumination. Lighted signs shall be designated and located so as to prevent direct glare or hazardous interference of any kind to adjoining streets or properties.

E. Maintenance.

Every sign shall be structurally sound, securely attached to its supporting structure, adequately maintained including proper alignment of structures, continued readability of the sign face and preservation of the structure with paint or other preservatives. If any sign is not maintained in conformance with this Article, the administrative official shall give written notice of such nonconformance to the owner of such sign in accordance with the provisions of Section 7-1.9.

F. Building code compliance.

All signs shall comply with the provisions of the Standard Building Code.

G. Zoning districts.

Unless otherwise provided for in this Article, no signage shall be permitted in single-family residential districts.

SECTION 7-1.9. VIOLATIONS AND PENALTIES.

Those persons, including the property owner, lessor, lessee or occupant, who may violate any portion of this Article shall first be notified by certified mail citing time, place, date and nature of

the violation and date certain when violation is to be brought into compliance. Violations existing beyond the above referenced date certain shall be deemed a civil infraction and shall be punished by a fine not to exceed $50.00. Each day any violation of any provision of this Article shall continue shall constitute a separate offense. The City shall have the right to remove any sign that remains in noncompliance beyond 30 days after notification. Violations which involve signs found to be structurally unsound, insecurely attached or otherwise posing hazards to the immediate safety and general welfare of the public are subject to the structure's removal by the City. The violator, upon receiving actual notice of the safety violations from the administrative official, shall be responsible for correcting the violation immediately, or the City is authorized to compel the structure to be removed. Signs impounded for a period of 30 days, if unclaimed, shall be disposed of as abandoned property in accordance with public law. The City will bill the owner for the cost of such removal, storage and disposal. If unpaid after 90 days, the sign will be considered abandoned and a lien will be filed on the property for the City's cost of removal, storage, disposal and legal processing.

CITY OF BROOKSVILLE LAND DEVELOPMENT CODE

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ARTICLE VIII

ADMINISTRATION, APPLICATION AND APPEAL PROCEDURES

PART 8-1

ADMINISTRATION

SECTION 8-1.1. ESTABLISHMENT OF LOCAL PLANNING AGENCY

The Brooksville City Council shall be designated as the Local Planning Agency for the City of Brooksville.

SECTION 8-1.2. CHIEF ADMINISTRATIVE OFFICER

The City Manager shall be considered the Chief Administrative Officer and shall be charged with the authority to enforce the regulations and procedures of this Code. The City Manager, in the performance of the necessary duties and functions, may enter upon any land and make examinations and surveys that do not cause damage or injury to private property. For the purpose of performing any of the duties and functions necessary to administer and enforce this Code, the City Manager may appoint appropriate persons as designees who shall have and exercise the authority of the Chief Administrative Officer.

SECTION 8-1.3. DEVELOPMENT REVIEW

An Administrative Development Review process is hereby established and shall be accomplished by City departments, divisions and agencies responsible for reviewing land development proposals. Such departments, divisions and agencies facilitating and effecting the development review process, when applicable, shall include: Department of Administration; Finance Department; Community Development Department, Building Division; Police Department; Fire Department; Parks and Recreation Department; and Public Works Department.

A. Procedures

The Community Development Department shall coordinate the Administrative Development Review process and shall maintain records of final decisions based on review and subsequent issuance of development orders and/or development permits.

B. Powers and Duties

The staff conducting Administrative Development Reviews is hereby authorized and responsible for reviewing applications for annexation, subdivisions, site plans, street vacations, planned development projects, developments of regional impact and other applications referred for review by the City Manager. In reviewing such applications, the staff conducting the Development Review shall recommend approval, denial or approval with conditions, amendments or modifications. The recommendations shall be transmitted to the applicant, City Council or appointed board as applicable to the petition. The powers and duties for Development Review shall include other responsibilities and authority as specifically set forth in this Code.

C. General Considerations for Development Review

The staff conducting Development Reviews has the authority to recommend a development application after review and determining whether the application and/or a plan is consistent with goals, objectives, policies, standards and proposals in the Comprehensive Plan and Land Development Code. Staff shall also determine if all public facilities and services necessary to serve the proposed use are available concurrent with project development, and if the established level of service of public facilities necessary to serve the development or phase thereof are not adversely impacted by the proposed use or activity.

SECTION 8-1.4. PLANNING AND ZONING COMMISSION

A Planning and Zoning Commission is hereby established which shall consist of five (5) members plus two (2) alternates and a representative of the school district appointed by the Hernando County School Board. The five members and two alternate members of the Planning and Zoning Commission shall be appointed by the City Council. Planning and Zoning Commission members shall have established permanent residency within the corporate limits of the City of Brooksville. No member of the Planning and Zoning Commission shall be a paid or elected official or employee of the City of Brooksville. The Hernando County School Board appointee shall be a nonvoting member.

A. Term of Office

The five (5) appointed members shall serve for a term of four (4) years. The initial term of office for members of the Planning and Zoning Commission shall be as follows: two (2) members shall be appointed for terms of four (4) years, two (2) members shall be appointed for terms of three (3) years, and one (1) member shall be appointed for a term of two (2) years. Appointments to fill vacancies occurring during an initial term shall be for the balance of the term. Appointments upon expiration of an initial term shall be for the term of four (4) years for all members.

B. Removal from Office and Vacancies

Any member of the Planning and Zoning Commission may be removed by the City Council for neglect of duty, misfeasance, malfeasance, conflict of interest or other cause after notice and public hearing. All vacancies, whether by resignation, removal from office or expiration of the term of office, shall be filled according to official policy for appointing board members as adopted by the City Council.

C. Officers, Rules of Procedure and Minutes

Immediately following their selection, the members of the Planning and Zoning Commission shall meet, organize, elect such officers as it may deem necessary, and adopt and later change or alter, rules and regulations of organization and procedure consistent with the City Charter, Ordinances, and State Laws. The Commission shall keep written records of its proceedings, which shall be open at all times for public inspection. The

Commission shall be provided a secretary for the purpose of recording and transcribing minutes.

D. Powers and Duties

The Planning and Zoning Commission shall have the following powers and duties:

1. To prepare and recommend to the City Council from time to time such changes in the Comprehensive Plan or any part thereof as may be deemed necessary by the City Council or by the Planning and Zoning Commission.

2. To prepare and recommend to the City Council from time to time plans and/or recommendations for specific improvements in pursuance of such official plan.

3. To review and make written recommendations to City Council regarding preliminary and final plats, requests for Special Uses, requests for rezonings and Developments of Regional Impact (DRI).

4. To review and grant, grant with conditions or deny applications for Special Exception Use Permits.

5. Appeals where it is alleged there is error in any order, requirement, decision or determination made by the Chief Administrative Officer in the enforcement of the Land Development Code.

6. Appeals of the Chief Administrative Officer's literal interpretation of the Land Development Code.

7. To grant, grant with conditions or deny variances to the regulations of the Land Development Code. Variances to administrative processes, maximum density and maximum intensity shall be prohibited. Also prohibited are variances to allow a use not permitted as a matter of right or by Conditional Use, Special Exception Use or Special Use. All findings necessary for the granting of a variance shall be recorded along with any imposed conditions or restrictions, in the Commission's minutes and records and issued in written form to the applicant to constitute proof of the variance. All variance decisions by the Planning and Zoning Commission shall be final and binding. Decisions may be contested by any person with standing under State law and in whatever way authorized by State law.

8. To give aid to the City Officials, charged with direction of projects for improvements, embraced within the official plan, to further the making of such improvements, and generally to promote the realization of the official plan.

9. To arrange and conduct any form of publicity relevant to its activities for the general purpose of public understanding.

10. To cooperate with municipal or regional planning councils and other agencies or groups to further the local planning program and to ensure harmonious and integrated planning for the area.

11. To exercise such other powers germane to the powers granted by any Statute, Charter or Ordinance.

12. The Planning and Zoning Commission may not in any manner obligate the City. Each decision made by the Planning and Zoning Commission for rezoning, special uses and any land use considerations including ordinances and resolutions but excluding special exception uses and variances are advisory to the City Council.

E. Application Fees

The City Council shall adopt by resolution a schedule of application fees for functions performed by the Planning and Zoning Commission in response to applications submitted by any person, corporation, organization or governmental entity.

F. Legal Representation

The City Council of the City of Brooksville shall provide an attorney to defend any civil action brought against any officers, employees or agents of the Planning and Zoning Commission for acts or omissions arising out of or in the scope of their employment or function unless in the case of a tort action, such officer, employee or agent acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety or property. Defense of such civil action shall include, but not be limited to, any civil rights lawsuits seeking relief against such officers, employees or agents for acts or omissions under color of State Law, custom or usage, wherein it is alleged that such officer, employee or agent has deprived another person of his rights secured under Federal Constitution or Laws. The City Council of the City of Brooksville shall pay, within the limitations provided by law and available funds, any final judgment, including damages, costs and attorney's fees, against any officer, employee or agent of the Planning and Zoning Commission held to be liable in a civil or civil rights lawsuit or any compromise or settlement thereof prior to judgment, provided that such judgment is not based upon any such officer, employee or agent acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety and/or property. This provision is not, however, intended to waive sovereign immunity, any limitation or liability or any other defense or immunity to such lawsuits.

SECTION 8.1.5. ENFORCEMENT

It is the purpose of this section to establish a code enforcement system which will promote the health, safety and welfare of the City's residents. Further, it is intended that such system will support the goals, policies and objectives of the City's Comprehensive Plan and enforce the land development regulations created to implement the Plan.

A. Violations and Applicability

1. Any person owning and/or occupying any building or structure that is erected, constructed, reconstructed, altered or moved or maintained or any building, structure, land or water used in violation of this Code shall be subject to the penalties as provided for in this Code. The City may institute any appropriate action or proceedings in a City Code Enforcement action or civil action in the Circuit Court to prevent such unlawful erection, construction, reconstruction, alteration, conversion, movement, maintenance, or use; or, to restrain, correct or abate such violation; or to prevent the occupancy of said building, structure, land or water, or to prevent any illegal act, conduct of business or use in or about such premises.

2. Pursuant to Chapter 162 Part II, Florida Statutes, the City of Brooksville may establish a code enforcement system to take corrective action against violators of the provisions of the land development regulations and/or any other willful violations of City codes and ordinances and to assess fines when applicable.

3. This regulation does hereby incorporate and shall be used for the enforcement of all ordinances and codes duly adopted by the City of Brooksville and hereinafter adopted by the City of Brooksville as well as all state statutes presently existing together with all amendments, revisions, changes and/or additions thereto.

B. Code Enforcement Officers and Violations

The City of Brooksville through its Chief Administrative Officer may designate certain of its employees as Code Enforcement Officers. Such employees may include but are not limited to Code Enforcement Officers, Law Enforcement Officers or Fire Safety Inspectors. The designation of an employee as a Code Enforcement Officer shall not provide the Code Enforcement Officer with the power of arrest.

1. A Code Enforcement Officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance.

2. Prior to issuing a citation, a Code Enforcement Officer shall provide due notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than thirty (30) days. If upon personal investigation, the Code Enforcement Officer finds that the person has not corrected the violation within the specified time period, the Code Enforcement Officer may issue a citation to the person who has committed the violation. A Code Enforcement Officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the Code Enforcement Officer has reason to

believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

3. A Code Enforcement Officer shall issue a citation in such form as may be approved by the Chief Administrative Officer and it shall contain:

   a. The date and time of issuance.

   b. The name and address of the person to whom the citation is issued.

   c. The date and time the civil infraction was committed.

   d. The facts constituting probable cause.

   e. If the violation was committed on private property owned by the violator, the tax parcel number or the property appraiser's alternate key number for the private property on which the violation occurred.

   f. The number and section of the code or ordinance violated.

   g. The name and title of the Code Enforcement Officer.

   h. The procedure for the person to follow in order to pay the civil penalty or to appeal the citation.

   i. The applicable civil penalty if the person elects to pay the penalty within the 30-day period allowed.

   j. The possible maximum civil penalty if the person elects to appeal the citation.

   k. A conspicuous statement that if the person fails to pay the civil penalty and fails to appeal the citation within 30 days after issuance, he shall be deemed to have waived the right to contest the citation, and that, in such case, the penalty shall automatically increase to the maximum civil penalty for such violation.

4. Any person who willfully refuses to sign and accept a citation issued by a Code Enforcement Officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

5. Any person who fails to pay the civil penalty stated on the citation within the prescribed 30-day period, and who fails to appeal the citation within the prescribed 30-day period, shall be deemed to have waived the right to contest the citation. In such case, the penalty shall automatically increase to the maximum civil penalty for such violation.

6. The civil penalty assessed by a Hearing Officer after hearing an appeal, along with any enforcement costs assessed against the violator, shall bear interest at the legal rate. The maximum civil penalty assessed upon the failure of the violator to either pay the civil penalty stated on the citation or appeal the citation shall bear interest at the legal rate.

C. Infraction Penalties

Unless a different penalty is specifically set out elsewhere in the City of Brooksville Code of Ordinances for a particular civil infraction, penalties for civil infractions cited hereunder shall be assessed as follows:

1. For the first violation, $50.00.

2. For a second violation of the same Code or Ordinance Section within a five-year period, $125.00.

3. For a third and each subsequent violation of the same Code or Ordinance Section within a five-year period, $200.00.

4. For a second violation of any type by the same violator on the same property owned by the violator within a five-year period, $125.00.

5. For a third and each subsequent violation of any type by the same violator on the same property owned by the violator within a five-year period, $200.00.

6. The maximum civil penalty for any violation shall be $500.00.

7. Attorney's fees and administration costs for appealed citations shall be set by the Hearing Officer and assessed by the Hearing Officer against any person found to have committed a civil infraction.

D. Uncontested Violations

Any person not wishing to appeal the citation may pay the amount set forth in the citation as the uncontested penalty, by the date set forth in the citation.

E. Citation Appeal

1. Within 30 days after issuance of a citation, the person to whom the citation was issued may appeal the citation by filing a notice of appeal with the Chief Administrative Officer on such form as may be approved by the Chief Administrative Officer, and by paying a filing fee of $250.00. If the appeal is successful and the violation is dismissed, the filing fee shall be returned to the person who filed the appeal. If the appeal is not successful, the filing fee shall be retained by the City to cover the costs of the Hearing Officer. The appeal form

shall include, at a minimum, the name, mailing address and telephone number of the person filing the appeal, and a copy of the citation appealed shall be attached to the form.

2. Within 60 days after the filing of a notice of appeal, the Chief Administrative Officer shall arrange for a Hearing Officer, who shall be an attorney licensed to practice law in Florida, and shall schedule the hearing at a time agreeable to the person filing the appeal and to the Code Enforcement Officer, but in no event later than 90 days after the filing of the notice of appeal.

3. Within 15 days after the hearing, the Hearing Officer shall issue a written decision either dismissing the citation or affirming the citation, assessing a fine, and assessing attorney's fees and administration costs of the City. The decision shall be mailed to the Chief Administrative Officer and to the person filing the appeal at the address listed on the appeal form.

F. Unpaid Civil Penalties

The City may record on the public records of the County a lien for any civil penalty, together with assessed attorney's fees and administration costs, if applicable, and accrued interest, whenever such civil penalty has remained unpaid for a period of six months. When so filed, the lien shall attach to all real and personal property of the violator located in the County.

G. Code Enforcement Hearing Officer

Pursuant to F.S. Chapter 162, the City Council shall appoint at least one Code Enforcement Hearing Officer, and may appoint others as necessary. A Hearing Officer shall be an Attorney, licensed to practice law within the state, whose practice is substantially in the area of administrative, governmental, zoning, land use, or real estate law. A Hearing Officer shall not hear any matter in which the Hearing Officer has a conflict of interest. If such a conflict exists, the Hearing Officer shall request that the City Council designate another Hearing Officer, who may be appointed on a temporary basis to hear the case. A Hearing Officer shall serve at the pleasure of the City Council and may be removed from service at any time, without cause, by a majority vote of the City Council. A Hearing Officer shall not be a City employee, but shall enter into an agreement to provide professional services at a rate established by the City Council. A Hearing Officer shall be entitled to reimbursement for such travel, mileage, and per diem expenses as may be authorized in the agreement with the City.

1. Prosecution of cases.

   a. The City Attorney shall represent the City and the Code Enforcement Officers before the Hearing Officer.

b. The City Attorney shall present the City's case on all formal hearings and shall have prosecutorial discretion including, but not limited to, the right to negotiate a settlement with a violator and present that settlement to the Hearing Officer for approval, and to recommend the disposition of a case to the Hearing Officer.

c. If an appeal is taken from a decision of a Hearing Officer, the City Attorney shall represent the City in such proceedings.

2. Jurisdiction.

a. The Hearing Officer shall have jurisdiction to hear and decide alleged violations of all codes and ordinances in force in the City.

b. The jurisdiction of the Hearing Officer shall not be exclusive. Any alleged violation of any of the aforesaid codes and ordinances may be pursued by appropriate remedy in court at the option of the administering official whose responsibility it is to enforce that respective code or ordinance. Nothing contained in this Code shall prohibit the City from enforcing its codes and ordinances by any other means.

3. Powers of Hearing Officer.

The Hearing Officer shall have power to:

a. Adopt rules for the conduct of hearings.

b. Subpoena alleged violators, witnesses, and evidence to hearings. Subpoenas may be served by the county sheriff or other sheriffs of the state.

c. Take testimony under oath.

d. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

4. Notices.

a. Notice of each hearing of the Hearing Officer shall be given in compliance with the requirements of due process and the Florida Open Meetings Law.

b. In addition, all notices to alleged violators required by this division shall be by one of the following methods:

i. Certified mail, return receipt requested;

ii. Hand delivery by the sheriff, or other law enforcement officer, the Code Enforcement Officer, or other person designated by the City Council;

iii. By leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or

iv. In the case of commercial premises, leaving the notice with the manager or other person in charge.

c. In lieu of providing notice as set forth in Subsection b. of this Section, at the option of the Hearing Officer, notice may also be served by publication or posting, as follows:

i. Notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the City. The newspaper shall meet such requirements as are prescribed under F.S. Chapter 50, for legal and official advertisements. Proof of publication shall be made as provided F.S. §§ 50.041 and 50.051.

ii. In lieu of publication as described in Subsubsection c.i. of this Section, notice may be posted for at least ten days in at least two locations, one of which shall be the property on which the violation is alleged to exist and the other of which shall be at City hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

iii. Notice by publication or posting may run concurrently with, or may follow, an attempt to provide notice by hand delivery or by mail as required pursuant to Subsection b. of this Section.

iv. Evidence that an attempt has been made to hand-deliver or mail notice as provided in Subsection b. of this Section, together with proof of publication or posting as provided in Subsection c. of this Section, shall be sufficient to show that the notice requirements of this section have been met, without regard to whether or not the alleged violator actually received such notice.

5. Enforcement procedure.

a. It shall be the duty of the Code Enforcement Officer to initiate enforcement proceedings of the various codes and ordinances. The

Hearing Officer shall not have the power to initiate such enforcement proceedings.

b. Except as provided in Subsections c. and d. of this Section, if a violation of the codes or ordinances is found, the Code Enforcement Officer shall first notify the violator and give such person a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Enforcement Officer shall notify the Hearing Officer and request a hearing. The Hearing Officer shall schedule a hearing and, through the clerical staff of the City, provide notice of the hearing as required herein. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the Code Enforcement Officer, the case may be presented to the Hearing Officer even if the violation has been corrected prior to the hearing, and the notice shall so state.

c. If a repeat violation is found, the Code Enforcement Officer shall notify the violator, but is not required to give the violator a reasonable time to correct the violation. The Code Enforcement Officer, upon notifying the violator of a repeat violation, shall notify the Hearing Officer and request a hearing. The Hearing Officer shall schedule a hearing and, through clerical staff of the City, provide notice as required herein. The case may be presented to the Hearing Officer even if a repeat violation has been corrected prior to the hearing and the notice shall so state.

d. If the Code Enforcement Officer has reason to believe a violation or a condition causing the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible in nature, the Code Enforcement Officer shall make a reasonable effort to notify the violator and may immediately notify the Hearing Officer and request a hearing.

6. Conduct of hearing.

a. Upon request of a Code Enforcement Officer, or at such other time as may be necessary, the Hearing Officer shall set hearings.

b. Every effort shall be made to set hearings within 30 days of the Hearing Officer receiving a request for hearing from the Code Enforcement Officer. In general, the Hearing Officer shall endeavor to set hearings, and move matters to conclusion, as expeditiously as possible, allowing for notice as required herein.

c. Upon scheduling a hearing, the Hearing Officer shall cause notice thereof to be furnished to the alleged violator as provided herein. Such notice of hearing shall contain the date, time, and place of the hearing, and shall

state the nature of the violation and reference to the appropriate code or ordinance.

d. At the hearing, the burden of proof shall be upon the Code Enforcement Officer to show, by a preponderance of the evidence, that a violation exists or occurred.

e. All testimony shall be under oath and shall be recorded. The Hearing Officer shall take testimony from the Code Enforcement Officer and alleged violator and from such other witnesses as may be called by the respective sides.

f. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern such proceedings. All relevant evidence shall be admitted if, in the opinion of the Hearing Officer, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make the evidence inadmissible over objections in civil actions. The Hearing Officer may exclude irrelevant or unduly repetitious evidence. Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not in and of itself be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.

g. The Hearing Officer may inquire of any witness before the Hearing Officer. The alleged violator, or his attorney, and the attorney representing the City shall be permitted to inquire of any witness before the Hearing Officer and shall be permitted to present brief opening and closing statements.

h. The Hearing Officer may, for good cause shown, postpone or continue a formal hearing.

i. At the conclusion of the hearing, the Hearing Officer shall issue findings of fact based on evidence in the record and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted herein and by F.S. Chapter 162. The order shall be stated orally at the meeting and shall be reduced to writing and mailed to the alleged violator within ten days after 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.

j. A certified copy of such order may be recorded in the public records of the county and shall constitute a notice to any subsequent purchasers, successors in interest, or assigns, if the violation concerns real property,

and 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 Hearing Officer 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.

7. Penalties.

a. The Hearing Officer may, upon notification by the Code Enforcement Officer that an order of the Hearing Officer has not been complied with by the set time, or upon finding that a repeat violation has been committed, order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the Hearing Officer for compliance, or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the Code Enforcement Officer. If a finding of a violation or a repeat violation has been made as provided for in this division, a hearing shall be necessary for issuance of the order imposing the fine, but notice of such hearing shall be sufficient if given by regular mail to the violator's last known mailing address.

b. A fine imposed pursuant to this section shall not exceed $250.00 per day for a first violation and shall not exceed $500.00 per day for a repeat violation. If the Hearing Officer finds a violation to be irreparable or irreversible in nature, the Hearing Officer may impose a fine not to exceed $5,000.00 per violation. In determining the amount of the fine, if any, the Hearing Officer shall consider the following factors:

i. The gravity of the violation;

ii. Any actions taken by the violator to correct the violation; and

iii. Any previous violations committed by the violator.

c. If a repeat violation is corrected prior to a hearing, the Hearing Officer may conduct a hearing to determine costs and impose the payment of reasonable enforcement costs upon the repeat violator.

d. The Hearing Officer shall award the City all costs incurred in prosecuting a case before the Hearing Officer if the City prevails and requests that it recover its costs incurred. Such costs may include the fees paid by the City to its City Attorney and to the Hearing Officer and the hourly pay and corresponding benefits paid to the Code Enforcement Officer for time spent on the violation.

e. The Hearing Officer may reduce a fine imposed pursuant to this section and may execute a satisfaction or release of lien entered pursuant to this section.

f. A certified copy of an order imposing a fine may be recorded in the public records of the county, and shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriff's office of the state, including levy against the personal property, but such order shall not be deemed otherwise to be a judgment of a court except for enforcement purposes.

g. A fine imposed pursuant to this division 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. If, after three months from the filing of any such lien, the lien remains unpaid, the Hearing Officer may authorize the City Attorney to foreclose on the lien. No lien created pursuant to the provisions of this division may be foreclosed on real property which is a homestead under Section 4, Article X, of the Florida Constitution.

h. Pursuant to Chapter 55, F.S., no lien provided for in this division shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded unless, within that time, an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover costs, including a reasonable attorney's fee, incurred in the foreclosure. The City shall be entitled to collect all costs incurred in a recording and satisfying a valid lien. The continuation of the lien affected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration with notice, unless a notice of *lis pendens* is recorded.

8. Appeals.

a. An aggrieved party, including the City Council, may appeal a final administrative order of the Hearing Officer to the circuit court. Any such appeal shall be filed as a petition for writ of certiorari within 30 days of the execution of the order to be appealed.

b. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Hearing Officer.

c. The appealing party shall pay the costs for preparation of the record to be appealed, based on the City's usual charges for copies of public records.

PART 8-2

APPLICATION AND HEARING PROCEDURES

SECTION 8-2.1. SUBDIVISION REVIEW

A. Replats, resubdivision and corrections

a. Substantially similar plats

If a platted area is proposed to be replatted and if the proposed plat is substantially similar in design, layout, and concept to the original plat, as determined upon review and, conformity with this Code, then only a final plat complying with the requirements of this Code is required. The original plat or portion of a plat of the property to be replatted must be vacated in accordance with Section 8-2.2. prior or coincidental to approval of a final plat by the City Council. Public improvements must be either constructed and in place or an in-kind security for the construction thereof be accepted by the City Council prior to final plat approval.

b. Corrective plats

In the event an appreciable error or omission in the data shown on any plat duly recorded under the provisions of this Code and Chapter 177 Florida Statutes, the professional surveyor and mapper, registered professional engineer or legal entity responsible for the survey and the preparation of the plat as recorded shall file an affidavit confirming that such error or omission was made. The affidavit shall be filed and recorded in the manner prescribed in Chapter 177 Florida Statutes.

B. Land dedication

a. Where a proposed park, playground, school or other public use shown on the community facilities plan is located in whole or in part in a subdivision, City Council shall require the dedication or reservation of such area within the subdivision, in those cases in which City Council deems such requirements to be reasonable.

b. Where deemed essential by City Council, upon consideration of the particular type of development proposed in the subdivision, City Council may require the dedication or reservation of such other areas of sites of a character, extent, and location suitable to the needs created by such development for schools, parks and other planned unit purposes.

C. Vacating rights-of-way and easements

1. A petition to the City Council to vacate, abandon, discontinue and close any existing public street, alleyway, road, easement or other place used for travel, utility access or drainage may be made by any abutting fee simple property

owner. The petition shall include all surveys and legal descriptions of the property proposed for vacation and shall include the legal description(s) for land to be returned to abutting parcels.

2. The City, upon receipt of such a petition and payment of the required fees, will notice all other abutting fee simple property owners. The City will contact by letter all agencies, franchise holders and concerned City departments of the petition and will request their comments.

3. The City Council shall hold a public hearing and shall publish notice thereof, one time, in a newspaper of general circulation at least two weeks prior to the date stated therein for such hearing.

4. If the petition is approved, it shall be evidenced by a resolution duly adopted at a public hearing. The resolution shall be recorded in the public records of the County.

5. The result of such an abandoning, closing or vacating of any such roadway, street, alleyway or easement will be to return the property to the parent parcel. In the case of roadways, alleyways, streets and easements from a platted development/subdivision, the vacated, abandoned and closed property will be returned to all the abutting properties by splitting the returned real property in equal abutting shares.

D. Subdivision plat review

The applicant shall initiate Preliminary Subdivision Plat Review Procedures set forth in this section prior to the initiation of Improvement Plan Review Procedures.

1. Preapplication Procedure

Previous to the filing of an application for conditional approval of the preliminary plat, the subdivider shall submit conceptual plans to the Community Development Department. This step does not require formal application, fee or filing of plat.

2. Formal Application for Approval

The subdivider shall file an application for preliminary approval along with copies, number of copies to be specified by the Chief Administrative Officer, of the preliminary plat, any supplementary materials and fees adopted by resolution to the Community Development Department. Such plan, supplementary materials and fee being collectively hereinafter called the "proposed Preliminary Subdivision Plan". The plat and supplementary materials shall be in the form prescribed in Article IV. No application shall be deemed accepted unless and until it is complete. Acceptance shall not constitute an approval.

3. Recommendation Based on Administrative Review

Upon acceptance of the proposed Preliminary Subdivision Plan, the Chief Administrative Officer shall distribute copies of the proposed Preliminary Subdivision Plan to appropriate staff to review. Subsequent to the Administrative Review:

a. Staff shall request that additional information, revisions, modifications, clarification or other data applicable to the preliminary application be provided or accomplished by the applicant or his agent, or

b. the application shall proceed to Planning and Zoning Commission review without further modification to the application. Staff shall prepare a written recommendation concerning the application and transmit such recommendation to the owner or authorized agent, City staff and members of the Planning and Zoning Commission, and

c. shall schedule a date and time for consideration of the proposed Preliminary Subdivision Plat by the Planning and Zoning Commission.

4. Action by Planning and Zoning Commission

The Planning and Zoning Commission shall consider the proposed Preliminary Subdivision Plat at a public meeting and enter its recommendation upon the proposed plat to City Council.

5. Transmittal of Preliminary Subdivision Plat to City Council

Pursuant to the Planning and Zoning Commission's recommendation, City Council shall review the Preliminary Plans, recommendations made by Administrative staff and the Planning and Zoning Commission and take action upon the Preliminary Plan.

In order to make a decision for denial, approval or approval with conditions of the proposed plat, the City Council must make specific findings respecting each of the matters specified in Paragraph 6, below and may prescribe appropriate conditions and safeguards which shall become a part of the terms under which a site development permit shall be issued.

If approved, the Mayor shall indicate such approval by signing at least one copy of the Preliminary Subdivision Plat indicating the date of such approval. If approved, the plat and a notation that it has received preliminary approval shall be returned to the subdivider for compliance with final approval requirements. Approval of the preliminary plat by the City Council shall not constitute final acceptance of the subdivision. Preliminary approval shall indicate that for one year from date of approval the general terms and conditions under which the

preliminary approval was granted shall not be changed. No changes, erasures, modifications or revisions of a substantive nature shall be made in any plat of a subdivision after approval has been given by the City Council and endorsed in writing on the plat, unless such plat is first resubmitted.

The approved and signed Preliminary Subdivision Plat and required supplementary materials in addition to a notation of the action taken and reasons therefore shall be entered into City records and shall then be filed in the Office of the City Clerk which shall constitute the Preliminary Subdivision Plat for the subject development.

If approved subject to modification, the Chief Administrative Officer shall return one copy of the plat and required supplementary materials to the applicant along with a copy of the City Council's action and a statement of reasons for such action.

6. Standards for City Council action

Before any proposed preliminary subdivision plat may be denied, approved or approved with conditions, the City Council must and shall find all of the following:

a. That the proposed preliminary subdivision plan is consistent with all applicable goals, objectives, policies and standards in the City of Brooksville Comprehensive Plan.

b. That the proposed preliminary subdivision plan meets or exceeds all applicable minimum standards and requirements as set forth in this Code.

c. That the environmental impact of the proposed preliminary subdivision plan will be compatible with existing and anticipated land use in the immediate neighborhood and that such plan will not be injurious to the area involved or otherwise detrimental to the public interest, safety or welfare.

d. That adequate facilities and services necessary to serve development associated with the proposed subdivision will be available and in place at the time of impact of the development or phase thereof.

7. Preliminary Subdivision Plat submittal requirements

All preliminary subdivision plats and required supplementary materials shall cover the entire parcel proposed for development. All preliminary subdivision plats shall contain the data and information identified in Article IV and be prepared by a registered professional engineer certified in the State of Florida.

8. Time limits and extension of time limits

City Council's action to approve or approve with conditions upon proposed preliminary subdivision plats shall be valid for a period of one (1) year prior to the initiation of Final Plat Review Procedures. If such time limit shall thereafter expire without initiation of Final Plat Review Procedures, the applicant shall be sixty (60) days to apply for an extension of such time.

E. Construction & Design Plan review procedures

The applicant shall initiate Construction and Design Plan Review Procedures set forth in this section after approval, if applicable, of the Final Plat. The procedure for review of Construction and Design Plans shall be as follows:

1. Application for Approval

The applicant, for approval of a Construction and Design Plan, shall submit six (6) copies of the plan, the supplementary materials required to accompany such plan and any fee adopted by resolution. The plan, supplementary materials and fee shall be collectively referred to as the "Improvement Plan." The Improvement Plan and supplementary materials shall be in the form prescribed in Article IV. No application shall be deemed accepted unless it is complete. The applicant shall be advised as to whether the proposed Improvement Plan is accepted or not accepted within a period of five (5) business days from the date of submission. If the proposed Improvement Plan is not accepted, the applicant shall be informed in writing of the reason(s) for denial of acceptance of such plan.

2. Plan Referral and Review

Upon acceptance of the proposed Improvement Plan, copies shall be distributed for Administrative Development Review. Within thirty (30) business days of acceptance of the proposed Improvement Plan notification of approval or disapproval shall be forwarded to the applicant.

3. Determination

a. Upon receipt of the written and collective staff recommendation based on the Administrative Development Review findings and any comments or recommendations of the City Attorney, staff shall:

i. Approve the proposed Improvement Plan subject to conditions, modifications and specific time limits as prescribed earlier by the City Council, if any; or

ii. Disapprove the proposed Improvement Plan stating the reason for said disapproval; or

iii. Approve the Improvement plan subject to the modifications, conditions and specific time limits recommended.

b. If the proposed Improvement Plan is approved at least one copy of the Improvement Plan shall be signed and dated by the Chief Administrative Officer. The approved and signed Improvement Plan and required supplementary materials shall then be filed in the Community Development Department.

c. If the proposed Improvement Plan is disapproved or approved subject to modification, the Chief Administrative Officer shall return one copy of the Improvement Plan and required supplementary materials to the applicant along with a copy of the Order regarding the same.

4. Reapplication

If the Chief Administrative Officer enters an order disapproving a proposed Improvement Plan or approving the same subject to modification, the applicant may at any time within sixty (60) days following the date of such order file an amended Improvement Plan and supplementary material whereupon the same shall be received, reviewed and acted upon in the same manner as hereinabove provided for original applications for approval of an Improvement Plan. No additional fee for such application shall be required.

5. Installation of improvements before recording of Final Subdivision Plat

Before approval of any final plat the Chief Administrative Officer shall be satisfied that all improvements proposed and approved have been constructed or a bond has been executed. If improvements are to be installed prior to recording of the Final Plat, the following shall apply:

a. The Preliminary Subdivision Plat, the Construction Improvement Plans and the Final Plat shall be approved in accordance with the procedures set forth in this Article.

b. The approved Final Plat shall not be recorded, but shall be retained by the City Clerk. Upon the installation and completion of said improvements the Chief Administrative Officer shall notify the City Clerk to execute the recording of the Final Plat in accordance with provisions set forth in this Code and in the manner prescribed by law.

c. Installation of the required improvements shall be subject to all applicable requirements of this Section and Article IV relating to the construction, inspection, completion and acceptance of such improvements.

6. Improvement Plan requirements

All Improvement Plans and required supplementary material shall cover the entire parcel covered by a Preliminary Subdivision Plat approved in accordance with this Part.

F. Final Plat review procedures

The applicant shall initiate Final Plat Review Procedures set forth in this section after approval of the Preliminary Subdivision Plan for the parcel in question and in conjunction with the initiation of Improvement Plan Review Procedures. The procedure for review of Final Plats shall be as follows:

1. Application for Approval

The applicant for approval of a Final Plat shall submit at least seven (7) copies of the final plat, the required accompanying supplementary materials and any fee adopted by resolution to the Chief Administrative Officer, such plat, supplementary materials and fee being collectively hereinafter called the "Proposed Final Plat".

The Final Plat and supplementary materials shall be in the form prescribed in Article IV. No application shall be deemed accepted unless it is complete. The applicant shall be advised as to whether the proposed Final Plat is accepted or not accepted within a period of five (5) business days from the date of submission. If the proposed Final Plat is not accepted, the applicant shall be informed in writing of one or more reasons for that determination. Failure by the Chief Administrative Officer to specify one or more reasons for denying the acceptance of final plat shall not preclude such reasons being specified in denying any reapplication for such plat.

2. Referral for Administrative Development Review

Upon acceptance of the proposed Final Plat, the Chief Administrative Officer shall distribute copies of the proposed Final Plat for Administrative Development Review. The collective findings and recommendations from staff based on Administrative Development Review shall be submitted in writing stating either approval or approval with modification.

3. Administrative Officer's action

Upon receipt of the written and collective recommendation from Administrative Development Review, the Chief Administrative Officer shall:

a. request that additional information, revisions, modifications, clarification or other data applicable to the Final Plat be provided or accomplished by the applicant or his agent; or

b. prepare a written recommendation to approve or approve with conditions the proposed Final Plat and transmit such recommendation to the owner or authorized agent, staff conducting development reviews and members of the Planning and Zoning Commission, and recommend plat consideration by the Planning and Zoning Commission at a public meeting.

4. Planning and Zoning Commission review

The Planning and Zoning Commission shall consider the proposed Final Plat at a public meeting and recommend approval with or without conditions or denial of the Final Plat to the City Council. In order to recommend approval or denial of the proposed Final Plat, the Planning and Zoning Commission shall render a specific finding that the proposed Final Plat is consistent with the Preliminary Subdivision Plat approved and on file. Following the Planning and Zoning Commission recommendation, the plat shall be scheduled for hearing by the City Council.

5. Filing

After receiving the Planning and Zoning Commission recommendation to approve the preliminary plat, the subdivider shall file with the Chief Administrative Officer:

a. Copies of the final plat in such quantity required by the Chief Administrative Officer for City Council action.

b. A written application for final approval and Construction drawings including cross-sections and profiles of streets and all other related improvement plans to be constructed in the subdivision in such quantity as required in Article IV. A professional engineer's certified estimate of the cost for the improvements shall be included with the application.

6. Time limits

The final plat shall be filed not later than one (1) year after the date of approval of the preliminary plat, otherwise it shall be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the City Council. The final plat shall be filed at least sixty (60) calendar days prior to the meeting at which it is to be considered. The final plat shall be considered officially filed after it is examined by the Planning and Zoning Commission and is found to be in full compliance with the formal provisions of these regulations.

7. Submittal to and action by City Council

Upon submittal to, and approval of all documents and plat by the Planning and Zoning Commission, the chairman of the Planning and Zoning Commission shall sign the plat in the space provided for said signature on the title page of the plat. Following the meeting of the Planning and Zoning Commission, the Chief Administrative Officer shall submit the proposed Final Plat, with the recommendation of the Planning and Zoning Commission, to the City Council for consideration. City Council shall consider and act upon the proposed Final Plat and the recommendation of the Planning and Zoning Commission and thereafter approve or deny the Final Plat. If the Planning and Zoning Commission has not recommended approval or denial of the proposed Final Plat within 60 days of its meeting to consider same, the City Council may take action upon the Final Plat. The City Council reserves the right of approval or disapproval unto itself. However, no plat shall be rejected by City Council without showing that there is direct conflict or nonconformance with these regulations.

SECTION 8-2.2. VACATION OF PLATS, RIGHTS-OF-WAY AND EASEMENTS

A. Subdivision plats or a portion thereof shall be vacated in the manner prescribed by Chapter 177 Florida Statutes and shall be initiated in one of the following described manners:

1. By Owner.

The owner of any land subdivided into lots located in the City of Brooksville may apply to the City in the manner prescribed by law to remove, vacate and abandon an existing plat or portion thereof from the official records of Hernando County. The applicant shall submit the petition and a survey and legal description of the property designated in the application as prepared and signed by a registered surveyor and shall pay the fee established. The Planning and Zoning Commission shall review such proposed application for vacation and transmit its recommendation to the City Council. The application shall be acted upon by the City Council. The applicant shall be responsible for recording the vacation with the Clerk of the Circuit Court of Hernando County.

2. By City Council.

The City Council may vacate and abandon all or part of a subdivision located in the City of Brooksville. Such action shall be based on findings by the City Council that the proposed vacation:

a. Is consistent with the Comprehensive Plan.

b. Promotes the public health, safety, economy, comfort, order, convenience, and welfare.

c. Does not result in a violation of this Code.

d. Does not result in the owner of any parcel of land being deprived by the vacation of the plat or portion thereof of reasonable access to existing facilities which heretofore had access provided, however, that such access remaining or provided after such vacation need not be the same as that heretofore existing, but shall be reasonably equivalent thereto.

Before acting on a proposal for vacation and abandonment of subdivided land, the City Council shall hold an advertised public hearing in the manner prescribed by law.

B. A petition to the city council to vacate, abandon, discontinue and close any existing public street, alleyway, road, easement or other place used for travel, utility access or drainage may be made by any abutting fee simple property owner. The City, upon receipt of such a petition and payment of the required fees, will notice all other abutting fee simple property owners. The City will contact by letter all agencies, franchise holders and concerned City departments of the petition and will request their comments.

1. The City Council shall hold a public hearing and shall publish notice thereof, one time, in a newspaper of general circulation at least two weeks prior to the date stated therein for such hearing.

2. If the petition is approved, it shall be evidenced by a resolution duly adopted at a public hearing. The resolution shall be recorded in the public records of the County.

3. The result of such an abandoning, closing or vacating of any such roadway, street, alleyway or easement will be to return the property to the parent parcel. In the case of roadways, alleyways, streets and easements from a platted development/subdivision, the vacated, abandoned and closed property will be returned to all the abutting properties by splitting the returned real property in equal abutting shares.

SECTION 8-2.3. SITE DEVELOPMENT PERMIT

It shall be unlawful to commence the excavation, clearing, construction or alteration of any land until the Chief Administrative Officer has issued a Site Development Permit authorizing such work. Any owner or the owner's authorized agent who desires to excavate, clear, construct or alter any land or to cause any such work to be done shall first make application to the Community Development Department and obtain a Site Development Permit. A Site Development Permit shall only be issued in conjunction with the issuance of a Building Permit or approval of a Landscaping Plan associated with the subject property.

A. All applications for a Site Development Permit shall be in the form required and provided by the Community Development Department. Such application shall be submitted to the Community Development Department together with all supplemental data or information necessary to permit determination of the proposed use's compliance with this Code.

B. Applications shall include a brief narrative describing the project and a detailed site plan, drawn to scale, that includes the following:

1. The name of the proposed project and the names of the developer(s), architect(s), engineer(s), and planner(s) associated with the project;

2. Scale, date and north arrow.

3. A vicinity map showing the relationship of the proposed project to the surrounding road network and major water bodies, if any;

4. Location, height, floor area, and use of existing structures, if any;

5. All land uses and the general location of structures within one hundred fifty (150) feet of the boundaries of the project site;

6. Current zoning designation on the site and within 150 feet of the boundaries of the project site;

7. All property lines within 150 feet of the boundaries of the project site;

8. The height, yards, floor area (or number of dwelling units for residential uses), and use or uses for structures in each portion of the proposed project. A complete list of proposed uses shall be provided;

9. The total number and the types of residential units, and the type density and overall density of the project, if applicable;

10. The total non-residential square footage and the Floor Area Ratio of each non-residential land use type;

11. The general location and nature of fences, walls, and buffering to be provided;

12. Proposed building envelopes;

13. The location of all water courses, lakes, conservation areas, preservation areas, wooded areas, upland habitat areas, or other such natural physical features on the project site.

C. The Chief Administrative Officer may require a bond or other type of performance guarantee to insure that, once commenced, the activity will be completed and the site restored in a satisfactory manner.

D. If the proposed excavation, clearing, construction or alteration conforms with all applicable provisions of this Code and the applicable technical codes, the Community Development Department shall issue a Site Development Permit authorizing such activities. If the proposed activities fail to conform, the application for a Site Development Permit shall be denied and written notice shall be sent to the applicant indicating reasons for the denial. All applications for Site Development Permits shall be

processed within ten (10) working days from the date of submission of the completed application. Under no circumstances shall a Site Development Permit be issued for the construction or alteration of any structure for which a building permit is also required unless such Site Development Permit is issued in conjunction with the requested building permit.

E. The issuance of a Site Development Permit shall not waive any provision or requirement of this Code.

F. A permit issued shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of this Part, nor shall such issuance of a permit prevent the Chief Administrative Officer from thereafter requiring correction of errors in plans or in construction, or of violations of this Article. Every Site Development Permit issued shall become invalid if the work authorized by such permit is not commenced within six (6) months after its issuance, or if the permit is suspended or abandoned for a period of three (3) months after the time the work is commenced; provided that for cause, one or more extensions of time, not to exceed ninety (90) days each, may be granted by the Chief Administrative Officer and such extension noted on the Site Development Permit.

G. A Site Development Permit shall not be required for construction or alterations to an existing structure that does not require additional parking or site improvement.

H. Site Development Permits issued on the basis of incorrect information supplied by the applicant shall be void and may be cancelled at any time upon discovery of the incorrect basis upon which such Permit was issued. Site Development Permits issued through error by the Chief Administrative Officer shall not constitute a waiver of any provision or requirement of this Code respecting such use and shall be canceled by the Chief Administrative Officer unless, within thirty (30) days following notice of such proposed cancellation, the applicant files an amended application upon which a valid Permit can be issued.

SECTION 8-2.4. BUILDING PERMIT

It shall be unlawful to commence the construction or alteration of any building or structure until the Community Development Department or duly authorized representative thereof has issued a Building Permit authorizing such work. Any owner or the owner's authorized agent who desires to construct, enlarge or alter any building or structure or to cause any such work to be done shall first make application to the Building official and obtain a Site Development Permit.

A. All applications shall be in the form required and provided by the Community Development Department. Such application shall be submitted to the Community Development Department together with the fee established in the manner prescribed in this Code, and all supplemental data or information necessary to permit determination of compliance with this Code.

B. If the proposed construction or alteration conforms with all applicable provisions of this Code, the Chief Administrative Officer shall issue a Building Permit authorizing such construction or alteration. If the proposed construction or alteration fails to so conform, the application for a Building Permit shall be denied, and written notice shall be provided to the applicant indicating reasons for the denial. All applications for Building Permits shall be processed within thirty (30) working days from the date of submission of the completed application. Under no circumstances shall a Building Permit be issued for the construction or alteration of any land, parcel or lot for which a Site Development Permit is also required unless such Building Permit is issued in conjunction with the requested Permit.

C. The issuance of a Building Permit shall not waive any provision or requirement of this Code nor shall failure by the Building Official to specify one or more reasons for denial of an application for a Building Permit preclude such reasons being specified in denying any reapplication for such Building Permit.

D. A permit issued shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions of this Article, nor shall such issuance of a permit prevent the Chief Administrative Officer from thereafter requiring correction of errors in plans or in construction, or of violations of this Article. Every Building Permit issued shall become invalid if the work authorized by such permit is not commenced and substantial progress made within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of three (3) months after the time the work is commenced; provided that for cause, one or more extensions of time, not to exceed ninety (90) days each, may be granted by the Chief Administrative Officer and such extension noted on the Building Permit.

E. A building or structure not completed in conformity with the plans and specifications upon which the Building Permit for such construction or alteration was issued shall be maintained or be permitted to remain unfinished beyond the term of the Building Permit's validity and no person, firm or corporation shall construct, enlarge, alter or repair or improve any building, structure or premises after expiration of the validity of the Building Permit originally authorizing work upon such building, structure or premises.

F. A Building Permit shall not be required for customary repairs and/or maintenance activities necessary to continue the existing permitted use of the premises within all zoning districts.

G. Additional information will be required by the Chief Administrative Officer for any proposed development within the Flood-prone areas of the City.

H. Building Permits issued on the basis of incorrect information supplied by the applicant shall be void and may be cancelled at any time upon discovery of the incorrect basis upon which such Permit was issued.

SECTION 8-2.5. CERTIFICATE OF USE

It shall be unlawful to change the use of any premises until a Certificate of Use is issued. The owner of any structure or premises, or his authorized agent, who desires to use a newly erected or altered structure or to change the use on any property shall first make application for a Certificate of Use authorizing such occupancy or use. Following application, the Community Development Department shall issue a Certificate of Use indicating that the new occupancy and use of the structure and property is or is not concurrent with the zoning classification of that parcel of land on which the structure or place of occupancy exists.

A. All applications shall be in the form required and provided by the Community Development Department and may, with respect to newly erected or altered structures, be made as part of the application for a Site Development Permit. The application shall state the proposed use of the structure or premises.

B. If the new use of premises conforms with all applicable provisions of this Code, the Chief Administrative Officer shall issue a Certificate of Use authorizing the proposed use thereof. If the use fails to conform to the provisions of this Code, the application for a Certificate of Use shall be denied and written notice provided to the applicant of the reasons for the denial. A Certificate of Use shall be issued or denied within ten (10) working days after the date specified in the application as the date on which the premises will be ready for use.

C. The issuance of a Certificate of Use shall not waive any provision or requirement of this Code, nor shall failure to specify one or more reasons for denial of a Certificate preclude such reasons being specified in denying any reapplication for such Certificate.

D. A Certificate of Use shall continue in full force and effect during the term of the use authorized therein, provided that if such use is suspended or abandoned for a period of twelve (12) months such Certificate shall thereafter be invalid and the premises shall not be reoccupied or used for any purpose until a new Certificate of Use has been issued in accordance with the provisions of this Section.

E. Certificates of Use issued on the basis of incorrect information supplied by the applicant shall be void and may be cancelled at any time upon discovery of the incorrect basis upon which such Certificate was issued. Certificates of Use issued through error by the Chief Administrative Officer shall not constitute a waiver of any provision or requirement of this Code respecting such use and shall be canceled by the Chief Administrative Officer unless, within thirty (30) days following notice of such proposed cancellation, the applicant files an amended application upon which a valid Certificate can be issued.

SECTION 8-2.6. CERTIFICATE OF OCCUPANCY

It shall be unlawful to occupy any newly erected or altered structure of any premises until a Certificate of Occupancy is issued. The owner of any structure or premises, or his authorized agent, who desires to occupy any newly erected or altered structure of any premises shall first make application for a Certificate of Occupancy authorizing such occupancy. A Certificate of

Occupancy shall be required certifying that the newly erected or altered building to be occupied is structurally sound and meets standards for such occupancy.

A. All applications shall be in the form required and provided by the Department of Development pursuant to the Florida Building Code.

B. If the newly erected or altered structure conforms with all applicable provisions of this Code, the City Building Official shall issue a Certificate of Occupancy authorizing the occupancy thereof. If the structure fails to conform to the provisions of the technical codes, the application for a Certificate of Occupancy shall be denied and written notice provided to the applicant of the reasons for the denial. The newly erected or altered structure or premises shall be inspected. A Certificate of Occupancy shall be issued or denied within ten (10) working days after the date specified in the application as the date on which the premises will be ready for use.

C. The issuance of a Certificate of Occupancy shall not waive any provision or requirement of any technical codes or this Code, nor shall failure to specify one or more reasons for denial of a Certificate preclude such reasons being specified in denying any reapplication for such Certificate.

D. Certificates of Occupancy issued on the basis of incorrect information supplied by the applicant shall be void and may be cancelled at any time upon discovery of the incorrect basis upon which such Certificate was issued.

SECTION 8-2.7. SPECIAL EXCEPTION USES

Whenever in the Land Development Code a use is permitted as a Special Exception Use, the final determination and circumstances under which such use shall be permitted shall be made by the Planning and Zoning Commission. The Chief Administrative Officer shall not issue a Site Development Permit, Building Permit or Certificate of Use except upon and in conformity with an order of the Planning and Zoning Commission. Any owner or an owner's authorized agent who desires to construct, enlarge or alter any building or structure or to occupy any existing structure or premises for a use permitted only as a Special Exception Use shall first make application for approval of such Special Exception Use.

A. Submittal Requirements and Review

1. All applications for Special Exception Use permit shall be in the required form. Such application shall be submitted together with the fee established in this Code and all supplemental data or information necessary to permit determination of the extent and probable impact of the proposed use. A brief narrative describing the proposed project shall be submitted. A Preliminary Development Plan shall also be submitted and shall contain the following information:

    a. The name of the proposed project and the names of the developer(s), architect(s), engineer(s), and planner(s) associated with the project;

b. Scale, date and north arrow.

c. A vicinity map showing the relationship of the proposed project to the surrounding road network and major water bodies, if any;

d. Location, height, floor area, and use of existing structures, if any;

e. All land uses and the general location of structures within one hundred fifty (150) feet of the boundaries of the project site;

f. Current zoning designation on the site and within 150 feet of the boundaries of the project site;

g. All property lines within 150 feet of the boundaries of the project site;

h. The height, yards, floor area (or number of dwelling units for residential uses), and use or uses for structures in each portion of the proposed project. A complete list of proposed uses shall be provided;

i. The total number and the types of residential units, and the type density and overall density of the project, if applicable;

j. The total non-residential square footage and the Floor Area Ratio of each non-residential land use type;

k. The general location and nature of fences, walls, and buffering to be provided;

l. Proposed building envelopes;

m. The location of all water courses, lakes, conservation areas, preservation areas, wooded areas, upland habitat areas, or other such natural physical features on the project site.

2. Following submittal of a complete Special Exception application, an Administrative Development Review procedure shall be conducted in consideration of said application. The findings of the Administrative Development Review process and its recommendation shall be transmitted in writing to the Planning and Zoning Commission.

3. Upon receipt of an application for a Special Exception Use, the Planning and Zoning Commission shall hold a public hearing upon the application in accordance with the procedures specified in this Code. The Planning and Zoning Commission shall grant, grant with conditions or deny a Special Exception request. In granting any application, the Planning and Zoning Commission must make specific findings that such use is appropriate and compatible and will not adversely affect the public interest. It may prescribe appropriate conditions and

safeguards which shall become a part of the terms under which a Site Development Permit, Building Permit or Certificate of Use shall be issued. In considering and acting upon an application for Special Exception Uses, the Planning and Zoning Commission shall observe the following standards:

a. Except as specifically provided herein, all Special Exception Uses shall be subject to the general requirements of this Code as well as the specific provisions applicable within the Zoning District for which the Special Exception Use is proposed.

b. Any premises proposed for Special Exception Uses shall have sufficient minimum parcel frontage on a public street in which to locate vehicular access points designed to serve the type of Special Exception Use proposed. Required distance between vehicular access points and intersection street right-of-way lines in excess of those generally required by this Code, may be required for a Special Exception Use and the location of all vehicular access points may be specified by final order of the Planning and Zoning Commission.

c. Unless otherwise authorized by the Planning and Zoning Commission, all buildings or structures proposed for use in conjunction with the Special Exception Use shall adhere to all standard setbacks per the zoning designation. The order granting the Special Exception Use may provide for building setbacks less than or in excess of those required by this Code. The final order of the Planning and Zoning Commission may also increase the depth of a required buffer along any or all parcel lines, including those located along streets, when necessary, to protect the surrounding uses from adverse impact by the proposed Special Exception Use. In addition, the Planning and Zoning Commission may require a permanent buffer between adjoining and contiguous property by a specific visual screen when necessary to separate the Special Exception Use from surrounding uses and may specify the location and nature of such visual screen.

4. After considering the recommendation of the Administrative Development Review and the matters presented at its hearing upon the application for Special Exception Use, the Planning and Zoning Commission shall enter its order denying such application, specifying the reasons therefore, or granting such application under such terms and conditions as are required by the Land Development Regulations and as the Commission shall determine appropriate. If the Planning and Zoning Commission enters its order disapproving a proposed Preliminary Development Plan in conjunction with a Special Exception Use, the applicant may, at any time within sixty (60) days following the date of such order, resubmit an amended Preliminary Development Plan/Special Exception Use permit application. No additional fee for such application shall be required. Upon entry of an order granting an application for Special Exception Use, the Community Development Department shall, when applicable, have the authority to issue a Site Development Permit and/or Building Permit in conformity with such order

and shall thereafter issue a Certification of Use and Certificate of Occupancy where appropriate and only after determining that each of the conditions and requirements of such order are met.

5. The Planning and Zoning Commission shall have the authority to prescribe in its order respecting a proposed Preliminary Development Plan approval as a Special Exception Use, any reasonable conditions, limitations or requirements, including requirements in excess of those otherwise required by this Code, as a condition to approval of such proposed Preliminary Development Plan.

6. If, after approval of a Preliminary Development Plan as a Special Exception Use, the owner of any property shall desire to amend the same, application for approval of such amendment shall be filed and acted upon in the same manner as the original application.

B. Planning and Zoning Commission Hearing Procedures

In considering and acting upon applications for a Special Exception Use permits the following procedures shall be observed:

1. A public hearing shall be held by the Planning and Zoning Commission at their regularly scheduled meeting or at a special meeting date called by the Chairman of the Commission. The hearing shall not be held in less than sixty (60) days after the filing of a completed application, unless the applicant or Community Development Department staff requests a hearing date in excess of sixty (60) days after the filing of the completed application.

2. Upon submittal of an application, the Community Development Department shall assign a hearing date for hearing on any matter subject to the provisions of this Section, the Chief Administrative Officer, shall cause a notice of the time, place and purpose of such hearing to be published at least once in a newspaper of general circulation in the City of Brooksville with such publication to be at least ten (10) days prior to the date of the hearing. The Chief Administrative Officer shall mail, by certified mail, similar notices setting forth the time, place and purpose of the hearing to (a) the applicant, (b) the owner of the property described in the application, if other than the applicant, and (c) the owners of every parcel of land within a distance of one hundred- fifty (150) feet from the property line of the property described in the application. Also, the Chief Administrative Officer shall mail by U.S. Postal Service standard mail delivery similar notices setting forth the time, place and purpose of the hearing to all property owners located in excess of 150 feet but not farther than 300 feet of the subject property. For purposes of determining the name and address of persons entitled to notice under this Section, the owner of property shall be deemed to be the person who is so identified in the most current tax roll certified for collection and maintained in the office of the Hernando County Tax Collector. Such notices shall be mailed at least ten (10) days prior to the scheduled hearing date. All costs for public notification shall be borne by the applicant.

3. Within three (3) business days of application submittal, the applicant shall post on the subject property a notice sign(s) prepared by the Chief Administrative Officer. The sign(s) shall be placed at a conspicuous location(s) adjacent to each right-of-way fronting the property. The applicant shall ensure that the sign(s) remain posted until the hearing process has concluded.

4. At any hearing upon any matter subject to the provisions of this Section, the applicant seeking action and any other party desiring to be heard upon the application may appear in person, by agent or by attorney. The applicant shall be entitled to make an initial presentation respecting the application and, at the conclusion of presentations or statements by all other parties, shall be entitled to offer a statement in rebuttal or support to such presentations. The Chairman of the Planning and Zoning Commission may, at the commencement of the hearing or at any time during such hearing, require that parties desiring to make a presentation identify themselves and may specify the time to be allowed each such party within which to make such presentation.

5. Action by the Planning and Zoning Commission upon any matter subject to the provisions of this Section shall be announced by the Chairman of the Planning and Zoning Commission immediately following the vote determining such action and shall thereafter be embodied in a written Order or recommendation as appropriate. Such written Order or recommendation shall be incorporated into the minutes of the meeting at which such action occurred.

SECTION 8-2.8. VARIANCES

The Planning and Zoning Commission shall have the authority to grant variances from strict compliance with the requirements of this Code. If the standards in this Section are met, a Variance to the requirements of this Code--other than to land use, prospective floor area ratio (FAR), density, or required review process--shall be granted to the applicant pursuant to the procedures prescribed below.

A. All applications for variances shall be in the form required and provided by the Chief Administrative Officer. Such application shall be submitted together with the fee established in the manner prescribed herein and all supplemental data or information necessary to permit the determinations required incident to application for a variance. A brief narrative describing the requested variance and a site plan, survey or plot plan of the subject property shall be submitted.

1. Upon submittal of an application for a Variance, the Community Development Department shall assign a public hearing date and notice for said hearing as prescribed in Section 8-2.7.B. The Planning and Zoning Commission shall enter its order granting or denying such application. In granting such application the Planning and Zoning Commission must make specific affirmative findings respecting each of the matters specified in subsection B, and may prescribe such conditions and requirements in excess of those otherwise required by this Code.

These shall become a part of the terms under which a Site Development Permit, Building Permit and\or Certificate of Use shall be issued.

2. Before any variance may be granted, the Planning and Zoning Commission shall find:

   a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same Zoning District,

   b. That such special conditions and circumstances did not result from the action or negligence of the applicant,

   c. That granting the variance requested will not confer upon the applicant any special privileges denied by this Code to other lands, buildings or structures in the same Zoning District,

   d. That literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in this same Zoning District under the terms of this Code and would work unnecessary and undue hardship on the applicant,

   e. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure, and

   f. That the granting of the variance will be in harmony with the general intent and purpose of this Code and that such variance will not interfere with the rights of or be injurious to others or otherwise detrimental to the public interest or welfare.

3. After considering an application for variance and hearing presentations the Planning and Zoning Commission shall grant, grant with reasons or conditions attached thereto or deny such application. Upon granting a variance, a Development Permit may be issued in conformity with such order. Thereafter a Certificate of Use may be issued only upon determining that all of the conditions and requirements of such order granting the variance are satisfied.

4. An order granting a variance or variances shall be deemed applicable to the parcel for which such is granted and not to the individual applicant. No order granting a dimensional variance shall be deemed valid for any other premises other than that so specified in the order.

B. Planning and Zoning Commission Hearing Procedures

In considering and acting upon applications for variances, the following procedures shall be observed:

1. A public hearing shall be held by the Planning and Zoning Commission as required in Section 8-2.7.B.1. of this Part.

2. Notice of the public hearing shall be as provided in Section 8-2.7.B.2. and Section 8-22.7.B.3. of this Part.

3. The public hearing shall be conducted as described in Section 8-2.7.B.4. of this Part.

4. Action by the Planning and Zoning Commission upon any matter subject to the provisions of this Section shall be as provided in Section 8-2.7.B.5. of this Part.

SECTION 8-2.9. SPECIAL USES

Whenever in the Land Development Code a use is permitted as a Special Use, the final determination and circumstances under which such use shall be permitted shall be made by the City Council following review by and recommendation of the Planning and Zoning Commission. The Chief Administrative Officer shall not issue a Site Development Permit, Building Permit or Certificate of Use except upon and in conformity with an order of the City Council. Any owner or an owner's authorized agent who desires to construct, enlarge or alter any building or structure or to occupy any existing structure or premises for a use permitted only as a Special Use shall first make application for approval of such Special Use.

A. Submittal Requirements and Review

1. All applications for Special Use permit shall be in the required form. Such application shall be submitted together with the fee established in this Code and all supplemental data or information necessary to permit determination of the extent and probable impact of the proposed use. A brief narrative describing the proposed project shall be submitted. A Preliminary Development Plan shall also be submitted and shall contain the information specified in Section 8-2.7.A. of this Part.

2. Following submittal of a complete Special Use application, an Administrative Development Review procedure shall be conducted in consideration of said application. The findings of the Administrative Development Review process and its recommendation shall be transmitted in writing to the Planning and Zoning Commission.

3. Upon receipt of an application for a Special Use, the Planning and Zoning Commission shall hold a public hearing in accordance with the procedures specified in this Code. The Planning and Zoning Commission shall recommend to the City Council approval of the request, approval with conditions or denial of the Special Use request. In granting any application, the Planning and Zoning Commission and City Council must make specific findings that such use is appropriate and compatible and will not adversely affect the public interest.

Appropriate conditions and safeguards may be prescribed which shall become a part of the terms under which a Site Development Permit, Building Permit or Certificate of Use shall be issued. In considering and acting upon an application for Special Uses, the Planning and Zoning Commission shall observe the following standards:

a. Except as specifically provided herein, all Special Uses shall be subject to the general requirements of this Code as well as the specific provisions applicable within the Zoning District for which the Special Use is proposed.

b. Any premises proposed for Special Uses shall have sufficient minimum parcel frontage on a public street in which to locate vehicular access points designed to serve the type of Special Use proposed. Required distance between vehicular access points and intersection street right-of-way lines in excess of those generally required by this Code, may be required for a Special Use and the location of all vehicular access points may be specified by final order of the City Council.

c. Unless otherwise authorized by the City Council, all buildings or structures proposed for use in conjunction with the Special Use shall adhere to all standard setbacks per the zoning designation. The Planning and Zoning Commission recommendation to City Council for approval of the Special Use may provide for building setbacks less than or in excess of those required by this Code. The recommendation may also increase or decrease the depth of a required buffer along any or all parcel lines, including those located along streets. In addition, the Planning and Zoning Commission may recommend a permanent buffer between adjoining and contiguous property by a specific visual screen when necessary to separate the Special Use from surrounding uses and may specify the location and nature of such visual screen.

5. After considering the recommendation of the Administrative Development Review and the matters presented at its hearing upon the application for Special Use, the Planning and Zoning Commission shall provide to City Council its recommendation of approval, approval with conditions or denial. The Planning and Zoning Commission shall state the reason(s) for the recommendation.

6. The City Council shall hold a public hearing to act upon the Special Use request. The hearing shall be conducted in accordance with the provisions of Section 8-2.10.B.4.d. of this Part.

B. Planning and Zoning Commission Hearing Procedures

In considering and acting upon an application for a Special Use permit the following procedures shall be observed:

1. A public hearing shall be held by the Planning and Zoning Commission at their regularly scheduled meeting or at a special meeting date called by the Chairman of the Commission. The hearing shall not be held in less than sixty (60) days after the filing of a completed application, unless the applicant or Community Development Department staff requests a hearing date in excess of sixty (60) days after the filing of the completed application.

2. Upon receipt of an application for amendment to the Zoning District Map, the Chief Administrative Officer shall establish a date at which the Planning and Zoning Commission shall hear the petition. The Chief Administrative Officer shall cause notices of the time, place and purpose of a hearing upon the application to be published, mailed and posted in the manner provided in Section 8-2.7.B.2. and Section 8-2.7.B.3. of this Part. At the time and date established by such notice, the Planning and Zoning Commission shall conduct a hearing upon the application in the manner provided by Section 8-2.7.B.4. and 8-2.7.B.5. of this Part and shall recommend in writing for either approval, approval with modifications or denial of the application to the City Council.

3. At any hearing upon any matter subject to the provisions of this Section, the applicant seeking action and any other party desiring to be heard upon the application may appear in person, by agent or by attorney. The applicant shall be entitled to make an initial presentation respecting the application and, at the conclusion of presentations or statements by all other parties, shall be entitled to offer a statement in rebuttal or support to such presentations. The Chairman of the Planning and Zoning Commission may, at the commencement of the hearing or at any time during such hearing, require that parties desiring to make a presentation identify themselves and may specify the time to be allowed each such party within which to make such presentation.

4. Action by the Planning and Zoning Commission upon any matter subject to the provisions of this Section shall be announced by the Chairman of the Planning and Zoning Commission immediately following the vote determining such action and shall thereafter be embodied in the recommendation. Such recommendation shall be incorporated into the minutes of the meeting at which such action occurred.

SECTION 8-2.10. COMPREHENSIVE PLAN, ZONING MAP AND LAND DEVELOPMENT CODE TEXT AMENDMENTS

Applications for amendments to the Comprehensive Plan, the City of Brooksville Zoning Map, the text of this Code and applications for Special Uses shall be subject to the following procedures and requirements:

A. Comprehensive Plan Amendments

1. Types of Comprehensive Plan Amendments for Land Use Change:

a. Large-scale amendments are proposed amendments involving a land use of more than 10 acres. These large-scale amendments may be considered by the City and transmitted to the State for review at any time during the year.

b. Small-scale amendments are proposed amendments involving a land use of 10 acres or less. These small-scale amendments may be considered by the City and transmitted to the State for review at any time during the year. Amendments related to Development of Regional Impacts which are determined to be substantial deviation, as defined by Chapter 163, F.S., may also be considered at any time in the calendar year.

2. Applications for Comprehensive Plan Amendments

a. A proposal to amend the Comprehensive Plan may be initiated by the City Council by filing a written proposal with the Director of the Community Development Department as set forth herein. The written proposal shall be classified as an "application" as that term is used herein. Applications filed pursuant to this subsection a. shall be classified as administrative applications of the City and shall be exempt from the requirements of Subsections b. and c. below.

b. Every applicant, other than the City, including but not limited to an owner of real property within the City, a governmental entity other than the city, or other person, shall be required to file an application pursuant to the requirements of Subsection c. below.

c. A complete written application for an amendment to the Comprehensive Plan shall be submitted to the Director of the Community Development Department. Until all informational items required on the application form are provided, the application shall not be considered to be complete for review and consideration. All items required to be submitted by this Section which are not answered on the application form but which may be appended or attached to the application form or which may by on separate sheets of paper shall be deemed to be a part of the application form as if specifically included therein. All applicants shall be required to execute the petition in the presence of a notary public and by oath or affirmation swear to the truth of the statements in the application or that to the best of said applicant's knowledge and belief the statements in the application are true and correct, or alternatively, an applicant may execute an application at the end of said application wherein it shall state "Under penalties of perjury, I declare that I have read the foregoing application for Amendment to the Comprehensive Plan and that to the best of my knowledge and belief the facts stated in it are true." Applications executed for a corporation shall be executed by an authorized vice-president or superior corporate officer. Applications executed by a partnership shall be executed by an authorized partner. Applications shall

be made upon a form provided by the Community Development Department, which form shall include:

i. The name, address, and telephone number of the applicant;

ii. The name, address, and telephone number of the current property owner, if the application relates to a specific parcel of property;

iii. The name, address, and telephone number of any agent who will or might represent the applicant in any city review proceeding regarding the application;

iv. A legal description, boundary survey and street address if available, if the application relates to a specific parcel of real property. The boundary survey and legal description shall be prepared by a professional land surveyor who is registered to engage in the practice of land surveying by the State of Florida. The boundary survey and legal description shall be prepared in accordance with at least the minimum technical standards for land surveying promulgated from time to time by the State of Florida, Board of Professional Land Surveyors or its successor. The survey shall be certified to and for reliance by the City, executed by the surveyor and under surveyor's seal;

v. A general description of the proposed amendment to the Comprehensive Plan, explaining why the amendment is necessary or appropriate;

vi. An analysis of the fiscal impact of the proposed amendment on the City's finances, if any;

vii. An analysis of the impact of the amendment on all public facilities, if any;

viii. An analysis of the impact of the amendment on the environment and natural and historical resources, if any;

ix. An analysis of the degree of consistency of the proposed amendment with City's Comprehensive Plan;

x. An analysis of the impact upon the City's ability to provide adequate public facilities and maintain the existing level of service for public facilities as identified in the Comprehensive Plan, if the amendment is granted;

xi. If the application involves a specific parcel of real property, a statement regarding compatibility of the amendment with surrounding neighborhoods and land uses;

xii. A statement regarding the proposed amendment's impact upon any other provisions in the Comprehensive Plan, and whether an internal inconsistency between provisions might be created; and

xiii. Payment of all appropriate processing fees and charges, as set from time to time. Processing fees shall be partial compensation for the cost of review by the City administration and administrative expenses. All applicants shall pay all costs necessary for the giving of any public notice as required by State or local law.

xiv. In the case of future land use plan map amendments, the following information must be provided:

1. The size of the subject property in acres or fractions thereof.

2. A description of the availability of and the demand on the following public facilities: Sanitary sewer, solid waste, drainage, potable water, traffic circulation and recreation, as appropriate.

3. Information regarding the compatibility of the proposed land use amendments with the land use element objectives and policies, and those of other affected elements.

4. One sketch identifying all adjacent property owners within one hundred fifty (150) feet of the property covered by this application, and surrounding portion of subdivision in which the land is located; or if unplatted, the streets, highways, roads, alleys, and public places surrounding the land.

5. List of names and addresses of property owners within 150 feet of the property described in the application.

6. Fees for plan amendment review, mailing, and legal advertisement, in cash or check, drawn to the order of the City of Brooksville.

d. Applications for a change in the Comprehensive Plan shall be accepted by the City at any time during regular business hours and applications shall be processed and reviewed by the City as set forth herein. DRI amendments may be considered at any time during the calendar year and shall be considered simultaneously with any associated large-scale or small-scale amendments.

3. Local Review, Public Hearing Process and State Review

All public hearings related to Comprehensive Plan amendments will be advertised in a local newspaper. Proposed amendments are reviewed by the Community Development Department, which submits a recommendation to the Planning and Zoning Commission. The Planning and Zoning Commission will review the proposal in a public meeting and will render a recommendation and forward said recommendation to City Council.

The Local Planning Agency (LPA)/City Council will conduct a legislative public hearing to consider all proposed amendments. A second public hearing to adopt or deny a small-scale amendment shall be held within thirty (30) days following the LPA/City Council hearing. For large-scale amendments, if the LPA votes to transmit the proposed amendment to the State, the Community Development Department will transmit the required number of copies of the amendment to the Department of Community Affairs for review and comment.

Within one-hundred eighty (180) days of receiving the comments from the State and reviewing agencies, the City Council, in a second public hearing, will vote on whether or not to adopt the large-scale plan amendment. If City Council votes to adopt the amendment, the City Council must transmit copies of the adopted amendment to the State within ten (10) working days of adoption. The 180-day limitation does not apply to amendments processed in association with Developments of Regional Impact.

B. Zoning Map and Land Development Code Text Amendments

The Zoning Map and text related thereto may be amended from time to time. The procedures for making such amendments shall be in accordance with the requirements set forth in the charter of the City of Brooksville and shall include the following procedures:

1. Zoning Map Amendments

a. Amendments to the Zoning Map of the City of Brooksville shall be made only by ordinance duly adopted in the manner prescribed by law for the adoption of ordinances by the City Council of the City of Brooksville, provided that no proposed ordinance amending such map shall be adopted by the City Council of the City of Brooksville until the proposed amendment has been referred to the City of Brooksville Planning and Zoning Commission for review and recommendation as to the relationship of such proposal to the City's Comprehensive Plan or appropriate elements or portions thereof.

b. Proposed amendments to the Zoning Map changing the Zoning District within the incorporated area of the City of Brooksville may originate by resolution of the City Council, the Planning and Zoning Commission or by

application of the owner or owners of the land area involved in the proposed change.

c. Proposals originating with the City Council or the Planning and Zoning Commission must be reflected in an appropriate resolution of the originating body and a copy of such resolution, upon adoption, shall be filed with the Chief Administrative Officer.

d. Proposals originating with the owner(s) of the land area involved in the proposed change shall be an application in the form required and provided by the Chief Administrative Officer and shall be submitted to the Chief Administrative Officer together with the fee established in the manner prescribed in this Code. Such application shall be signed by the owner or owners of the land area involved in the proposed change and described in the application or by the authorized agent of such owner or owners. Written and notarized documentation authorizing a person other than the property owner(s) to sign an application and/or represent the property owner(s) shall be attached to such application.

2. Land Development Code Text Amendments

Amendment to the text of this Code adopted and incorporated by reference herein shall be made only by ordinance duly adopted in the manner prescribed by law for the adoption of ordinances by the City Council of the City of Brooksville, provided that no proposed ordinance amending such text shall be adopted by the City Council of the City of Brooksville until the proposed amendment has been referred to the City of Brooksville Planning and Zoning Commission for review and recommendation as to the relationship of such proposal to the City's Comprehensive Plan or appropriate elements or portions thereof, provided further, that if the City of Brooksville Planning and Zoning Commission fails to make a recommendation respecting such proposed amendment within two months after the time of reference, then the City Council may act upon the proposed amendment.

3. Applications for Zoning Map and Land Development Code Amendments

Every petition addressed to the governing body requesting an amendment or change in the regulations, restrictions, and boundaries herein established shall contain the following information and shall be presented to the Chief Administrative Officer in the following form:

a. The petition shall be typewritten and shall be sworn to by the petitioner or petitioners, and shall include the street or post-office address of the petitioner or petitioners.

b. The petition shall give an accurate legal description of the land involved, including street address, if any, and the names of all owners.

c. The petition shall state the reason why such regulations, restrictions or boundaries should be amended, supplemented, changed or repealed.

d. For Zoning Map amendments, the petition shall give the existing zoning district classification on the land and the zoning district classification to which it is desired a change be made.

e. Requests for standard district Zoning Map amendments shall have attached a drawing or blueprint of the surrounding 150 feet of the subdivision in which the land is located, or if unplatted land, the streets, highways, roads, alleys and public places within 150 feet of the property. Requests for Planned Development Zoning Map amendments shall provide a detailed site plan, drawn to scale, that includes the following:

i. The name of the proposed project and the names of the developer(s), architect(s), engineer(s), and planner(s) associated with the project;

ii. Scale, date and north arrow.

iii. A vicinity map showing the relationship of the proposed project to the surrounding road network and major water bodies, if any;

iv. Location, height, floor area, and use of existing structures, if any;

v. All land uses and the general location of structures within one hundred fifty (150) feet of the boundaries of the project site;

vi. Current zoning designation on the site and within 150 feet of the boundaries of the project site;

vii. All property lines within 150 feet of the boundaries of the project site;

viii. The height, yards, floor area (or number of dwelling units for residential uses), and use or uses for structures in each portion of the proposed project. A complete list of proposed uses shall be provided;

ix. The total number and the types of residential units, and the type density and overall density of the project, if applicable;

x. The total non-residential square footage and the Floor Area Ratio of each non-residential land use type;

xi. The general location and nature of fences, walls, and buffering to be provided;

xii. Proposed building envelopes; and

xiii. The location of all water courses, lakes, conservation areas, preservation areas, flood plains, wooded areas, upland habitat areas, or other such natural physical features on the project site.

f. At initial submission of application for rezoning, the applicant must state the proposed use of the property.

g. Four (4) copies of the petition shall be filed with the Chief Administrative Officer.

h. The Planning and Zoning Commission, as a condition to the reviewing of any proposed zoning change, may require the submission of a preliminary development plat which, when approved by the City Council, shall be followed. The preliminary development plat shall show all of the pertinent and appropriate data and information necessary to indicate the intent of the proposed use and development of the area for which the request is being made and all of the appropriate and applicable data and information required for preliminary development plats. If a zoning amendment based on a preliminary development plat is approved by the City Council, the petitioner shall be instructed to prepare a final plat of the approved preliminary development plat and all attached special conditions, if any, and showing all of the appropriate and applicable data and information required for final development plats. Upon completion of the final development plat, the petitioner shall submit said plat to the Chief Administrative Officer for final review and recording approval. If the final development plat is in substantial accordance with the approved preliminary development plat and reflects all attached special conditions, the Chief Administrative Officer shall approve the final development plat for recording. The final development plat shall be recorded at the expense of the applicant in the office of the City Clerk and with the Chief Administrative Officer for record. As a further condition to the granting of a zoning change, the City Council may require that substantial construction be initiated within a certain period of time of not less than one (1) year. In any zoning change where substantial construction has not been initiated within the time limit set by the City Council, such zoning change shall become null and void and the parcel of land for which the zoning change was approved shall revert to the original zoning district classification and regulations that existed on the parcel of land prior to approval of the zoning change.

4. Public Hearing Process

The public hearing process for Zoning Map and Land Development Code Amendment petitions shall be as follows:

a. All proposals for amendments to the Zoning District Map and text of this Code pursuant to the section shall be referred to the Planning and Zoning

Commission for consideration and the formulation of a recommendation to the City Council.

b. Upon receipt of an application for amendment to the Zoning District Map, the Chief Administrative Officer shall establish a date at which the Planning and Zoning Commission shall hear the petition. The Chief Administrative Officer shall cause notices of the time, place and purpose of a hearing upon the application to be published, mailed and posted in the manner provided in Section 8-2.7.B.2. and Section 8-2.7.B.3. of this Part. At the time and date established by such notice, the Planning and Zoning Commission shall conduct a hearing upon the application in the manner provided by Section 8-2.7.B.4. and 8-2.7.B.5. of this Part and shall recommend in writing for either the approval or denial of the application to the City Council provided, however, that in the case of a proposed Special Use or Planned Development Project Plan, the Planning and Zoning Commission shall recommend approval, approval with modifications and/or conditions or denial of the application to the City Council.

c. Upon receipt of an application for amendment to the text of the Land Development Code, the Chief Administrative Officer shall establish a date at which the Planning and Zoning Commission shall hear the petition. The Chief Administrative Officer shall cause notice of the time, place and purpose of a hearing upon the application to be published in the manner provided in Section 8-2.7.B.2. and 8-2.7.B.3 of this Part. At the time and date established by such notice, the Planning and Zoning Commission shall conduct a hearing upon the application in the manner provided by Section 8-2.7.B.4. and 8-2.7.B.5. of this Part and shall recommend in writing for either the adoption or denial of the application to the City Council.

d. Following hearing by the Planning and Zoning Commission, the Chief Administrative Officer shall submit the proposed Zoning District Map and/or text amendments, with the recommendations of City staff and the Planning and Zoning Commission, to the City Council for consideration. The City Council shall consider and act upon such application and the recommendations of City staff and the Planning and Zoning Commission in the manner prescribed by law for the adoption of ordinances by the City Council or refuse to adopt such proposed amendment. If the City Council denies a proposed amendment, the City Council shall indicate the reason or reasons for said denial.

e. When the City Council has taken action to deny a proposed amendment to the Zoning District Map, no other application by the owner(s) of such land for amendment to the Zoning District Map respecting such land shall be accepted for consideration by the Planning and Zoning Commission and City Council for a period of one (1) year from the date of the action

denying the proposed amendment. Notwithstanding the above, an applicant may request a waiver of said prohibition.

f. Applicants submitting a petition requesting a Land Development Code text amendment or a Zoning Map amendment, including planned development projects, shall pay all cost and expenses in connection with notice of such public hearings and related notices as required by the provisions of this ordinance in addition to the fees required for City review and administration. An estimate of the cost of the publication of notice of public hearing and publishing the ordinance making such change in zoning text or district classification shall be made by the Chief Administrative Officer and the petitioner shall deposit with the Chief Administrative Officer the estimated cost amount attached to the petition, and in the event that the actual cost of the items, as hereinabove enumerated, shall be less than the deposit, the remaining balance shall be refunded to the petitioner. In the event the cost is more than the deposit, the petitioner shall submit the required additional funds to the City.

PART 8-3

APPEALS

SECTION 8-3.1. APPEALS OF CHIEF ADMINISTRATIVE OFFICER DECISIONS

Except where a different procedure is set forth elsewhere in this Code, any decision of the Chief Administrative Officer under this Code may be appealed to the Planning and Zoning Commission as set forth below.

A. Standing to Appeal

1. Any resident, landowner or any person having a contractual interest in land in the City of Brooksville shall have standing to appeal or to intervene in an appeal of a decision of the Chief Administrative Officer that is of general applicability and that is not specifically related to a particular parcel of real property or project.

2. The following shall have standing to appeal or to intervene in an appeal of a decision of the Chief Administrative Officer that is not of general applicability and that is specifically related to a particular parcel of real property or project:

   a. An applicant of a Chief Administrative Officer's decision who is adversely affected by the Chief Administrative Officer's decision, or

   b. A property owner whose property is the subject of the administrative decision and is adversely affected by the Chief Administrative Officer's decision, or

c. Any owner of real property as reflected on the current year's tax roll, lying within 150 feet in every direction of the property or project that is the subject of the administrative decision and any condominium and/or owners' association with common property lying within 150 feet in every direction of the property or project that is the subject of the administrative decision, or

d. Any resident, landowner or any person having a contractual interest in land in the City of Brooksville who demonstrates a direct adverse impact as a result of the administrative decision that exceeds in degree the general interest in community good shared by all persons. The Planning and Zoning Commission shall make the determination if there has been a demonstration of a direct adverse impact sufficient to grant appellant or intervener status, however any information considered in making such a determination shall not be considered a part of the record on appeal except as provided in Section 8-3.1.C. of this Part.

B. Notice of Appeal

1. A Notice of Appeal of an administrative decision shall be filed within 30 calendar days of the date on which the Chief Administrative Officer signs the decision or the decision is otherwise rendered in writing.

2. The Notice of Appeal shall be filed with the Chief Administrative Officer and shall set forth a detailed basis for the appeal.

3. If a Notice of Appeal is filed regarding a decision of the Chief Administrative Officer that is not of general applicability and that is specifically related to a particular parcel of real property or project, the appellant, if not the owner of the property or project in question, shall mail notice, by proof of mailing receipt, within 5 calendar days of the filing of the appeal to all owners of real property that is the subject of the administrative decision.

4. Within 20 calendar days of the filing of a Notice of Appeal pursuant to this Section, any person with standing pursuant to Section 8-3.1.A. may intervene and become a party to the appeal by filing a request for intervention in the same manner as filing an appeal of an administrative decision as described herein.

5. The Chief Administrative Officer shall set the matter for hearing within 30 days of the date of the Notice of Appeal. This period may be extended by agreement of the Chief Administrative Officer and the party appealing the decision or any intervener.

C. Conduct of Hearing

1. In general, the hearing shall be limited to the record on appeal, and shall consist of oral argument by the Chief Administrative Officer, the party appealing the decision and any intervener, each of whom may be represented by legal counsel.

2. The record on appeal shall consist of the following:

   a. The application and any other information submitted by the Appellant to and relied upon by the Chief Administrative Officer.

   b. The written decision of the Chief Administrative Officer and any documents attached thereto.

3. In addition to the record on appeal, the Chief Administrative Officer, the Appellant and any intervener may freely refer to the following in presenting their cases to the Planning and Zoning Commission:

   a. Applicable portions of the City of Brooksville Comprehensive Plan, the City of Brooksville Land Development Code and any other duly adopted City of Brooksville ordinance, rule or resolution.

   b. Any state or federal statute, rule or decision.

4. If the Chief Administrative Officer, the Appellant or any intervener believes that, in order to fully present his case, evidence other than that listed in Paragraphs 2. and 3. above must be presented to the Planning and Zoning Commission, the nature of the additional evidence must be disclosed to the other parties and the Planning and Zoning Commission not less than five days before the hearing. At the beginning of the hearing the Planning and Zoning Commission shall rule on whether such additional evidence may be presented. The Planning and Zoning Commission shall freely allow the presentation of additional evidence pursuant to this Subsection where such is relevant to the issue on appeal.

D. Decision of the Planning and Zoning Commission

1. The decision of the Planning and Zoning Commission shall be announced by the Chairman of the Planning and Zoning Commission immediately following the vote determining such action and shall thereafter be embodied in a written Order or recommendation as appropriate. Such written Order shall be incorporated into the minutes of the meeting at which such action occurred.

2. The decision of the Planning and Zoning Commission shall be based on the record on appeal and any additional evidence presented in accordance with Section 8-3.1.C. of this Part.

E. Authority of Planning and Zoning Commission

Upon a finding of error in the administrative decision, the Planning and Zoning Commission shall identify the error and is authorized to take any action that the Chief Administrative Officer was authorized to take under this Code.

SECTION 8-3.2. APPEALS OF PLANNING AND ZONING COMMISSION DECISIONS

The decision of the Planning and Zoning Commission is final. The Planning and Zoning Commission's decision may be challenged by any person with standing under State law by petition for writ of certiorari to the circuit court.

SECTION 8-3.3. APPEALS OF CITY COUNCIL DECISIONS

The decision of the City of Brooksville City Council is final. The City Council's decision may be challenged as authorized by statute by persons with standing by petition for writ of certiorari to the circuit court.

CITY OF BROOKSVILLE LAND DEVELOPMENT CODE

ARTICLE IX

INTERPRETATIONS AND NONCONFORMITIES

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ARTICLE IX

INTERPRETATIONS AND NONCONFORMITIES

PART 9-1

GENERALLY

SECTION 9-1.1. CONTENTS.

This Article contains provisions relating to obtaining an interpretation of the provisions of this Code, obtaining relief from the operation of this Code under certain circumstances, and for enforcement of the provisions of this Code.

PART 9-2

INTERPRETATIONS OF THIS CODE

SECTION 9-2.1. AUTHORITY TO RENDER.

The Chief Administrative Officer shall have the authority to make all interpretations of the text of this Code.

SECTION 9-2.2. PROCEDURES.

A. Initiation

An interpretation may be requested by any resident of or landowner in the City Of Brooksville, or any person having a contractual interest in land in the City of Brooksville.

B. Submission of Request for Interpretation

Before an interpretation shall be provided by the Chief Administrative Officer, a Request for Interpretation shall be submitted in writing to the Community Development Department.

C. Determination of Completeness

Within five working days after a Request for Interpretation has been received, the Chief Administrative Officer shall determine whether the request is complete. If the Chief Administrative Officer determines that the request is not complete, the applicant shall be notified of the deficiencies. The Chief Administrative Official shall take no further action on the Request for Interpretation until the deficiencies are remedied.

D. Rendering of Interpretation

Within 30 working days after a Request for Interpretation has been determined complete, the Chief Administrative Officer shall review and evaluate the request in light of the Comprehensive Plan, this Code text, and other statutes, codes, ordinances and regulations, whichever are applicable, consult with appropriate City Staff and the City Attorney, if so desired, and then render an interpretation.

E. Form

The interpretation shall be in writing and shall be sent to the applicant by proof of mailing.

SECTION 9-2.3. APPEALS.

An interpretation by the Chief Administrative Officer may be appealed to the Planning and Zoning Commission pursuant to the procedures at Section 8-3.1.

PART 9-3

NONCONFORMITIES

SECTION 9-3.1. GENERALLY.

A. Intent

1. Within the zoning districts established by the Land Development Code, or amendments that may be later adopted, there may exist lots, structures, uses of land, water and structures, and characteristics of land which were lawful before this Code was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Code or future amendments. It is the intent of these provisions to permit these nonconformities to continue until they are voluntarily removed or otherwise brought into compliance with this Code, but not to encourage their survival unless specifically authorized by these regulations. It is also the intent of these regulations to set forth a certification process for lots and detached single family residences created prior to the adoption of this Code. It is further the intent of the Land Development Code that the nonconformities shall not be enlarged upon, expanded, intensified or extended, nor be used as grounds for adding other structures or uses otherwise prohibited by the Code, except as provided herein.

2. Nonconforming uses are declared to be incompatible with permitted uses in the districts involved. Such nonconforming uses shall not be intensified, enlarged or expanded unless specifically authorized herein.

B. Rights to Run With Land

All rights and obligations associated with nonconformities as defined herein shall run with the land and are not personal to the present ownership or tenant of the land, and are not affected by a change in ownership or tenancy.

C. Previously Approved Projects

The provisions of this Code and any future amendments thereto shall not be deemed to require a change in the plans, construction or designated use of structures and/or land for valid, effective and lawful permits issued prior to the effective date of this Code provided:

1. The development authorized by the permit has commenced prior to the effective date of this Code, or any future amendment thereto, as applicable or will commence after the effective date of this Code but prior to the permit's expiration or termination; and,

2. The development continues without interruption in good faith until development is complete. In the event a lawfully issued permit expires, any further development shall conform to this Code, or any future amendments thereto, as applicable.

D. Certain Lots and Uses Not To Be Considered Nonconforming

Any development authorized and permitted as a Special Exception Use under previous City of Brooksville Land Development Regulations shall be deemed a conforming use. This determination shall be made through a nonconforming use review requested by the property owner. Any enlargement, replacement or modification of such use shall be in accordance with the requirements of this Code as if the use were new.

E. Basis for Decision

The determination of the Chief Administrative Officer shall be based on clear, substantial and convincing evidence regarding the nature, extent and date of establishment of the nonconformity. Such evidence may include but is not limited to deeds, property assessor records, permits, plan approvals, utility bills, aerial photographs, tax bills and other similar evidence. In the absence of such evidence, the Chief Administrative Officer may at his discretion rely upon affidavits from a property owner, adjoining property owners and other competent parties as the basis of determination.

SECTION 9-3.2. CLASSIFICATION OF NONCONFORMITIES

A. Generally.

For purposes of this Code and of this division, nonconformities are classified as follows.

B. Nonconforming Lots.

Nonconforming lots to include lots, tracts or parcels which due to size, dimension or other characteristics do not comply with the provisions of this Code.

C. Nonconforming Structures.

Nonconforming structures to include dimensional nonconformities such as setbacks, height, lot coverage, floor area ratio and other similar standards.

D. Nonconforming Characteristics of Land.

Nonconforming characteristics of land to include site development standards pertaining to paved off-street parking, access, stormwater management, landscaping, environmental standards and other similar standards. Unpaved areas, unless previously approved by the City of Brooksville for parking, shall not be considered in the nonconforming characteristic of land determinations.

E. Nonconforming Use

Nonconforming use to include the nonconforming use of a structure, the nonconforming use of land or water, the nonconforming use of structure, land and water in any combination.

F. Nonconforming Density.

Nonconforming density to include multi-family development standards pertaining to minimum site area per dwelling unit, community residential home standards pertaining to minimum site area per placed resident, and other similar standards, and density requirements of the Comprehensive Plan. Single-family lots that are nonconforming to density requirements of the Comprehensive Plan shall be classified as Nonconforming Lots per Paragraph B above.

G. Nonconformities by Public Order

Nonconformities by public order to include nonconformity created where lawful public takings have the same effect as violations of this Code which are undertaken privately.

SECTION 9-3.3. NONCONFORMING LOTS

A. Generally.

The Chief Administrative Officer may certify lots, tracts and parcels not otherwise meeting the provisions of this Code and may authorize the development of such certified parcels as provided in this Section.

B. Lots Pre-dating Adoption of Land Development Regulations.

Lots, tracts or parcels existing before this Code was adopted or amended shall be deemed pre-existing and may be certified by the Chief Administrative Officer subject to the following condition: Where two or more nonconforming lots are contiguous and held in single ownership at the time of application, the Chief Administrative Officer may require that such lots be combined in a manner to eliminate or reduce the degree of nonconformity.

C. Single-Family Lot Not Able To Meet Building Coverage and Setbacks.

Single-family lots that are legally nonconforming and cannot meet building coverage and setback requirements without so diminishing the building area so as to render its use unfeasible, may be granted relief by the Chief Administrative Officer by the minimum extent necessary to accommodate the proposed structure. Factors that may be considered in granting relief include the existing development pattern on neighboring parcels, and the development standards typically required on lots of similar size. However, in no case shall the required minimum setback be reduced by more than ten percent or the permitted maximum building coverage increased by more than ten percent.

SECTION 9-3.4. NONCONFORMING STRUCTURES OTHER THAN SIGNS

A. Generally

The Chief Administrative Officer may certify structures other than signs not otherwise meeting the provisions of this Code and authorize utilization of such certified structures as provided in this Section.

B. Structures Pre-Dating Adoption of the Land Development Code.

Structures existing prior to the adoption of these regulations shall be deemed pre-existing and may be certified by the Chief Administrative Officer subject to the following conditions:

1. A structure is nonconforming due to noncompliance with the dimensional requirements of the schedule of area, height, bulk and placement regulations of this Code and which is used for a use permitted in the district in which it is located may remain, provided that any physical change to the structure shall not increase the degree of nonconformity unless specifically approved by the Brooksville City Council pursuant to this Article VIII, Section 8-2.10. Structural changes which decrease or do not affect the degree of nonconformity shall be permitted. Additions, modifications or other physical changes to the structure that adhere to the reduced setback line are permitted by right, even if they increase the amount of building area within the required yard, provided other development standards are met.

2. A nonconforming structure, or a portion thereof, if damaged, deteriorated or destroyed to the extent of more than 50 percent or more of its current assessed valuation, may only be reconstructed in accordance with the regulations of the district in which it is located, except as provided in paragraphs 3 and 4 below.

3. Routine repairs and maintenance of a nonconforming structure, fixtures, wiring and plumbing or the repair or replacement of non-loadbearing walls shall be permitted.

4. A nonconforming structure damaged or destroyed by an Act of God may be rebuilt in accordance with the nonconformities certified as pre-existing pursuant to this Part.

C. Unsafe Structures.

Nonconforming structures or portions thereof which are declared unsafe by the Chief Administrative Officer or other competent authority may be repaired and restored, except as provided in Section 9-3.4.B.2.and 9-3.6.F.

SECTION 9-3.5. NONCONFORMING CHARACTERISTICS OF LAND.

A. Generally.

The Chief Administrative Officer may certify characteristics of land not otherwise meeting the provisions of this Code and authorize utilization of such certified characteristics as provided in this section.

B. Characteristics of Land Established as Legally Permissible Under Provisions of Regulations in Effect at the Time of Development

Characteristics of Land established legally at the time of development shall be deemed pre-existing and may be certified by the Chief Administrative Officer and the nonconforming characteristics of land may continue to operate but shall not be expanded, altered, changed or relocated in such a manner as to increase the degree of nonconformity.

SECTION 9-3.6. NONCONFORMING USE.

A. Generally.

The Chief Administrative Officer may certify uses not otherwise meeting the provisions of this Code and authorize utilization of such certified uses as provided in this section.

B. Use Established as Legally Permissible Under Provisions of Regulations in Effect at the Time of Development.

Uses established legally at the time of development shall be deemed pre-existing and may be certified by the Chief Administrative Officer and allowed to continue provided that:

1. There shall be no enlargement, increase in intensity or alterations to the use, its permanent structure or both, except as provided in E and H below.
2. Such uses may not be enlarged, extended, altered or replaced, except for a change to a use permitted in the district in which it is located, except as provided in B.3., E. and H. below.

3. A nonconforming use may be extended through portions of a building manifestly arranged or intended for such a use, but not otherwise extended and shall not extend to occupy land outside such building or any additional building not used for such nonconforming use at the time that nonconforming status was established, except as provided in E. and H. below.

C. Cessation of Use.

If the use ceases for more than 90 consecutive calendar days or a total of 180 calendar days in a one year period, subsequent use of the premises shall conform to the district regulations. For purposes of this regulation, cessation of use shall be defined as the absence of the principal activity or function comprising that use, irrespective of the presence of dormant buildings, equipment and/or materials associated with the use. Facility maintenance for a use that is otherwise inactive shall not be deemed a continuation of that use.

D. Relocation of Use.

No such use shall be relocated or moved to any portion of the lot other than that occupied at the time that nonconforming status was created.

E. Principal Residence

A dwelling which is the principal residence of the property owner that is made a nonconforming use by the adoption of this Code, the Comprehensive Plan, or amendments thereto, may be expanded, replaced or reconstructed, notwithstanding H. below, provided there has not been a cessation of use. However, the cessation of use provisions described in C. above shall not apply when a principal residence has been vacated due to damage or deterioration and unexpired building permits are in place for repairs or replacement of the dwelling. In such case, the permit application shall be submitted within 90 days of when the residence was vacated, unless an extension is granted by the Chief Administrative Officer for hardship reasons, and the property owner shall proceed in good faith to secure the permits and complete the work in a timely manner. Such expansion, replacement or reconstruction shall be permitted without City Council approval, subject to compliance with other requirements of this Code.

F. Act of God.

The rebuilding of principal residences or the rebuilding of nonconforming uses or structures damaged or destroyed by an Act of God, may occur at any time without a Nonconformity Special Use Permit.

G. Repairs and Maintenance of Structures Containing Nonconforming Uses.

1. When a building or structure devoted to a nonconforming use is damaged or deteriorated, as determined by the Chief Administrative Officer, to the extent of 50 percent or more of the building's or structure's assessed taxable value, such building or structure, if restored shall be devoted to conforming uses, except as provided in E. or F. above, or H. below.

2. Repairs and maintenance on any building devoted in whole nonconforming use may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding ten percent of the current replacement value of the building. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

H. Expansion, Change, or Rebuilding of Nonconformities

1. Any property owner wishing to expand, change or rebuild an existing legal nonconforming use shall apply for a Nonconformity Special Use Permit in accordance with the provisions set forth in Section 8-2.9. of this Code. Expansion, change, or rebuilding shall only be permitted where the City Council finds no significant adverse effects of such nonconformity on adjacent properties. Any structural rebuilding shall be in accordance with the standards of the zoning district in which the property is located. Additions, modifications, or other physical changes to a legally non-conforming structure that adhere to the reduced setback line may be permitted, even if they increase the amount of building area within the required yard, provided other development standards are met.

2. Expansion of nonconformities shall not occur more than once and shall not exceed 50 percent of the existing square footage or intensity of use.

3. Notwithstanding the foregoing, principal residences and uses or structures damaged or destroyed by an Act of God may be rebuilt at any time without a Nonconformity Special Use Permit.

SECTION 9-3.7. NONCONFORMING DENSITY.

A. Generally.

The Chief Administrative Officer may certify densities not otherwise meeting the provisions of this Code and authorize utilization of such certified densities as provided in this Section.

B. Density Established as Legally Permissible Under Provisions of Regulations in Effect at the Time of Development.
Densities established legally at the time of development shall be deemed pre-existing and may be certified by the Chief Administrative Officer and allowed to continue provided that:

1. The general type of residential use is permitted by the zoning of the property or has been determined to be a Legal Non-Conforming Use at the time of certification.
2. There shall be no increase in density unless approved by the City Council pursuant to E. below.

C. Repairs and Maintenance of Structures.

1. When a building or structure contributing to a nonconforming density is damaged or deteriorated, as determined by the Chief Administrative Officer, to the extent of 50 percent or more of the building's or structure's assessed taxable value, such building or structure shall not be restored, except to the extent permitted by the maximum density of the zoning district or to a permitted accessory use which does not contribute to density, or as provided in D. and E. below.

2. Repairs and maintenance of any building contributing to nonconforming density may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding ten percent of the current replacement value of the building. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition any building or part therefore declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

D. Acts of God.

The rebuilding of structures contributing to a nonconforming density that are damaged or destroyed by an Act of God may occur at any time without a Nonconforming Density Special Use Permit.

E. Density Increase or Rebuilding.

1. Any property owner wishing to increase or rebuild structures contributing to a legal nonconforming density shall apply for a Nonconforming Special Use Permit in accordance with the provisions set forth in Article VIII, Section 8-2.9. of this Code. Said increase or rebuilding shall only be permitted where the City Council finds no significant adverse effects of such nonconformity on adjacent properties.

2. A density increase shall not occur more than once and shall not exceed 50 percent of the existing density.

SECTION 9-3.8. NONCONFORMITIES, OTHER THAN USE, BY PUBLIC ORDER.

Where a nonconformity, other than use, is created by the exercise of the power of eminent domain or the threat thereof, or as a result of an acceptance by the City, County or State of land for a public right-of-way, the Chief Administrative Officer may certify such nonconformity. Minor amendments to the nonconformity may be permitted to allow reasonable use of the nonconformity and allow such nonconformity to maintain its legal nonconforming status.

SECTION 9-3.9. PROCEDURES.

A. Authority.

The Chief Administrative Officer is hereby authorized, based upon competent findings of fact, to determine and establish the nonconforming status of land or structures. The Chief Administrative Officer may further establish restrictions pertaining to the nonconformity in accordance with the provisions of this Part.

B. General Procedure.

1. The Chief Administrative Officer shall, following receipt of the completed application for nonconforming use, provide a written decision to the Applicant. All written decisions shall contain information about the right of appeal.

2. The Certificate of Nonconforming Status shall describe the nature and extent of the non-conformity. The Chief Administrative Officer may at his discretion include upon the Certificate or as an addendum to the Certificate any requirements, conditions or information deemed necessary to carry out the provisions of this Division. Said certificate and supporting information shall be provided to the applicant and shall be entered into the records of Hernando County.

CITY OF BROOKSVILLE LAND DEVELOPMENT CODE

ARTICLE X

BUILDINGS AND BUILDING REGULATIONS

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ARTICLE X

BUILDINGS AND BUILDING REGULATIONS

PART 10-1

CONTENTS

SECTION 10-1.1. IN GENERAL
(RESERVED)

SECTION 10-1.2. FLORIDA BUILDING CODE

A. Adoption.

There is adopted by the City that certain statewide unified code known as the Florida Building Code, as developed and maintained by the state building commission, together with all appendices of the Florida Building Code, Building; all appendices of the National Electrical Code, 1999 Edition; all appendices of the Florida Building Code, Plumbing; all appendices of the Florida Building Code, Mechanical; and all appendices of the Florida Building Code, Fuel Gas, thereof. The Florida Building Code is adopted and incorporated in this Section as fully as if set forth in *haec verba* and, from the date upon which this Article shall take effect, the provisions thereof except as otherwise noted herein shall be controlling in the construction, alteration, removal, demolition, moving, improving, repairing of equipment, use and occupancy, location and maintenance of all buildings and structures within the incorporated areas of the City.

B. Scope.

The provisions of this Article shall govern the administration and enforcement of the Florida Building Code.

C. Title.

The provisions of this Article shall constitute and be known and cited as the Florida Building Code.

D. Code remedial.

1. Generally.

The Code adopted in this Article is declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof, which are public safety,

health and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards attributed to the built environment including alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, and by regulating the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems.

2. Quality control.

Quality control of materials and workmanship is not within the purview of the Florida Building Code except as it relates to the purposes stated in this Article.

3. Permitting and inspection.

The inspection or permitting of any building, system or plan by the City under the requirements of this Article shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy. Neither the City nor any employee thereof shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting, unless the employee of the City is found to have acted in bad faith or with malicious purpose in a manner exhibiting wanton and willful disregard of the safety, health and welfare of the public.

E. Applicability of Article.

1. Where, in any specific case, different sections of this Article specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

2. The provisions of this Article shall apply to the construction, erection, alteration, modification, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every public and private building, structure or facility or floating residential structure, or any appurtenances connected or attached to such buildings, structures or facilities. Additions, alterations, repairs and changes of use or occupancy group in all buildings and structures shall comply with the provisions of Chapter 34 of the Florida Building Code. The following buildings, structures and facilities are exempt from the provisions of this Article as provided by law, and any future exemptions shall be as determined by the legislature and provided by law:

a. Buildings and structures specifically regulated and preempted by the federal government.

b. Railroads and ancillary facilities associated with the railroad.

c. Nonresidential farm buildings on farms.

d. Temporary buildings or sheds used exclusively for construction purposes.

e. Mobile homes used as temporary offices, except that the provisions of F.S. §§ 553.501--553.513 relating to accessibility by persons with disabilities shall apply to such mobile homes.

f. Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission or distribution of electricity.

g. Temporary sets, assemblies or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.

h. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this subsection, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing or other nonwood features.

i. Each enforcement district shall be governed by a board, the composition of which shall be determined by the affected localities. At its own option, each enforcement district or local enforcement agency may promulgate rules granting to the owner of a single-family residence one or more exemptions to the Florida Building Code relating to:

(1) Addition, alteration or repair performed by the property owner upon his own property, provided any addition or alteration shall not exceed 1,000 square feet or the square footage of the primary structure, whichever is less.

(2) Addition, alteration or repairs by a non-owner within a specific cost limitation set by rule, provided the total cost shall not exceed $5,000.00 within any 12-month period.

(3) Building and inspection fees.

j. Each Code exemption shall be certified to the City ten days prior to implementation and shall be effective only in the territorial jurisdiction of the enforcement district or local enforcement agency implementing it.

3. This Article does not apply to, and no code enforcement action shall be brought under this Article with respect to, zoning requirements, land use requirements and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair or demolition of public or private buildings, structures or facilities or to programmatic requirements that do not pertain to the enforcement of this Article. Additionally, a local code enforcement agency may not administer or enforce this Article to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

4. In addition to the requirements of F.S. §§ 553.79 and 553.80, facilities subject to the provisions of F.S. Chapter 395 and F.S. Chapter 400, part II, shall have facility plans reviewed and construction surveyed by the state agency authorized to do so under the requirements of F.S. Chapter 395 and F.S. Chapter 400, part II, and the certification requirements of the federal government.

5. Residential buildings or structures moved into or within the City shall not be required to be brought into compliance with the state minimum building code in force at the time the building or structure is moved, provided:

   a. The building or structure is structurally sound and in an occupiable condition for its intended use;

   b. The occupancy use classification for the building or structure is not changed as a result of the move;

   c. The building is not substantially remodeled;

   d. Current fire code requirements for ingress and egress are met;

   e. Electrical, gas and plumbing systems meet the codes in force at the time of construction and are operational and safe for reconnection; and

   f. Foundation plans are sealed by a professional engineer or architect licensed to practice in this state, if required by the Florida Building Code, Building, for all residential buildings or structures of the same occupancy class.

6. The Building Official shall apply the same standard to a moved residential building or structure as that applied to the remodeling of any comparable residential building or structure to determine whether the moved structure is substantially remodeled. The cost of the foundation on which the moved building or structure is placed shall not be included in the cost of remodeling for purposes of determining whether a moved building or structure has been substantially remodeled.

7. Unsafe buildings shall be abated using the Standard Unsafe Building Abatement Code, 1985 Edition, promulgated by the Southern Building Code Congress International, Inc., as adopted and amended by ordinance.

8. This Section does not apply to the jurisdiction and authority of the department of agriculture and consumer services to inspect amusement rides or the department of insurance to inspect state-owned buildings and boilers.

9. The provisions of Chapter 27 of the Florida Building Code, Electrical, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

10. The provisions of the Florida Building Code, Fuel Gas, shall apply to the installation of consumers' gas piping, gas appliances and related accessories as covered in this Code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances, and the installation and operation of residential and commercial gas appliances and related accessories.

11. The provisions of the Florida Building Code, Mechanical, shall apply to the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators and other energy-related devices.

12. The provisions of the Florida Building Code, Plumbing, shall apply to every plumbing installation, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances and when connected to a water or sewerage system and all aspects of a medical gas system.

13. The provisions of this Article shall not be held to deprive any federal or state agency, or any applicable governing authority having jurisdiction, of any power or authority which it had on the effective date of the adoption of this Article or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

14. The appendices included in the technical codes referred to in this Section are hereby adopted.

15. Standards referenced in the technical codes referred to in this Section shall be considered an integral part of the codes. If specific portions of a standard are denoted by code text, only those portions of the standard shall be enforced. Where code provisions conflict with a standard, the code provisions shall be enforced. Permissive and advisory provisions in a standard shall not be construed as mandatory.

16. The inch-pound system of measurement is applicable to the provisions of the Florida Building Code. Metric units indicated in parenthesis following inch-pound units are approximate equivalents and are provided for informational purposes only.

17. For provisions related to accessibility, refer to Chapter 11 of the Florida Building Code, Building.

18. For provisions related to energy, refer to Chapter 13 of the Florida Building Code, Building.

SECTION 10-1.3. RULES OF CONSTRUCTION AND DEFINITIONS.

The rules set out in this Section shall be observed, unless such construction is inconsistent with the manifest intent of this Article. The rules of construction and definitions set out in this Section shall not be applied to any Section of this Article which contains any express provisions excluding such construction, or where the subject matter or content of such Section would be inconsistent with this Section. All provisions, terms, phrases and expressions contained in this division shall be liberally construed in order that the true intent and meaning of the administration of the City may be fully carried out. Terms used in this division, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of this state for the same terms. In case of any difference of meaning or implication between the text of this division and any figure, the text shall control. Words not defined in this Section shall have the meaning stated in state statutes; other nationally recognized codes; other City ordinances; or other documents, manuals or standards adopted elsewhere in this Article. Words not defined in those documents shall have the meaning stated in the Webster's Ninth New Collegiate Dictionary, as revised. In case of a conflict in definitions or Codes, the appropriate definition (or Code) to be applied shall be the one applicable to the trade in question. In case of a conflict between different parts of this Article, conflicts within the same Code or conflicts between Code, the more stringent requirements shall be applicable.

Abandon and *abandonment* mean: (1) Termination of a construction project by a contractor without just cause or proper notification to the owner including the reason for termination; or, (2) Failure of a contractor to perform work without just cause for 90 days; or, (3) Failure to obtain an approved inspection within 180 days from the previous approved inspection.

Appraised value means either: (1) One hundred twenty percent of the assessed value of a structure as indicated by the county property appraiser's office; or (2) The value as indicated in a certified appraisal from a certified appraiser.
Assessed value means the value of real property and improvements thereon as established by the county property appraiser.

Authorized agent means a person specifically designated as set forth on an approved authorized agent affidavit form. Such person will have authority as set forth by the affidavit.

Basic wind speed line means as described below and displayed by the Hernando County Wind-Borne Debris Region & Basic Wind Speed Map attached to, and made part of this Article. Areas west of the wind speed contour line shall be designated as a 120 mile per hour wind zone, and areas east of the wind speed contour line shall be designated as a 110 mile per hour wind zone.
Hernando County Wind Speed Contour Line: Starting at the Pasco-Hernando county line going north on Culbreath Road (C.R. 581) to Powell Road (C.R. 572) east to Emerson Road (C.R. 581) north to Jefferson Street (S.R. 50A) west to Broad Street (S.R. 41) north to Snow Memorial Highway (C.R. 481) and north to and ending at the Citrus-Hernando county line.

Board means the appropriate City or County board of adjustment and appeals, unless otherwise specifically stated.

Building component means an element or assembly of elements integral to or part of a building.

Building shell means the structural components that completely enclose a building, including, but not limited to, the foundation, structural frame, floor slabs, exterior walls and roof system.

Building system means a functionally related group of elements, components or equipment, such as the electrical, plumbing and mechanical systems of a building.

Certificate of occupancy (C.O.) means an official document evidencing that a building satisfies the requirements of the City for the occupancy of a building.

Change of occupancy means a change from one building code occupancy classification or subclassification to another.

Commercial building means any building, structure, improvement or accessory thereto, other than a one-family or two-family dwelling.

Cumulative construction cost means the sum total of costs associated with any construction work done to a building or structure either at one time or at different times within a specified period of time.

Delegation of authority. Whenever a provision appears requiring the Building Official or some other officer or employee to do some act or perform some duty, it is to be construed to authorize the Building Official 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.
Demolition means the act of razing, dismantling or removal of a building or structure, or portion thereof, to the ground level.

Imminent danger means structurally unsound conditions of a structure or portion thereof that is likely to cause physical injury to a person entering the structure; or due to structurally unsound conditions, any portion of the structure is likely to fall, be carried by the wind, or otherwise detach or move, and in doing so cause physical injury or damage to a person on the property or to a person or property nearby; or the condition of the property is such that it harbors or is inhabited by pests, vermin or organisms injurious to human health, the presence of which constitutes an immediate hazard to people in the vicinity.

Inspection warrant means a court order authorizing the official or his designee to perform an inspection of a particular property named in the warrant.

Intensification of use means an increase in capacity or number of units of a residential or commercial building.

Interior finish means the preparation of interior spaces of a commercial building for the first occupancy thereof.

Interpretation means that interpretations of this Article shall be made by the Building Official.

Market value means as defined in the floodplain regulations of the Florida Building Code.

Month means a calendar month.

Permit means an official document authorizing performance of a specific activity regulated by this Article.

Permit card or placard means a document issued by the City evidencing the issuance of a permit and recording of inspections.

Remodeling means work which changes the original size, configuration or material of the components of a building.

Residential building means any one-family or two-family building or accessory.

Roofing means the installation of roof coverings.

Shall is mandatory; *may* is permissive. The term "shall" takes precedence over the term "may."

Spa means any constructed or prefabricated pool containing water jets.

Start of construction means: (1) *Site.* The physical clearing of the site in preparation for foundation work including, but not limited to, site clearing, excavation, dewatering, pilings and soil testing activities. (2) *Building.* The removal, disassembly, repair, replacement, installation or assembly of the building, structure, building system or building components in whole or parts thereof.

Stop work order means an order by the Building Official, or his designee, which requires the immediate cessation of all work and work activities described in the order.

Structural component means any part of a system, building or structure, loadbearing or nonloadbearing, which is integral to the structural integrity thereof, including, but not limited to, walls, partitions, columns, beams and girders.

Structural work or alteration means the installation or assembling of new structural components into a system, building or structure. Also, any change, repair or replacement of any existing structural component of a system, building or structure.

Substantial completion means where the construction work has been sufficiently completed in accordance with the applicable City, state and federal codes, so that the owner can occupy or utilize the project for the use for which it is intended.

Value means the job cost, including, but not limited to, materials and labor.

Wind borne debris region means those areas lying within the established coastal high hazard as designated on a FIRM as zone V1--V30. This area is commonly referred to as the "V Zone."

Written or *in writing* shall be construed to include any representation of words, letters or figures whether by printing or otherwise.

Year means a calendar year, unless a fiscal year is indicated.

SECTION 10-1.4. BUILDING DEPARTMENT

A. Establishment of building department.

There is established a department to be called the building department and the person in charge shall be known as the Building Official.

B. Employee qualifications.

1. Building Official qualifications.

The Building Official shall be licensed as a building code administrator by the state. The Building Official shall be appointed or hired by the City Manager.

2. Employee qualifications.

The Building Official, with the approval of the City Manager, may appoint or hire such number of officers, inspectors, plans examiners, assistants and other employees as shall be authorized from time to time. A person shall not be appointed or hired as inspector or plans examiner unless that person meets the qualifications for licensure as an inspector or plans examiner, in the appropriate trade as established by the state.

3. Restrictions on employees.

An officer or employee connected with the building department, except one whose only connection is as a member of the commission established by this Article, shall not be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building, structure, service, system or in the making of plans or of specifications thereof, within the jurisdiction of the building department, unless he is the owner of such. This officer or employee shall not engage in any other work which is inconsistent with his duties or conflict with the interest of the building department.

4. Records.

The Building Official shall keep, or cause to be kept, a record of the business of the building department. The records of the building department shall be open to public inspection.

5. Liability.

Any officer or employee charged with the enforcement of this Article, acting for the City in the discharge of his duties, shall not thereby render himself personally liable, and is relieved from all personal liability, for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee or member because

of such act performed by him in the enforcement of any provisions of this Article shall be defended by the City Attorney until the final termination of the proceedings, unless such person is found to have acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for the safety, health and welfare of the public.

C. Powers and duties of the Building Official.

1. Generally.

The Building Official is authorized and directed to enforce the provisions of this Article. The Building Official shall have the authority to render interpretations of this Article and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Article, and shall not have the effect of waiving requirements specifically provided for in this Article.

2. Right of entry.

a. Whenever necessary to make an inspection to enforce any of the provisions of this Article, or whenever the Building Official has reasonable cause to believe that there exists in any building or upon any premises any condition or Code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the Building Official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this Article. If such building or premises are occupied, he shall first present proper credentials and request entry. If such building, structure or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry.

b. When the Building Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official for the purpose of inspection and examination pursuant to this subsection.

3. Stop work orders.

Upon notice from the Building Official, work on any building, structure, electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of this Article or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work. It shall be unlawful for any person to continue to work or perform acts for which a stop work order was issued. A person failing to comply with a stop work order or otherwise violate a stop work order shall be deemed to have violated this Article and is subject to applicable disciplinary guidelines as provided in the City construction licensing code.

4. Revocation of permits.

The Building Official is authorized to suspend or revoke a permit issued under the provisions of this Article whenever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any provisions of this Article.

a. Misrepresentation of application.

The Building Official may revoke a permit or approval, issued under the provisions of this Article, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

b. Violation of Article provisions.

The Building Official may revoke a permit upon determination by the Building Official that the construction, erection, alteration, repair, moving, demolition, installation or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this Article.

5. Unsafe buildings or systems.

All buildings, structures, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe

buildings or service systems. All such unsafe buildings, structures or service systems are declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the Standard Unsafe Building Abatement Code or other City Code.

6. Requirements not covered.

Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this Article or the other technical codes referred to in Section 10-1.2.E. shall be determined by the Building Official.

7. Alternate materials and methods.

a. The provisions of the technical codes referred to in Section 10-1.2.E. are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided any such alternate has been reviewed by the Building Official. The Building Official shall approve any such alternate, provided the Building Official finds that the alternate for the purpose intended is at least the equivalent of that prescribed in the technical codes in quality, strength, effectiveness, fire resistance, durability and safety. When alternate life safety systems are designed, the SFPE Engineering Guide to Performance-Based Fire Protection Analysis and Design of Buildings, or other methods approved by the Building Official may be used. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate.

b. Alternate designs and technologies for providing access to and usability of a facility for persons with disabilities shall be in accordance with Section 11-2.2 of the Florida Building Code.

D. Permits.

1. Permit application.

a. When required.

Any owner, authorized agent or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy or occupant content of a building or structure, or any outside area being used as part of the building's designated occupancy (single or mixed) or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is

regulated by the technical codes referred to in Section 10-1.2.E. or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit for the work. Permits shall not be required for the following mechanical work:

1. Any portable heating appliance;

2. Any portable ventilation equipment;

3. Any portable cooling unit;

4. Any steam, hot or chilled water piping within any heating or cooling equipment regulated by this Article;

5. Replacement of any part which does not alter its approval or make it unsafe, not including components of a central heating and air conditioning system;

6. Any portable evaporative cooler;

7. Any self-contained refrigeration system containing ten pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less;

8. The installation, replacement, removal or metering of any load management control device; and

9. Other construction work deemed exempt by written policy of the Building Official.

b. Temporary structures.

A special building permit for a limited time shall be obtained before the erection of temporary structures such as construction sheds, seats, canopies, tents and fences used in construction work or for temporary purposes such as reviewing stands. Such structures shall be completely removed upon the expiration of the time limit stated in the permit.

c. Work authorized.

A building, electrical, gas, mechanical or plumbing permit shall carry with it the right to construct or install the work, provided the same is shown on the drawings and set forth in the specifications filed with the application for the permit. Where these are not shown on the drawings and covered by

the specifications submitted with the application, separate permits shall be required.

d. Minor repairs.

Ordinary minor repairs may be made with the approval of the Building Official without a permit, provided that such repairs shall not violate any of the provisions of the technical codes referred to in Section 10-1.2.E.

e. Information required.

Each application for a permit, with the required fee, shall be filed with the Building Official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the owner or his authorized agent. The building permit application shall indicate the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure and shall contain such other information as may be required by the Building Official. Permit application forms shall be in the format prescribed by the Building Official, and must comply with the requirements of F.S. § 713.135(6) and (7). Each application shall be inscribed with the date of application and the Code in effect as of that date.

f. Time limitations.

Except as otherwise provided in this Article, an application for a permit for any proposed work shall be deemed to have been abandoned, and shall expire by limitation and become null and void six months after the date of filing for the permit, or plan approval, whichever is later unless before then a permit has been issued. One or more extensions of time for periods of not more than 90 days each may be allowed by the Building Official for the application, provided the extension is requested in writing and justifiable cause is demonstrated.

g. Annual facility permit.

In lieu of an individual permit for each alteration to an existing electrical, gas, mechanical, plumbing or interior nonstructural office system, the Building Official is authorized to issue an annual permit for group F occupancies to facilitate routine or emergency service, repair, refurbishing, minor renovations of service systems or manufacturing equipment installations/relocations. The Building Official shall be notified

of major changes and shall retain the right to make inspections at the facility site as deemed necessary. A facility service permit shall be assessed an annual fee and shall be valid for one year from date of issuance. A separate permit shall be obtained for each facility and for each construction trade, as applicable. The permit application shall contain a general description of the parameters of work intended to be performed during the year.

h. Annual permit records.

The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The Building Official shall have reasonable access to such records upon request. The permit holder shall list/identify all work performed on a form approved by the Building Official. At the end of the permit validation period, a copy of the log shall be filed with the Building Official. The Building Official is authorized to revoke or withhold the issuance of the future permits if a pattern of code violations is found to exist.

i. Food permit.

As per F.S. § 500.12, a food permit from the department of agriculture and consumer services is required of any person who operates a food establishment or retail store.

j. Notice of commencement.

As per F.S. § 713.135, when any person applies for a building permit, the authority issuing such permit shall print on the face of each permit card in no less than 18-point, capitalized, boldfaced type: WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

k. Asbestos.

Each building permit for the demolition or renovation of an existing structure shall contain an asbestos notification statement which indicates the owner's or operator's responsibility to comply with the provisions of F.S. § 469.003 and to notify the department of environmental protection of

his intentions to remove asbestos, when applicable, in accordance with state and federal law.

2. Drawings and specifications.

a. Requirements.

Two or more copies of specifications and of drawings drawn to a minimum one-quarter-inch scale with sufficient clarity and detail to indicate the nature and character of the work shall accompany the application for a permit. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the technical codes referred to in Section 10-1.2.E. Such information shall be specific, and the technical codes shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design.

1. For roof assemblies required by the Florida Building Code, the construction documents shall illustrate, describe and delineate the type of roofing system, materials, fastening requirements, flashing requirements and wind resistance rating that are required to be installed. Product evaluation and installation shall indicate compliance with the wind criteria required for the specific site or a statement by an architect or engineer for the specific site must be submitted with the construction documents.

2. The Building Official shall be allowed to require details, computations, stress diagrams and other data necessary to describe the construction or installation and the basis of calculations.

b. Design professional.

If the design professional is an architect or engineer legally registered under the laws of this state regulating the practice of architecture or engineering, then he shall affix his official seal to such drawings, specifications and accompanying data, as required by state statute. Certification by contractors authorized under the provisions of F.S. § 489.115(4)(b) shall be considered equivalent to sealed plans and specifications by a person licensed under F.S. Chapter 471 or F.S. Chapter 481 by local enforcement agencies for plans review for permitting purposes relating to compliance with the wind resistance provisions of the

Florida Building Code or alternate methodologies approved by the state building commission for one-family and two-family dwellings. Local enforcement agencies may rely upon such certification by contractors that the plans and specifications submitted conform to the requirements of the Code for wind resistance. Upon good cause shown, local government code enforcement agencies may accept or reject plans sealed by persons licensed under F.S. chs. 471, 481 or 489.

c. Structural and fire resistance integrity.

Plans for all buildings shall indicate how required structural and fire resistance integrity will be maintained where a penetration of a required fire resistant wall, floor or partition will be made for electrical, gas, mechanical, plumbing and communication conduits, pipes and systems. Such plans shall also indicate in sufficient detail how the fire integrity will be maintained where required fire resistant floors intersect the exterior walls and where joints occur in required fire resistant construction assemblies.

d. Site drawings.

Drawings shall show the location of the proposed building or structure and of every existing building or structure on the site or lot. The Building Official shall be permitted to require a boundary line survey prepared by a qualified surveyor whenever the boundary lines cannot be readily determined in the field.

e. Hazardous occupancies.

The Building Official may require the following:

1. General site plan.

A general site plan drawn at a legible scale which shall include, but not be limited to, the location of all buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of hazardous materials stored.

2. Building floor plan.

A building floor plan drawn to a legible scale, which shall include, but not be limited to, all hazardous materials storage facilities within the building and shall indicate rooms, doorways, corridors, exits, fire rated assemblies with their hourly rating, location of liquid tight rooms, and evacuation routes. Each hazardous materials storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class of the hazardous materials stored.

f. Certificate of protective treatment for prevention of termites.

A weather resistant job site posting board shall be provided to receive duplicate treatment certificates as each required protective treatment is completed, providing a copy for the person the permit is issued to and another copy for the building permit files. The treatment certificate shall provide the product used, identity of the applicator, time and date of the treatment, site location, area treated, chemical used, percent concentration and number of gallons used, to establish a verifiable record of protective treatment. If the soil chemical barrier method for termite prevention is used, final exterior treatment shall be completed prior to final building approval.

g. Notice of termite protection.

A permanent sign which identifies the termite treatment provider and need for re-inspection and treatment contract renewal shall be provided. The sign shall be posted near the water heater or electric panel.

3. Examination of documents.

a. Plan review.

The Building Official shall examine or cause to be examined each application for a permit and the accompanying documents, consisting of drawings, specifications, computations and additional data, and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of the technical codes referred to in Section 10-1.2.E. and all other pertinent laws or ordinances. Building plans approved pursuant to F.S. § 553.77(6) and state-approved manufactured buildings are exempt from City codes enforcing agency plan reviews except for provisions of the Florida Building Code relating to erection, assembly or construction at the site. Erection, assembly and

construction at the site are subject to City permitting and inspections. Industrial construction on sites where design, construction and fire safety are supervised by appropriate design and inspection professionals and which contain adequate in-house fire departments and rescue squads is exempt from review of plans and inspections, providing owners certify that applicable codes and standards have been met and supply appropriate approved drawings to local building and fire-safety inspectors.

1. Minimum plan review criteria for buildings.

The examination of the documents by the Building Official shall include the following minimum criteria and documents: a floor plan, site plan, foundation plan, floor/roof framing plan or truss layout and all exterior elevations:

a. Commercial buildings:

1. Building:
(i) Site requirements:

(A) Parking.

(B) Fire access.

(C) Vehicle loading.

(D) Driving/turning radius.

(E) Fire hydrant/water supply/post indicator valve (PIV).

(F) Setback/separation (assumed property lines).

(G) Location of specific tanks, water lines and sewer lines.

(ii) Occupancy group and special occupancy requirements shall be determined.

(iii) Minimum type of construction shall be determined (Table 500).

(iv) Fire resistant construction requirements shall include the following components:

(A) Fire resistant separations.

(B) Fire resistant protection for type of construction.

(C) Protection of openings and penetrations of rated walls.

(D) Fire blocking and draft-stopping.

(E) Calculated fire resistance.

(v) Fire suppression systems shall include:

(A) Early warning.

(B) Smoke evacuation systems schematic.

(C) Fire sprinklers.

(D) Standpipes.

(E) Pre-engineered systems.

(F) Riser diagram.

(vi) Life safety systems shall be determined and shall include the following requirements:

(A) Occupant load and egress capacities.

(B) Smoke control.

(C) Stair pressurization.

(D) Systems schematic.

(vii) Occupancy load/egress requirements shall include:

(A) Occupancy load: gross, net.

(B) Means of egress: exit access, exit, exit discharge.

(C) Stairs construction/geometry and protection.

(D) Doors.

(E) Emergency lighting and exit signs.

(F) Specific occupancy requirements.

(G) Construction requirements.

(H) Horizontal exits/exit passageways.

(viii) Structural requirements shall include:

(A) Soil conditions/analysis.

(B) Termite protection.

(C) Design loads.
(D) Wind requirements.

(E) Building envelope.

(F) Structural calculations (if required).

(G) Foundation.

(H) Wall systems.

(I) Floor systems.

(J) Roof systems.

(K) Threshold inspection plan.

(L) Stair systems.

(ix) Materials shall be reviewed and shall at a minimum include the following:

(A) Wood.

(B) Steel.

(C) Aluminum.

(D) Concrete.

(E) Plastic.

(F) Glass.

(G) Masonry.

(H) Gypsum board and plaster.

(I) Insulating (mechanical).

(J) Roofing.

(K) Insulation.

(x) Accessibility requirements shall include the following:

(A) Site requirements.

(B) Accessible route.

(C) Vertical accessibility.

(D) Toilet and bathing facilities.

(E) Drinking fountains.

(F) Equipment.

(G) Special occupancy requirements.

(H) Fair housing requirements.

(xi) Interior requirements shall include the following:

(A) Interior finishes (flame spread/smoke develop).

(B) Light and ventilation.

(C) Sanitation.

(xii) Special systems:

(A) Elevators.

(B) Escalators.

(C) Lifts.

(xiii) Swimming pools:

(A) Barrier requirements.

(B) Spas.

(C) Wading pools.

2. Electrical:

(i) Electrical:

(A) Wiring.

(B) Services.

(C) Feeders and branch circuits.

(D) Overcurrent protection.

(E) Grounding.

(F) Wiring methods and materials.

(G) GFCIs.

(ii) Equipment.

(iii) Special occupancies.

(iv) Emergency systems.

(v) Communication systems.

(vi) Low-voltage.

(vii) Load calculations.

3. Plumbing:

(i) Minimum plumbing facilities.

(ii) Fixture requirements.

(iii) Water supply piping.

(iv) Sanitary drainage.

(v) Water heaters.

(vi) Vents.

(vii) Roof drainage.

(viii) Backflow prevention.

(ix) Irrigation.

(x) Location of water supply line.

(xi) Grease traps.

(xii) Environmental requirements.

(xiii) Plumbing riser.

4. Mechanical:

(i) Energy calculations.

(ii) Exhaust systems:

(A) Clothes dryer exhaust.

(B) Kitchen equipment exhaust.

(C) Specialty exhaust systems.

(iii) Equipment.

(iv) Equipment location.

(v) Make-up air.

(vi) Roof-mounted equipment.

(vii) Duct systems.

(viii) Ventilation.

(ix) Combustion air.

(x) Chimneys, fireplaces and vents.

(xi) Appliances.

(xii) Boilers.

(xiii) Refrigeration.

(xiv) Bathroom ventilation.

(xv) Laboratory.

5. Gas:

(i) Gas piping.

(ii) Venting.

(iii) Combustion air.

(iv) Chimneys and vents.

(v) Appliances.

(vi) Type of gas.

(vii) Fireplaces.

(viii) LP tank location.

(ix) Riser diagram/shut-offs.

6. Demolition. Asbestos removal.

b. Residential (one-family and two-family):

1. Site requirements:

(i) Setback/separation (assumed property lines).

(ii) Location of utility services (water-sewer) or septic tanks (if applicable).

2. Fire resistant construction (if required).

3. Fire.

4. Smoke detector locations.

5. Egress:
(i) Egress window size and location.

(ii) Stairs construction requirements.

6. Structural requirements shall include:

(i) Wall Section from foundation through roof, including assembly and materials.

(ii) Connector tables.

(iii) Wind requirements.

(iv) Structural calculations (if required).

7. Accessibility requirements. Show/identify accessible bath.

c. Manufactured/mobile homes:

1. Site requirements:

(i) Setback/separation (assumed property lines).

(ii) Location of utility services (water-sewer) or septic tanks (if applicable).

2. Structural:

(i) Wind zone.

(ii) Anchoring.

(iii) Blocking.

3. Mechanical exhaust systems:

(i) Clothes dryer exhaust.

(ii) Kitchen equipment exhaust.

4. Electrical. Exterior disconnect location.

2. Exemptions.

Plans examination by the Building Official shall not be required for the following work:

a. Replacing existing equipment such as mechanical units, water heaters, etc.

b. Re-roofs.

c. Minor electrical, plumbing and mechanical repairs.

d. Annual maintenance permits.

e. Prototype plans except for local site adaptations, siding, foundations and/or modifications except for structures that require waiver.

b. Affidavits.

The Building Official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the technical codes referred to in Section 10-1.2.E. For buildings and structures, the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and, if accompanied by drawings, show the structural design and that the plans and design conform to the requirements of the technical codes as to strength, stresses, strains, loads and stability. The Building Official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the Building Official copies of inspection reports as inspections are performed and upon completion of the structure, electrical, gas, mechanical or plumbing systems a certification that the structure, electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the technical codes and other pertinent laws or ordinances. The Building Official shall ensure that any person conducting plans review is qualified as a plans examiner under F.S. Chapter 468, part XII (F.S. § 468.601 et seq.), and that any person conducting inspections is qualified as a building inspector under F.S. § 468.601 et seq.

4. Issuing permits.

a. Action on permits.

1. The Building Official shall act upon an application for a permit without unreasonable or unnecessary delay. If the Building Official is satisfied that the work described in an application for a permit and the contract documents filed therewith conform to the requirements of the technical codes referred to in Section 10-1.2.E. and other pertinent laws and ordinances, he shall issue a permit to the applicant. When authorized through contractual agreement with a school board, in acting on applications for permits, the Building Official shall give first priority to any applications for the construction of, or addition or renovation to, any school or educational facility.

2. If a state university, state community college, or public school district elects to use the City's code enforcement offices, fees charged for enforcement of the Florida Building Code on buildings, structures and facilities of state universities, state colleges, and public school districts shall not be more than the actual labor and administrative costs incurred for plans review and inspections to ensure compliance with the Code.

3. No permit may be issued for any building construction, erection, alteration, modification, repair or addition unless the applicant for such permit provides to the City any of the following documents which apply to the construction for which the permit is to be issued and which shall be prepared by or under the direction of an engineer registered under F.S. Chapter 471:

   a. Electrical documents for any new building or addition which requires an aggregate service capacity of 600 amperes (240 volts) or more on a residential electrical system or 800 amperes (240 volts) on a commercial or industrial electrical system and which costs more than $50,000.00.

   b. Plumbing documents for any new building or addition which requires a plumbing system with more than 250 fixture units or which costs more than $50,000.00.

   c. Fire sprinkler documents for any new building or addition which includes a fire sprinkler system which contains 50 or more sprinkler heads. A contractor I, contractor II, or contractor IV, certified under F.S. § 633.521, may design a fire sprinkler system of 49 or fewer heads and may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation, addition or deletion of not more than 49 heads, notwithstanding the size of the existing fire sprinkler system.

   d. Heating, ventilation and air conditioning documents for any new building or addition which requires more than a 15-ton-per-system capacity which is designed to accommodate 100 or more persons or for which the system costs more than $50,000.00. This subsection does not include any document for the replacement or repair of an existing system in which the work does not require altering a

structural part of the building or for work on a residential one-family, two-family, three-family or four-family structure. An air conditioning system may be designed by an installing air conditioning contractor certified under F.S. Chapter 489, to serve any building or addition which is designed to accommodate fewer than 100 persons and requires an air conditioning system with a value of $50,000.00 or less; and when a 15-ton-per-system or less is designed for a singular space of a building and each 15-ton system or less has an independent duct system. Systems not complying with the above required design documents that are to be sealed by a professional engineer.

1. *Example 1.* When a space has two ten-ton systems with each having an independent duct system, the contractor may design these two systems since each system is less than 15 tons.

2. *Example 2.* Consider a small single story office building which consists of six individual offices where each office has a single three-ton package air conditioning heat pump. The six heat pumps are connected to a single water cooling tower. The cost of the entire heating, ventilation and air conditioning work is $47,000.00 and the office building accommodates fewer than 100 persons.

   Note: The limiting criteria of 100 persons and $50,000.00 apply to the building occupancy load and the cost of the total air conditioning system of the building.

e. Any specialized mechanical, electrical or plumbing document for any new building or addition which includes a medical gas, oxygen, steam, vacuum, toxic air filtration, halon or fire detection and alarm system which costs more than $5,000.00. Documents requiring an engineer seal by this part shall not be valid unless a professional engineer who possesses a valid certificate of registration has signed, dated and stamped such document as provided in F.S. § 471.025.

4. The Building Official may not issue a building permit for any building construction, erection, alteration, modification, repair or addition unless the permit either includes on its face or there is attached to the permit the following statement: "NOTICE: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies or federal agencies."

5. A building permit for a single-family residential dwelling must be issued within 30 working days of application therefor unless unusual circumstances require a longer time for processing the application or unless the permit application fails to satisfy the Florida Building Code or City's Code.

b. Refusal to issue permit.

If the application for a permit and the accompanying contract documents describing the work do not conform to the requirements of the technical codes referred to in Section 10-1.2.E. or other pertinent laws or ordinances, the Building Official shall not issue a permit, but shall return the contract documents to the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reason for refusal.

c. Identification of minimum premium policy.

Except as otherwise provided in F.S. Chapter 440, workers compensation, every employer shall, as a condition to receiving a building permit, show proof that it has secured compensation for its employees as provided in F.S. §§ 440.10 and 440.38.

d. Asbestos removal.

Moving, removal or disposal of asbestos-containing materials may be permitted on a residential building where the owner occupies the building, the building is not for sale or lease, and the work is performed according to the owner-builder limitations provided in the disclosure statement. To qualify for exemption under this subsection, an owner must personally appear and sign the building permit application. The Building Official

shall provide the person with a disclosure statement in substantially the following form:

Disclosure Statement

State law requires asbestos abatement to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own asbestos abatement contractor even though you do not have a license. You must supervise the construction yourself. You may move, remove or dispose of asbestos-containing materials on a residential building where you occupy the building and the building is not for sale or lease, or the building is a farm outbuilding on your property. If you sell or lease such building within one year after the asbestos abatement is complete, the law will presume that you intended to sell or lease the property at the time the work was done, which is a violation of this exemption. You may not hire an unlicensed person as your contractor. Your work must be done according to all local, state and federal laws and regulations which apply to asbestos abatement projects. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances.

e. Special foundation permit.

When application for permit to erect or enlarge a building has been filed and pending issuance of such permit, the Building Official may, at his discretion, issue a special permit for the foundation only. The holder of such a special permit is proceeding at their own risk and without assurance that a permit for the remainder of the work will be granted nor that corrections will not be required in order to meet provisions of the technical codes referred to in Section 10-1.2.E.

f. Public right-of-way.

A permit shall not be given by the Building Official for the construction of any building, or for the alteration of any building where such building is to be changed and such change will affect the exterior walls, bays, balconies or other appendages or projections fronting on any street, alley or public lane, or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has made application for right-of-way permits from the authority having jurisdiction over the street, alley or public lane.

5. Conditions of the permit.

a. Permit intent.

A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter or set aside any of the provisions of the technical codes referred to in Section 10-1.2.E. nor shall issuance of a permit prevent the Building Official from thereafter requiring a correction of errors in plans, construction or violations of this Article. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six months after the time the work is commenced. Failure to obtain an approved inspection within 180 days of the previous approved inspection shall constitute suspension or abandonment. One or more extensions of time, for periods not more than 90 days each, may be allowed by the Building Official for the permit, provided the extension is requested in writing and justifiable cause is demonstrated prior to the expiration date. The Building Official shall record the extension of time granted.

1. If work has commenced and the permit is revoked, becomes null and void, expires because of lack of progress or abandonment, or a change in the primary contractor is made, a new permit covering the proposed or remaining construction shall be obtained before proceeding with the work.

2. If a new permit is not obtained within 180 days from the date the initial permit became null and void, the Building Official is authorized to require that any work which has been commenced or completed be removed from the building site. Alternately, a new permit may be issued on application, providing the work in place and required to complete the structure meets all applicable regulations in effect at the time the initial permit became null and void and any regulations which may have become effective between the date of expiration and the date of issuance of the new permit.

3. Work shall be considered to be in active progress when the permit has received an approved inspection within 180 days. This provision shall not be applicable in case of civil commotion or strike or when the building work is halted due directly to judicial injunction, order or similar process.

4. The fee for renewal, reissuance and extension of a permit shall be set forth by the City Council.

5. Permits issued for the demolition of a structure shall expire 60 days from the date of issuance. For a justifiable cause, one extension of time for a period not exceeding 30 days may be allowed. Such request shall be in writing to the Building Official.

6. Unless otherwise stated in this Article, a permit shall be valid for a period not exceeding two years from the date of issuance.

b. Permit issued on basis of an affidavit.

Whenever a permit is issued in reliance upon an affidavit or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the Building Official, are hazardous or complex, the Building Official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations shall supervise such work. In addition, they shall be responsible for conformity to the permit, provide copies of inspection reports as inspections are performed, and upon completion make and file with the Building Official written affidavit that the work has been done in conformity to the reviewed plans and with the structural provisions of the technical codes referred to in Section 10-1.2.E. In the event such architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are reviewed by the Building Official. The Building Official shall ensure that any person conducting plans review is qualified as a plans examiner under F.S. Chapter 468, part XII (F.S. § 468.601 et seq.) and that any person conducting inspections is qualified as a building inspector under F.S. Chapter 468, part III (F.S. § 468.201 et seq.).

c. Plans.

When the Building Official issues a permit, the Building Official shall endorse, in writing or by stamp, both sets of reviewed plans "Reviewed for Code Compliance." One set of reviewed drawings shall be retained by the Building Official and the other set shall be returned to the applicant. The permit drawings shall be kept at the site of work and shall be open to inspection by the Building Official or his authorized representative.

d. Work starting before permit issuance.

Upon approval of the Building Official, the scope of work delineated in the building permit application and plans may be started prior to the final approval and issuance of the permit provided any work completed is entirely at risk of the permit applicant and the work does not proceed past the first required inspection.

6. Fees.

a. Prescribed fees.

A permit shall not be issued until fees authorized under F.S. § 553.80 have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, due to an increase in the estimated cost of the building, structure, electrical, plumbing, mechanical or gas systems, has been paid.

b. Work commencing before permit issuance.

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the Building Official's approval or the necessary permits shall be subject to a penalty of double (200 percent) the usual permit fee in addition to the required permit fees or as provided by City Council resolution. This provision shall not apply to emergency work when delay would clearly have placed life or property in imminent danger, but in all such cases the required permits must be obtained within three business days and any unreasonable delay in obtaining those permits shall result in the charge of a double fee in addition to the required permit fees. The payment of a double fee shall not preclude or be deemed a substitute for prosecution for commencing work without first obtaining a permit. The Building Official may grant extensions of time or waive fees when justifiable cause has been demonstrated in writing.

c. Accounting.

The Building Official shall keep a permanent and accurate accounting of all permit fees and other monies collected, the names of all persons upon whose account the same was paid, along with the date and amount thereof.

d. Schedule of permit fees.

On all buildings, structures, electrical, plumbing, mechanical and gas systems or alterations requiring a permit, a fee for each permit shall be

paid as required at the time of filing application, in accordance with the schedule as established by City Council.

e. Types of fees enumerated.

Fees are established by City Council resolution and may be charged for all of, but not limited to, the following:

1. Permits.

2. Plans examination.

3. Certificates of competency (including fees for applications, examinations, renewal, late renewal and reciprocity).

4. Reinspections.

5. Administrative fees (including fees for investigative and legal costs incurred in the context of certain disciplinary cases heard by the board).

6. Variance requests.

7. Administrative appeals.

8. Violations.

9. Other fees as established by City Council resolution.

f. Building permit valuations.

If, in the opinion of the Building Official, the valuation of building, alteration, structure, electrical, gas, mechanical or plumbing systems appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official. Permit valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment and other systems, including materials and labor. The permit valuation may be calculated using the latest building valuation data published by the Southern Building Code Congress International or other applicable model code organization, at the option of the Building Official.

7. Inspections.

a. Existing building inspections.

Before issuing a permit, the Building Official may examine or cause to be examined any building, electrical, gas, mechanical or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install or change the occupancy. He shall inspect all buildings, structures, electrical, gas, mechanical and plumbing systems, from time to time, during and upon completion of the work for which a permit was issued. He shall make a record of every such examination and inspection and of all violations of the technical codes referred to in Section 10-1.2.E.

b. Manufacturers and fabricators.

When deemed necessary by the Building Official, he shall make, or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the technical codes referred to in Section 10-1.2.E.

c. Inspection service.

The Building Official may make, or cause to be made, the inspections required by this Section. He may accept reports of department inspectors, independent inspectors or of recognized inspection services, provided that after investigation he is satisfied as to their licensure, qualifications and reliability. A certificate required by any provision of this Article shall not be based on such reports unless the same are recorded by the building code inspector or the architect or engineer performing building code inspections in a manner specified by the Building Official. The Building Official shall ensure that all persons making such inspections shall be certified in accordance to F.S. Chapter 468.

d. Inspections prior to issuance of certificate of occupancy or completion.

The Building Official shall inspect or cause to be inspected, at various intervals, all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, electrical, gas, mechanical or plumbing system upon completion, prior to the issuance of the certificate of occupancy or certificate of completion. In performing inspections, the Building Official shall give first priority to inspections of the construction, addition or renovation to any facilities owned or

controlled by a state university, state community college or public school district.

e. Posting of permit.

Work requiring a permit shall not commence until the permit holder or his agent posts the permit card in a conspicuous place on the premises. The permit shall be protected from the weather and located in such position as to permit the Building Official or representative to conveniently make the required entries thereon. This permit card shall be maintained in such position by the permit holder until the certificate of occupancy or completion is issued by the Building Official.

f. Inspection requests.

A permit holder (owner/contractor) is responsible for requesting a final inspection within ten calendar days of the completion of permitted work, and if applicable, a re-inspection within seven days of the issuance of a red-tag. A person failing to request an inspection as described in this Section is deemed to have violated this Article.

g. Required inspections.

The Building Official, upon notification from the permit holder or his agent, shall make the following inspections, and shall either release that portion of the construction or shall notify the permit holder or his agent of any violations which must be corrected in order to comply with the technical codes referred to in Section 10-1.2.E. The Building Official shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection.

1. Building.

a. Grade inspection.

To be made prior to the installation and inspection of the first rough plumbing inspection to verify the elevation of the slab and surrounding areas. Additional inspection of the final grade may be required prior to the final building inspection.

b. Foundation inspection.

To be made after trenches are excavated and forms erected and may at a minimum include the following building components:

1. Stem-wall.

2. Monolithic slab-on-grade. (To be made after the reinforcement is in place, all concealed conduit, piping, ducts and vents are installed and the electrical, plumbing and mechanical work is complete. Slab shall not be poured until all required inspections have been made and passed.)

3. Piling/pile caps.

4. Column.

5. Footers/grade beams.

c. Masonry bond beam inspection.

To be made after steel is placed and before concrete is poured and includes, but is not limited to:

1. Vertical cells/columns.

2. Lintel/tie beams.

d. Foundation survey.

A foundation survey prepared and certified by a registered surveyor shall be required for all new construction prior to approval of the framing inspection. The survey shall certify placement of the building on the site, illustrate all surrounding setback dimensions and shall be available at the job site for review by the building inspector. In lieu of providing a survey, the contractor may elect to uncover all property line markers and string-up all property lines in preparation for inspection.

e. Sheathing inspection.

To be made either as part of a dry-in inspection or done separately at the request of the contractor after all roof and wall sheathing and fasteners are complete and shall, at a minimum, include the following building components:

1. Roof sheathing.

2. Wall sheathing.

3. Sheathing fasteners.

4. Roof/wall/dry-in.

NOTE: Sheathing fasteners installed and found to be missing the structural member (shiners) shall be removed and properly reinstalled prior to installation of the dry-in material.

f. Pre-radiant barrier.

To be made prior to installation of barrier to ensure that all metal mechanical connections that are to be concealed are installed properly.

g. Framing inspection.

To be made after the roof, all framing, fire blocking and bracing is in place, all concealing wiring, all pipes, chimneys, ducts and vents are complete and may, at a minimum, include the following building components:

1. Window/door framing and installation.

2. Vertical cells/columns.

3. Lintel/tie beams.

4. Framing/trusses/bracing/connectors.

5. Draft stopping/fire-blocking.

6. Curtain wall framing.

7. Accessibility.

h. Firewall inspection.

To be made prior to the insulation inspection, including, but not limited to, the following:

1. Residential firewall.

2. Residential firewall, second layer.

3. Commercial firewall.

4. Commercial firewall, second layer.

i. Insulation inspection.

To be made after the framing inspection is approved and the insulation is in place.

j. Roofing inspection.

To be made as two inspections on tile, slate or similar roof coverings or as one inspection on all other roof coverings, and may, at a minimum, include the following building components:

1. Dry-in.

2. Insulation.

3. Roof coverings.

4. Flashing.

k. Top ply (cap sheet) inspection.

For cement applied tile roofs only. To be made after the top ply (cap sheet) is installed and back-nailed, and before roof covering is applied.

l. Ceiling diaphragm inspection.

To be made after drywall is installed, but before any seams or screws are covered. If a ceiling diaphragm is not incorporated into the building design, this inspection is not required.

m. Final inspection.

To be made after the building is completed and ready for occupancy.

2. Swimming pool.

a. Initial and interim inspections shall include, but not be limited to, the following:

1. Pool first plumbing.

2. Pool steel.

3. Pool bond.

4. Pool deck.

5. Excavation/hole (fiberglass shell).

b. Final inspection to be made when the swimming pool is complete and all required enclosure requirements are in place and shall include, but not be limited to, the following:

1. Pool final plumbing.

2. Pool final electric.

3. Pool final building.

NOTE: In order to pass the pool final building inspection and receive a certificate of completion, a residential swimming pool must meet the requirements relating to pool safety features as described in F.S. § 424.2.17.

3. Demolition.

   a. First inspection to be made after all utility connections have been disconnected and secured in such manner that no unsafe or unsanitary conditions shall exist during or after demolition operations. This includes, but is not limited to, sewer, water, well, septic tank, electric and any other applicable utility disconnection.

   b. Final inspection to be made after all demolition work is completed.

4. Electrical.

   a. Underground inspection.

      To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.

   b. Rough-in inspection.

      To be made after the roof, framing, fire-blocking and bracing is in place and prior to the installation of wall or ceiling membranes.

   c. Final inspection.

      To be made after the building is complete, all required electrical fixtures are in place and properly connected or protected, and the structure is ready for occupancy.

   d. Temporary pole inspection.

      To be made after temporary service is installed.

5. Plumbing.

   a. Underground inspection/first rough.

      To be made after trenches or ditches are excavated, piping installed, and before any backfill is put in place.

b. Second rough-in inspection.

To be made after the roof, framing, fire-blocking and bracing is in place and all soil, waste and vent piping is complete, and prior to the installation of wall or ceiling membranes. Separate inspections for sewer, grease trap and sprinklers may be applicable and in addition to a second rough.

c. Final inspection.

To be made after the building is complete, all required plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

6. Mechanical.

a. Underground inspection.

To be made after trenches or ditches are excavated, underground duct and fuel piping installed, and before any backfill is put in place.

b. Rough-in inspection.

To be made after the roof, framing, fire-blocking and bracing is in place and all ducting and other concealed components are complete, and prior to the installation of wall or ceiling membranes. Separate inspections for hood, hood suppression and solar may be applicable and in addition to a second rough.

c. Final inspection.

To be made after the building is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.

7. Gas.

a. Underground piping inspection.

To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.

b. Rough piping inspection.

To be made after all piping authorized by the permit has been installed and not concealed and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.

c. Final inspection.

To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes, to ensure compliance with all the requirements of this Article and to ensure that the installation and construction of the gas system is in accordance with reviewed plans.

h. Site debris.

1. The contractor or owner of any active or inactive construction project shall be responsible for the cleanup and removal of all construction debris or any other miscellaneous discarded Articles prior to receiving final inspection approval. Construction job sites must be kept clean, such that accumulation of construction debris must not remain on the property for a period of time exceeding 14 days.

2. All debris shall be kept in such a manner as to prevent it from being spread by any means.

3. Compliance with this Section and/or the appropriate containment of site debris as otherwise regulated by local ordinance shall be determined by the Building Official or his designee.

i. Written release.

Work shall not be done on any part of a building, structure, electrical, gas, mechanical or plumbing system beyond the point indicated in each successive inspection without first obtaining a written release from the Building Official. Such written release shall be given only after an inspection has been made of each successive step in the construction or installation as indicated by each of the inspections required in subsection (g) of this Section.

j. Reinforcing steel and structural frames.

Reinforcing steel or structural framework of any part of any building or structure shall not be covered or concealed without first obtaining a release from the Building Official.

k. Plaster fire protection.

In all buildings where plaster is used for fire protection purposes, the permit holder or his agent shall notify the Building Official after all lathing and backing is in place. Plaster shall not be covered or concealed from view without first obtaining a release from the Building Official.

l. Fire resistant joints and penetrations.

The protection of joints and penetrations in required fire resistant construction assemblies shall not be covered or concealed from view without first obtaining a release from the Building Official.

m. Termites.

Building components and building surroundings required to be protected from termite damage in accordance with sections 1503.4.4, 1804.6.2.7, 1916.7.5, 2303, 2304 or 2603.3 of the Florida Building Code, specifically required to be inspected for termites in accordance with Section 2116 of the Florida Building Code, or required to have chemical soil treatment in accordance with Section 1816 shall not be covered or concealed until the release from the Building Official has been received.

n. Shoring.

For threshold buildings, shoring and associated form work or false work shall be designed and inspected by a state licensed professional engineer, employed by the permit holder or subcontractor, prior to any required mandatory inspections by the threshold building inspector.

8. Threshold building.

a. The Building Official shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to the Building Official prior to the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plan is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents.

b. The special inspector shall inspect the shoring and reshoring for conformance to the shoring and reshoring plans submitted to the Building Official. A fee simple title owner of a building which does not meet the minimum size, height, occupancy, occupancy classification or number of stories criteria which would result in classification as a threshold building under F.S. § 553.71(7), may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code, Building.

c. The fee owner of a threshold building shall select and pay all costs of employing a special inspector, but the special inspector shall be responsible to the City. The inspector shall be a person certified, licensed or registered under F.S. Chapter 471 as an engineer or under F.S. Chapter 481 as an architect.

d. On every threshold building:

1. The special inspector, upon completion of the building and prior to the issuance of a certificate of occupancy, file a signed and sealed statement with the enforcement agency in substantially the following form: "To the best of my knowledge and belief, the above-described construction of all structural loadbearing components complies with the permitted documents, and the shoring and reshoring conforms to the shoring and reshoring plans submitted to the City of Brooksville."

2. Any proposal to install an alternate structural product or system to which building codes apply shall be submitted to the City for review for compliance with this Article and made a part of the City's recorded set of permit documents.

3. All shoring and reshoring procedures, plans and details shall be submitted to the City for recordkeeping. Each shoring and reshoring installation shall be supervised, inspected and certified to be in compliance with the shoring documents by the contractor.

4. All plans for the building which are required to be signed and sealed by the architect or engineer of record contain a statement that, to the best of the architect's or engineer's knowledge, the plans and specifications comply with the applicable minimum building codes and the applicable fire-safety standards as determined by the City in accordance with this Section and F.S. Chapter 633.

5. The Building Official shall not issue a building permit for construction of any threshold building except to a licensed general contractor, as defined in F.S. § 489.105(3)(a), or to a licensed building contractor, as defined in F.S. § 489.105(3)(b), within the scope of his license.

6. The Building Official may allow a special inspector to conduct the minimum structural inspection of threshold buildings required by this Article, F.S. § 553.73, without duplicative inspection by the Building Official. The Building Official is responsible for ensuring that any person conducting inspections is qualified as a building inspector under F.S. Chapter 468, part XII (F.S. § 468.601 et seq.), or certified as a special inspector under F.S. chs. 471 or 481. Inspections of threshold buildings required by F.S. § 553.79(5) are in addition to the minimum inspections required by this Article.

9. Certificates.

a. Certificate of occupancy.

1. Building occupancy.

A new building shall not be occupied or a change made in the occupancy, nature or use of a building or part of a building until after the Building Official has issued a certificate of occupancy. Such certificate shall not be issued until all required electrical, gas, mechanical, plumbing and fire protection systems have been inspected for compliance with the technical codes referred to in Section 10-1.2.E. and other applicable laws and ordinances and released by the Building Official.

2. Issuing certificate of occupancy.

Upon completion of construction of a building or structure and installation of electrical, gas, mechanical and plumbing systems in accordance with the technical codes referred to in Section 10-1.2.E. reviewed plans and specifications, and after the final inspection, and after verification that all septic system permits have received an approved final inspection where applicable, the Building Official shall issue a certificate of occupancy stating the nature of the occupancy permitted, the number of persons for each floor when limited by law, and the allowable load per square foot for each floor in accordance with the provisions of this Article.

3. Temporary/partial occupancy.

A temporary/partial certificate of occupancy may be issued for a portion of a building which may safely be occupied prior to final completion of the building.

b. Certificate of completion.

A certificate of completion is proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. This certificate does not grant authority to occupy or connect a building, such as a shell building, prior to the issuance of a certificate of occupancy.

c. Service utilities.

1. Connection of service utilities.

No person shall make connections from a utility source of energy, fuel or power to any building or system which is regulated by the technical codes referred to in Section 10-1.2.E. for which a permit is required, until released by the Building Official and a certificate of occupancy or completion is issued.

2. Temporary connection.

The Building Official may authorize the temporary connection of the building or system to the utility source of energy, fuel or power for the purpose of testing building service systems or for use under a temporary certificate of occupancy.

3. Authority to disconnect service utilities.

The Building Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by the technical codes referred to in Section 10-1.2.E. in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

d. Posting floor loads.

1. Occupancy.

An existing or new building shall not be occupied for any purpose which will cause the floors thereof to be loaded beyond their safe capacity.

2. Storage and factory-industrial occupancies.

It shall be the responsibility of the owner, agent, proprietor or occupant of group S and group F occupancies, or any occupancy where excessive floor loading is likely to occur, to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by an affidavit from the architect or engineer stating the safe allowable floor load on each floor in pounds per square foot uniformly distributed. The computations and affidavit shall be filed as a permanent record of the building department.

3. Signs required.

In every building or part of a building used for storage, industrial or hazardous purposes, the safe floor loads, as reviewed by the Building Official on the plan, shall be marked on plates of approved design which shall be supplied and securely affixed by the owner of the building in a conspicuous place in each story to which they relate. Such plates shall not be removed or defaced, and

if lost, removed or defaced, shall be replaced by the owner of the building.

10. Tests.

For products not covered under the statewide product evaluation and approval system, the Building Official may require tests or test reports as proof of compliance. Required tests are to be made at the expense of the owner, or his agent, by an approved testing laboratory or other approved agency.

SECTION 10-1.5. CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS.

A. Appointment.

There may be established a board to be called the construction board of adjustment and appeals, which should consist of nine members but not less than seven. The board shall be appointed by the City Council.

B. Membership of board.

1. Membership.

The construction board of adjustment and appeals should be composed of two division I contractors, one electrical contractor, one mechanical contractor, one plumbing contractor, one architect, one engineer and two members of the general public whenever possible. A board member shall not act in a case in which he has a personal or financial interest.

2. Terms.

The terms of office of the board members shall be staggered so no more than one-third of the board is appointed or replaced in any 12-month period. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from required meetings of the board shall, at the discretion of the applicable governing body, render any such member subject to immediate removal from office.

3. Quorum and voting.

A simple majority of the board shall constitute a quorum. In varying any provision of this Article, the affirmative votes of the majority present, but not less than three affirmative votes, shall be required. In modifying a decision of the

Building Official, not less than four affirmative votes, but not less than a majority of the board, shall be required.

4. Secretary of board.

A person shall be appointed by the local jurisdiction to act as secretary of the board and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member and any failure of a member to vote.

C. Powers.

The construction board of adjustment and appeals shall have the power, further defined in subsection (d) of this Section, to hear appeals of decisions and interpretations of the Building Official and consider variances of the technical codes referred to in Section 10-1.2.E.

D. Appeals.

1. Decision of the Building Official.

The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the Building Official to the construction board of adjustment and appeals whenever any one of the following conditions are claimed to exist:

a. The Building Official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.

b. The provisions of this Article do not apply to this specific case.

c. An equally good or more desirable form of installation can be employed in any specific case.

d. The true intent and meaning of this Article or any of the regulations thereunder have been misconstrued or incorrectly interpreted.

2. Variances.

a. The construction board of adjustment and appeals, when so appealed to and after a hearing, may vary the application of any provision of this Article to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this Article, the technical codes referred to in Section 10-1.2.E. or public interest, and also finds all of the following:

1. Special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.

2. The special conditions and circumstances do not result from the action or inaction of the applicant.

3. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Article to other buildings, structures or service system.

4. The variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.

5. The granting of the variance will be in harmony with the general intent and purpose of this Article and will not be detrimental to the public health, safety and general welfare.

b. Conditions of the variance.

In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with this Article. Violation of the conditions of a variance shall be deemed a violation of this Article.

3. Notice of appeal.

Notice of appeal shall be in writing and filed within 30 calendar days after the decision is rendered by the Building Official. Appeals shall be in a form acceptable to the Building Official. Appeals relating to provisions of the Florida Building Code, other than City amendments, may be appealed to the state building commission, pursuant to F.S. § 120.569, regarding the local

government's action. Notice of administrative rights may be obtained from the City.

4. Unsafe or dangerous buildings or service systems.

In the case of a building, structure or service system which, in the opinion of the Building Official, is unsafe, unsanitary or dangerous, the Building Official may, in his order, limit the time for such appeals to a shorter period.

E. Procedures of the board.

1. Rules and regulations.

The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this Article. The board shall meet on call of the chairman. The board shall meet within 30 calendar days after notice of appeal has been received.

2. Decisions.

The construction board of adjustment and appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order or disallowance of the Building Official or varies the application of any provision of this Article, the Building Official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the Building Official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the Building Official for two weeks after filing. Every decision of the board shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.

SECTION 10-1.6. LITTER CONTROL AND DISPOSAL.

It shall be the responsibility of the building contractor to ensure that each job site, and immediate vicinity, is equipped with a trash container to prevent building materials or trash and debris from blowing around surrounding areas. The purpose of this Section is to properly contain the trash on the job site. Failure to contain trash is not a violation unless it extends beyond the job site. The following actions shall be taken by the Building Official:

First offense Red tag on job site.

Second offense Letter of reprimand plus red tag.

Third offense Action by construction licensing board.

It shall be a violation of this Article for any person to bury any type of building material or natural vegetation, excluding grass and sod.

SECTION 10-1.7. WIND LOAD EXEMPTIONS.

Notwithstanding provisions in the Florida Building Code, the wind load provisions shall not apply to residential additions and alterations under the following circumstances:

1. Residential additions, alterations and remodeling performed by the property owner upon his own property, provided any addition or alteration shall not exceed 580 square feet.

2. Contractors are limited to a contract value of $5,000.00 or less within any 12-month period. The contractor must submit a notarized, written contract signed by the owner. The contract price must include labor, material and profit.

3. The residential addition or alteration cannot be larger than the primary structure.

4. All exempt additions and alterations must comply with the Standard Building Code, 1997 Edition.

5. A one-time addition of 580 square feet will be allowed to be built on the property. (The addition cannot be built in phases.)

6. This exemption pertains to pre-January 1994, single-family residences in which the main structure was not engineered by an architect or engineer. If the main structure was built after January 1994, and engineered, this exemption will not apply.

7. Auxiliary buildings (garages, utility sheds, pole structures) will be exempt no matter what date is involved, provided they do not exceed 580 square feet.

SECTION 10-1.8. VIOLATIONS AND PENALTIES.

Any person who shall violate a provision of this Article, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of an offense.

PART 10-2

UNSAFE OR DANGEROUS BUILDINGS

SECTION 10-2.1. STANDARD UNSAFE BUILDING ABATEMENT CODE--ADOPTED.

There is adopted by the City for the purpose of establishing and prescribing rules and regulations for the abatement of unsafe structures, and otherwise, the Standard Unsafe Building Abatement Code, 1985 Edition, as published by the Southern Building Code Congress International, Inc. One copy of the adopted Code is on file in the office of the Building Official. The Code is adopted and incorporated as fully as if set out at length in this Section and the provisions shall be controlling in the installation, construction, alteration, removal, demolition, moving, improving, repairing, equipping, use, occupancy, location and maintenance of buildings and structures and otherwise within the City.

SECTION 10-2.2. CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS.

The construction board of adjustment and appeals created in Part 10-1 of this Article shall be the board named in the Standard Unsafe Building Abatement Code adopted in Section 10-2.1.

PART 10-3

HOUSING CODE

SECTION 10-3.1. STANDARD HOUSING CODE--ADOPTED.

There is adopted by the City for the purpose of establishing and prescribing rules and regulations for the public safety, health and general welfare through requirements pertaining to structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and from other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, roominghouses or buildings, structures or premises used as such, and otherwise, that certain housing code known as the Standard Housing Code, 1991 Edition. One copy is on file in the office of the Building Official. The Code is adopted and incorporated as fully as if set out at length in this Section and shall be controlling in the matters of public safety, health and general welfare pertaining to the structural strength, stability, sanitation, adequacy of light and ventilation and of safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, roominghouses or buildings, structures or premises used as such, and otherwise within the City.

SECTION 10-3.2. AMENDMENTS.

The Standard Housing Code adopted in Section 10-3.1. is amended by the following additions, deletions, substitutions, modifications and amendments:

1. *Applicable governing body.* Wherever the words "applicable governing body" are used in the Code, they shall mean the City Council.

2. *Building Official.* Wherever the words "Building Official" are used in the Code, they shall mean the City Building Official.

3. *Department of law.* Wherever the words "department of law" are used in the Code, they shall mean the City Attorney.

4. *Chief administrator.* Wherever the words "chief administrator" are used in the Code, they shall mean the City Manager.

5. *Housing board of adjustment and appeals.* Wherever the words "housing board of adjustment and appeals" are used in the Code, they shall mean the construction board of adjustment and appeals as created by the Standard Building Code adopted in 10-2.1. of this Article.

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ARTICLE XI

DEFINITIONS

PART 11-1

CONTENTS

SECTION 11-1.1. GENERALLY.

This Article contains most of the definitions for use with this Code. Other definitions, however, may be located elsewhere in this Code and should be used as indicated.

SECTION 11-1.2. DEFINITIONS.

Abandoned Sign: A sign which, for a period of 180 consecutive calendar days, is no longer being used, and which is not being maintained shall be considered an abandoned or discontinued sign.

Abutting: See Contiguous.

Access: A way or means of vehicular or pedestrian approach to provide physical entrance to a property.

Access, Direct/Collectors and Arterials: Having frontage on a collector or arterial street and the opportunity for direct vehicular access onto the collector or arterial street is present.

Access Direct/Local: Having frontage on a local street. The parcel or lot shall be configured such that vehicular access may be obtained from said property directly onto the street.

Accessory: Having a subordinate function. See also Building, Accessory; Structure, Accessory; and Use, Accessory.

Accessory, Agricultural Structure: A structure containing materials and uses which are accessory to an agricultural activity. Examples of such a structure would be a pen to contain livestock and farming equipment, but not a structure used primarily to contain hand tools and domestic vehicles.

Accessory Dwelling: A second dwelling unit that may be attached to owner-occupied single-family detached home, or may be a separate detached structure on the same lot as an owner-occupied single-family detached home. An accessory dwelling unit shall contain its own sleeping, individual kitchen, as defined herein, bathing and toilet facilities. The facilities may be of efficient design but shall be adequate for independent residential use. Occupancy of the accessory dwelling and principal dwelling by members of the same family or other related persons shall have no bearing on the applicability of this definition. Any detached structure, or any portion of a structure or dwelling that cannot be accessed internally from within the structure or dwelling, which does not meet the facilities requirements for an accessory dwelling unit as described herein may not be utilized for living or sleeping purposes, including guest visits, at any time.

Accessory Structure (Appurtenant Structure): A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal

structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures include detached garages, carports, storage sheds, pole barns, and hay sheds.

Act of God: An overwhelming, unpreventable event caused exclusively by forces of nature, such as an earthquake, flood, or tornado, and including all natural phenomena that are exceptional, inevitable, and irresistible, the effects of which could not be prevented or avoided by the exercise of due care or foresight.

Addition to an Existing Building: An extension or increase in floor area or height of a building or structure.

Adjoining: See Contiguous.

Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult Bookstore or Adult Video Store: A commercial establishment that, as one of its business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or computer software, or photographs, films, motion pictures, video cassettes or video reproductions, slides, digital video discs, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities." A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an "adult bookstore" or "adult video store." Such other business purposes will not serve to exempt such commercial establishments from being categorized as an "adult bookstore" or "adult video store" as long as one of its business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas."

Adult Cabaret: A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or semi-nudity;

2. Live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;"

3. Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or

4. Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Care Facility: Establishment that provides, on a regular basis, assistance or care for five or more unrelated adults for a period of less than 24 hours a day and which receives a payment, fee or grant for the adults attending the facility, whether or not operated at a profit.

Adult Motel: means a hotel, motel or similar commercial establishment that:

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way that advertises the availability of this adult type of photographic reproductions; or

2. Offers a sleeping room for rent for a period of time that is less than 24 hours, excluding the period, which may be up to four hours, between posted check-in and check-out times; or

3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 24 hours.

Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity or semi-nudity, or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Adverse Effect (on Historic and Archaeological Resources): An effect which may reduce or impair any of the elements of integrity or other criteria for significance of an historic or archaeological resource, including, but not limited to: physical destruction, damage, or alteration of the significant or contributing features of the property; isolation of the resource from or alteration of the character of the resource's setting when that setting contributes to the resource's significance; or introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting.

Adversely Impact: To destroy or damage or to contribute to the destruction or damage of something. Adverse impact upon a natural resource means direct contamination, alteration or destruction of a natural resource, including development activity and the secondary impacts of development, to the degree that the natural resource would be eliminated, reduced or impaired.

Advertiser: A person who is a lessee or owner of a sign, an agent of same or anyone who has beneficial use of a sign.

Aggregate Sign Area: The total available sign area of all sides or portions of a sign.

Agriculture: The use of land for one or more of the following:

1. Production of strawberries, tomatoes, and other vegetables; production shall include, as permitted accessory uses, the sorting, grading, cooling, washing or initial packing of the agricultural output from the zoning lot;

2. Production of nut trees, citrus and other fruit trees, vines, and bushes; production shall include, as permitted accessory uses, the sorting, grading, cooling, washing or initial packing of the agricultural output from the zoning lot;

3. Pasture for cattle, horse, sheep or goats and other farm animals;

4. Forestry and other forms of food and fiber production for human and animal consumption;

5. Greenhouses, plant farms and ornamental horticulture;

6. Raising, breeding, working and use of animals;

7. Aquaculture; production shall include, as permitted accessory uses, the sorting, grading, cooling, washing or initial packing of the agricultural output from the zoning lot; and

8. Bee keeping.

Agricultural District: Any parcel zoned AG or any portion of a PDP District zoned for agricultural land uses as defined by this Code.

Agricultural Stand: Permanent or temporary structures for the sale of legumes in the shell, fresh fruits and vegetables, ornamental plants and other agricultural products, and natural plants, flowers and trees.

Aircraft: A motor vehicle or contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

Aircraft Landing Field: An area of land or water which is used or intended to be used for the landing and taking off of aircraft, which provides limited size runways and may or may not provide facilities such as aircraft parking areas, hangars, repair facilities, control towers, shelters and vehicle parking. Aircraft Landing Fields are classed according to their capacities and intended uses. See also Ultralight Flight Park.

Airport: A Use directly involving the movement of aircraft and the processing of passengers in the terminal building, including but not limited to runways, taxiways, ramps, aprons, and aircraft parking areas; helicopter landing areas; air carrier terminal buildings; terminals; air traffic control towers and associated facilities; navigational, communications, and meteorological equipment; fuel storage and

transmission facilities; aircraft hangars and repair facilities; fixed base operators facilities; air cargo facilities; aircraft service, repair, and maintenance facilities; clear zones and other buffer areas; airport administrative offices; and other airport facilities essential to the operation of airports for private and public use. Facility for handling aircraft which does not have a public use landing field and a published instrument approach procedure shall be classified aircraft landing field, heliport, helistop, or ultralight flight park as defined herein.

Aisle, Parking: Travelway by which cars enter and depart parking spaces.

Alcoholic Beverage: Distilled spirit and any beverage containing one-half of one percent or more alcohol by volume. The percentage of alcohol by volume shall be determined in accordance with the provisions of section 561.01(4)(b), Florida Statutes.

Alcove: An arched opening on a structure.

Alley: Access ways which are used primarily for vehicular service access to the back side of properties otherwise abutting on a street.

Amusement Park: A permanent facility with rides and other devices for entertainment.

Amusement Service: See Recreation Service.

Animal: A living organism other than plants, bacterium or humans. As used in this Code, animals are further defined/classified as follows:

1. Exotic animal: All animals which are not farm animals or household animals as defined by this Code.

2. Farm animal: Animals commonly associated with farm use including but not limited to domestic hoofed mammals and domestic fowl.

3. Domestic fowl: Birds commonly raised for consumption, egg production or personal enjoyment which include but are not limited to chickens, ducks, turkeys and geese. Domestic fowl shall not include ostriches, emus and similar birds.

4. Domestic hoofed mammal: Cattle, sheep, goats, horses, pigs, etc.

5. Household animal: Animals which are customarily kept for personal use or enjoyment that are not exhibited to the public nor raised for commercial purposes. Household animals shall include domestic dogs, domestic cats, white mice, domestic rabbits, birds, fish, and other similar pets. However, in no case shall household animals include farm animals or exotic animals as defined by this Code.

Animal Hospital: A structure and land used for the medical and surgical care of ill, injured, or disabled animals other than humans. Animals may be boarded at an animal hospital provided that no more than 50 percent of the animals which are boarded are not ill, injured, or disabled.

Antenna Support Structure: Any structure, or tower utilized exclusively to support an antenna or antennas for the purpose of transmission or reception of electromagnetic waves by federally licensed amateur radio operators.

Apartment, Commercial: Generally, a dwelling unit that is located within the same commercial retail structure, service or office structure and meets the specified use provisions of this Code.

Appeal: Request for a review of the Chief Administrative Officer's interpretation of any provision of this Code or a request for a variance or to make a request to a higher Court for rehearing or review of a decision made in a law case or legal matter, for a more favorable decision.

Appliance: A machine or device used in performing household tasks.

Appliance/Large: Large appliance including but are not limited to refrigerators, stoves, ovens, dish or clothes washers, and clothes dryers.

Appliance/Small: A small appliance including but are not limited to mixers, toasters, vacuum cleaners, blenders, and can openers.

Applicant: A person, partnership or corporation, or duly authorized representative who applies for review and/or approval of a development activity.

Aquaculture: Land devoted to the hatching, raising and breeding of fish or other aquatic plants or animals for personal use or wholesale sale.

Aquifer: A geologic sub-surface formation, group of formations, or part of a formation that contains sufficient saturated, permeable material to yield useful quantities of ground water to wells and springs.

Aquarium: Tank, bowl, or other water-filled enclosure in which fish or other aquatic animals are kept.

Arcade: A frontage wherein the facade is above a colonnade that overlaps the sidewalk while the sidewalk level remains at the frontage line.

Archaeological Resource: An area which contains significant material remains of past human life or activities and which meets one or more of the criteria for Landmark designation.

Architectural Finish: Material applied to the exterior of a building, excluding paint.

Architectural Relief: Decorative finish that will provide a visual break in building facade. See Articulated.

Area of Shallow Flooding: A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This term is synonymous with the phrase "special flood hazard area."

Art Gallery: Use of a structure or building for the display of sculptures, painting, photographs, or other artistic works for public viewing with only incidental sales.

Arterial Roads/Streets: Roads or streets designed or utilized primarily for high vehicular speeds for heavy volumes of traffic.

Articulated: Refers to the architectural facade or massing design intended to create visual interest along facade walls or overall building massing. Example articulation may include cornice treatments, roof overhangs, textured materials, or projections/recesses in building massing.

Arterial Highway: Any of those streets which are used primarily for fast moving heavy weight or high volume traffic to convey vehicular traffic from local streets to expressways and other collector streets. Arterials are classified by the city or other governmental agencies as either major or minor depending on the intermittency of traffic. The following roads in the city are classified for their entire length as arterial highways subject to the terms and provisions of this section:

1. US 98;
2. US 41;
3. SR 50; and
4. SR 50A.

Attached Sign: Any sign affixed directly to or painted on or otherwise inscribed on an exterior wall of any building.

Automatic Irrigation Controller: A device, capable of operating solenoid valves, to set days and lengths of time for proper application of water, in each irrigation zone.

Automatic Teller: An automated facility through which certain banking functions such as deposits and withdrawals can be completed. For the purposes of this Code, when "automatic teller" is listed as a separate use, it refers to a freestanding facility not a part of a bank or branch bank building or structure.

Automotive Repair: See Motor Vehicle Repair.

Automobile: See Domestic Vehicles.

Available Capacity Review: A preliminary review conducted by the city to determine if an application for a rezoning or special exception is consistent with the comprehensive plan. Adequate public facilities for potable water, sewage treatment, drainage, solid waste, parks and recreation facilities, public schools and transportation must be available in order to deem the request consistent with the city comprehensive plan.

Available school capacity: The circumstance where there is sufficient school capacity, based on adopted Level of Service (LOS) standards, to accommodate the demand created by a proposed development.

Awning: A non-structural architectural element made of fabric, metal, fiberglass or plastic that projects from the wall of a building over a window, door, sidewalk or other area to provide protection against the sun, rain and wind.

Back-to-Back Sign: A sign constructed on a single set of supports with messages visible on any side; provided, that double message boards are physically contiguous.

Bakery: Use of a structure or building for the production of bakery products including but not limited to breads, cakes, pastries, and doughnuts. When identified in Code as a use under "Retail," the bakery products produced must be for the direct sale to the consumer with no wholesale production or sales. Wholesale bakeries, for the purpose of this Code, shall be considered manufacturing.

Balloon Sign: An inflatable sign which may be tethered.

Bank: A financial institution engaged in deposit banking and closely related functions, such as the extension of credit by means of loans and investments, and fiduciary activities.

Banner, On-Site: Any sign of durable fabric or similar material mounted to or hung from a building, adequately secured on all four extreme corners and used in conjunction with a special event. National flags, state or municipal flags or the official flag of any institution or business shall not be considered a banner. An on-site banner shall be considered an attached sign.

Banner, Special Event: Any sign of durable fabric or similar material, secured on all four extreme corners and used in conjunction with a specific event. National flags, state or municipal flags or the official flag of any institution or business shall not be considered a special event banner.

Base Building Line: The line, established by this code, beyond which the building shall not extend, except as specifically provided by this Code.

Base Flood Elevation: The water-surface elevation associated with the base flood.

Basement: That portion of a building having its floor sub-grade (below ground level) on all sides.

Beaconlight: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Best Available Technology: The best technology treatment techniques or other means promulgated by EPA and adopted by FDEP that is available and provides the maximum protection possible for the public health, safety, and welfare, and which minimizes to the greatest degree possible any adverse impacts to the quality of groundwater and surface water. In promulgating BAT the EPA examines the efficiency under field conditions and not solely under laboratory conditions, and takes cost into consideration in determining what technology or treatment is available.

Best Management Practices: Practices that are technologically and economically practicable and most beneficial in preventing or reducing adverse impacts to the quality of groundwater. This includes acceptable methods for handling, use, transportation, and storage of a Regulated Substance. This includes identification of proper methods for handling, use, transportation, and storage, safety and accident prevention measures, data and records for Regulated Substances, and disposal in a proper manner required by law.

Best Possible Technology: The most advanced technology which provides the maximum protection possible for the public health, safety, and welfare, and which minimizes to the greatest degree possible any adverse impacts to the quality of groundwater.

Bicycle: Includes two, three or four wheeled non-motorized vehicles propelled by human power upon which a person may ride and shall exclude motorcycles, mopeds or similar two wheeled motorized vehicles.

Billboard: Any outdoor advertising sign erected and maintained by an advertising business or service whose surface is sold, rented or leased for the display of advertising material. A billboard shall be considered a freestanding or detached sign.

Boarding House: Building or group of buildings containing in combination three or more lodging units intended primarily for rental or lease for periods of longer than one week, with or without board. No personal care services shall be provided at this facility.

Bond: Form of surety or guaranty agreement which contains the promise of a third party to complete or pay for the cost of completion of a construction contract, a subdivider's agreement or developer's agreement, if the construction contractor, subdivider or Applicant defaults, given to insure the City of Brooksville City Council that the promised improvements and construction will be completed as agreed to within a fixed period of time. The word "Bond" also includes letters of credit, escrow agreements and cashier's checks and may also function as a surety or guaranty of a warranty of required improvements for a fixed period of time.

Bottle Club: Place of business where no alcoholic beverages are sold, but where patrons may keep or bring their alcoholic beverage for consumption on the premises. Non-alcoholic mixers or so-called "set-ups" may be provided by the club.

Breakaway Wall: 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.

Buffer: Horizontal distance from the property line which may only be occupied by screening, underground utilities, storm water ponds with slopes no steeper than 4:1 and landscaping materials, or by undisturbed or appropriately managed vegetation. Buffers and screening are used to reduce the impact of a use of land or adjacent uses which are of significantly different character, density, or intensity.

Buildable Area: Portion of a lot remaining after required yards have been provided and any conservation or preservation areas, submerged lands, easements or rights-of-way have been subtracted from the lot area. Structures may be placed in any part of the buildable area, but limitations on the

amount of the lot which may be covered by structures may require open space within the buildable area.

Building: Any structure having a roof and designed or intended for the support, shelter, or enclosure or protection of persons, animals, or property.

Building Area: That part of a piece of land occupied by a building and accessory buildings, including any area of land covered by breezeways, porte cocheres, outdoor covered patio areas at finished grade, carports, garages or other off-street parking structures. The term "building area" shall not, however, include uncovered entrance platforms, terraces or steps.

Building Frontage: The side or wall of a building approximately parallel and nearest to a street. When on a corner, the frontage of a building shall be determined by the Chief Administrative Officer as determined by this Code.

Building Height: The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. Height of a building in stories does not include basements.

Building Line: A line drawn parallel to the front lot line and tangent to the nearest part of the principal building and extending from side lot line to side lot line.

Building Permit: Any permit for the erection, placement, or construction of any building, structure, or related building system or building system component, or mobile home, or portion thereof, required by Article X of this Code that would require the continuing use of public facilities mandated to be concurrent with development by this Code.

Building Sign: A sign displayed upon or attached to any part of the exterior of a building.

Build-To Line: A building line within a development parcel, usually parallel to the property line, on which the facade must be placed.

Bungalow: A generic name for a number of dwelling unit types including cottages and small atrium houses that are intended to meet affordable housing needs. All such dwelling units are one bedroom dwelling units.

Business School: An establishment offering to the public, for a consideration, instruction in administration, accounting, bookkeeping, computer use, typewriting and other skills for use in commercial or service activities.

Business Service: An establishment offering primarily service to the business community and to individuals. Such services include but are not limited to advertising agencies, blueprinting and photocopying services, interior cleaning services, computer and data processing services, detective agencies and security services, insurance agencies, management consulting and public relations services, news syndicates, personnel services, photofinishing laboratories, photography, art and graphics services, financial services (other than banks), and real estate services.

Bus Shelter: A roofed structure located on or adjacent to the right-of-way of a street, and which is designed and used primarily for the protection and convenience of bus passengers.

Bus Stop: A designated area where local buses stop to load and unload passengers along bus routes.

Bus Terminal: An area and building where buses stop to load and unload passengers and luggage or packages and the sale of bus tickets may occur. A bus terminal is not a bus stop.

Camp: Land containing two or more campsites which are located, established or maintained for occupancy by people in temporary lodging units, such as camp tents, or cabins, for recreation, education or vacation purposes.

Camper: A person occupying a camp.

Camper, Auto or Truck: See Recreational Vehicle.

Camping Trailer: See Recreational Vehicle.

Campsite: Any plot of ground within a camp on which only cabins and camp tents are permitted.

Campus: The grounds and buildings of a public or private college, university, school or institution.

Canopy: A structural architectural element that is self-supporting or projects from the wall of a building over a window, door, sidewalk or other area to provide protection against the sun, rain and wind.

Canopy Sign: A sign displayed upon or attached to the face of a canopy.

Canopy Tree: See Shade Tree.

Car Wash: An establishment engaged in the business of washing domestic vehicles with self serve, automated or staffed facilities. Car washes also include hand washing and/or detailing operations, whether such operations are the primary use of a parcel or incidental to a primary use.

Carnival/Circus: The temporary use of land offering entertainment such as thrill rides, games of chance and skill, accessory musical entertainment, educational exhibits, display of oddities and the like.

Catering Service: An establishment primarily engaged in the provision and sale of prepared food and drinks to be served and consumed off the premises. Food catering services shall not be interpreted to include a permitted home occupation where the food product is sold and delivered exclusively by mail order.

Cemetery/Human: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries, if operated in connection with and within the boundaries of such cemetery.

Cemetery/Pet: Land used or intended to be used for the burial of animals in individual burial plots or a mausoleum and dedicated for cemetery purposes.

Central Business District: That district as delineated on the future land use map of the City's Comprehensive Plan as presently adopted or as hereinafter amended.

Certificate of Appropriateness (COA): The document issued by the Historic Preservation Review Board, which gives its approval for work to be done on a designated Landmarked Historic or Archaeological Resource, a Landmark Site, or a site within an Historic District and which allows the applicant to apply for construction permits. The COA may contain conditions relating to the proposed work.

Certificate of Concurrency: The certificate issued by the City upon finding that an application for a development permit meets the standards set forth in the City Comprehensive Plan for public facilities and services.

Certificate of Occupancy: The document issued by the appropriate authority under the provisions of this Code, certifying that the structure and site, including all improvements, complies with the provisions of applicable statutes, agreements, and regulations which authorizes the use of a structure or premises and is required prior to such use.

Certificate of Use: The document issued by the appropriate authority under the provisions of the Code, certifying the use of the land and any structures upon the subject land are conforming to the zoning designation, according to the adopted City of Brooksville Zoning Map.

Chartered Club: A social organization based on a written charter which demonstrates the organization`s basic laws or principles and composition. The club facilities are made available to members with their guests only.

Child Care Center: Any establishment other than a Family Child Care Home as defined herein that provides, on a regular basis, supervision and care for children unrelated to the operator for a period of less than 24 hours a day and which receives a payment, fee or grant for any of the children receiving care, wherever operated, and whether or not operated for profit, except that the following are not included: public schools and non-public schools which are in compliance with the compulsory school attendance law, Chapter 232, Florida Statutes; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods. The term includes kindergartens, nurseries, nursery schools, day care centers and day nurseries.

Chronic nonmalignant pain: Pain unrelated to cancer or rheumatoid arthritis which persists beyond the usual course of the disease or the injury that is the cause of the pain or for more than ninety days after surgery.

Church/Synagogue: Tax exempt buildings used for non-profit purposes by a recognized and legally established sect for purpose of worship, including buildings utilized for religious education, such as Bible study classes, when operated by such church/synagogue. Educational buildings which are utilized to provide a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools, in compliance with the compulsory school attendance law, Chapter 232, Florida Statutes, constitute a "school" as regulated by this Code and separate permitting must be secured as prescribed for the use to be allowed.

City: The City of Brooksville, Florida.

City Clerk: The City Clerk as established by the Charter of the City of Brooksville, Florida.

City Council: The City Council as established by the Charter of the City of Brooksville, Florida.

Civic Building/Public Use: A civic building/public use is any public school, library, church, meeting hall, community center, or government office.

Clearing: The removal of trees, shrubs and other vegetation from the existing ground surface. Clearing is usually undertaken where subsequent land alteration, construction or agricultural activities are to occur.

Code Enforcement Officer: A designated employee authorized to act in such capacity as designated by the Chief Administrative Officer.

Code Enforcement System: Includes the City of Brooksville administrative staff, the judicial system and all those individuals and agencies having a responsibility in assuring that the land development regulations and other City codes and ordinances function in an inviolate manner.

Collector Street: Those streets which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such development.

College: A degree-granting establishment, accredited or qualified for accreditation by the Southern Association of Colleges and Schools, providing formal academic education and generally requiring for admission at least a high school diploma or equivalent academic training, including colleges, community colleges, universities, technical institutes, seminaries, and professional schools (architectural, dental, engineering, law, medical, etc.) Accessory uses under this definition include but are not limited to dormitories, subject to the requirements of Article IV of this Code, cafeterias, bookstores, libraries, classrooms, administrative offices, research facilities, sports arenas, and auditoriums.

Collocation (Wireless Communications Facility): A situation when a second or subsequent wireless provider uses an existing structure to locate a second or subsequent antennae. The term includes the ground, platform, or roof installation of equipment enclosures, cabinets, or buildings, and cables, brackets, and other equipment associated with the locations and operation of the antennae.

Commercial District: A commercial district is any parcel zoned PR, P-1, C-1, C-2, C-4, CIS-1 and parcels in PDP districts desigmated for office and/or commercial uses.

Commercial Vehicle: Any vehicle, whether motorized or not, utilized for commercial purposes, or designed by the manufacturer to be used primarily for commercial purposes, or altered or converted for the purpose of being so used, but not including vehicles having a capacity of one ton or less or meeting the definition of a domestic vehicle.

Commission: The Planning and Zoning Commission, as provided for in Article VIII of this Code.

Comprehensive Plan: The plan adopted by City Council pursuant to Florida Statutes.

Communication Facility: The use of land, buildings or structures for uses such as but not limited to motion picture studios; radio and television receiving antenna and dishes; accessory, radio and

television studios; radio and television transmitting and receiving facilities, and radiotelephone communication facilities.

Communication Facility, Wireless: See also Radio/Television Transmitting or Receiving Facility. Any antenna used for the transmission or reception of wireless communication signals for radiotelephones or other similar personal or wireless communication devises, excluding those used for ham radio antennas, radio or television receiving antennas and dishes, and radio/television transmitting or receiving facilities. See also Radio/Television Transmitting or Receiving Facility.

Community Residential Home: Any building, buildings, section of a building, or distinct part of a building, residence, private home, boarding-house, 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 24 hours, housing, food services, and one or more personal care services (as defined by this Code) to persons not related to the owner or operator by blood, marriage, or adoption and licensed, certified or approved by the State Agency for Health Care Administration. Such facilities shall contain congregate kitchen, dining and living areas, with separate sleeping rooms and may contain independent kitchens as long as three full meals are provided by the required congregate kitchen. Further, such facilities shall not be used for those persons in need of a structured environment, as it is defined herein. For purposes of this Code, Community Residential Homes shall not be deemed to include boarding houses; fraternities/sororities; monasteries; convents; hotels/motels; professional residential facilities; or nursing, convalescent and extended care facilities. "Placed", as used in reference to Community Residential Homes in this Code, shall mean the persons placed, supported or sponsored by, or the residents of a facility licensed by the State of Florida Agency for Health Care Administration.

Community Residential Home A: A residence, dwelling or other place approved as a Community Residential Home which is limited to a maximum of six "placed" residents.

Community Residential Home B: A residence, dwelling or other place approved as a Community residential home which is limited to a maximum of 14 "placed" residents.

Community Residential Home C: Any premise, approved as a Community Residential Home, for more than 14 "placed" residents.

Compatibility: The characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as". Rather, it refers to the sensitivity of development proposals in maintaining the character of existing development.

Concurrency: A regulation specifying that before a development order can be issued, which public facilities must be provided to a proposed development or redevelopment commensurate with adopted levels of service, when these facilities will be provided, and who will pay for these public facilities in such manner that is consistent with the intent of the State's land use legislation, Part II, Chapter 163, Florida Statutes, Chapter 75-390, Laws of Florida, as amended and implementing regulations.

Concurrency Management System: The procedures and/or process that the local government will utilize to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

Concurrency Service Area (CSA): In the context of school concurrency shall refer to the geographic unit adopted by the City within which school concurrency is applied and determined, as referenced in Rule 9J-5.025, *Florida Administrative Code*.

Conditional Use: A use which is essential or would promote the public health, safety or welfare in one or more districts, but which would require additional design standards to ensure compatibility with adjacent uses and the surrounding neighborhood. The additional standards supplement and are in addition to the standards and criteria otherwise required within this Code. Unless otherwise required herein, compliance with these supplemental standards shall be determined during development review and shall not require any additional procedural steps or review processes.

Connection: For purposes of access management, any driveway, street, turnout, sidewalk or other means of providing for the movement of vehicles, pedestrians or bicycles to or from the public roadway system.

Contiguous: Having a common edge or boundary; adjoining.

Contiguous CSA: A public school concurrency service area (CSA) which is directly abutting another CSA boundary line.

Continuing Care: See Life Care Treatment Facility.

Continuous Sidewalk System: A continuous system of sidewalks uninterrupted by natural or man-made barriers to pedestrian movement, by an arterial street or by any street consisting of more than two lanes of traffic including turn lanes.

Contractor: The person, firm or corporation authorized by the owner or developer to undertake any construction, installation and/or maintenance activities defined in this Code.

Contractor's Office: An establishment engaged in the provision of construction activities including but not limited to plumbing, electrical work, building, paving, carpentry and other such contracting activities. This facility shall serve as the office and dispatch area only. All materials kept on site must be stored in completely enclosed buildings and no commercial vehicles may be parked on the site overnight unless specifically authorized in Article II of this Code.

Convalescent Facility: See Nursing, Convalescent and Extended Care Facility.

Convenience Store: A small retail store, 20,000 square feet or less, which sells convenience items as its primary sales. A convenience store may include the sale of gasoline and diesel fuel but such sales shall be accessory to the primary sale of convenience goods.

Conventional Dwelling: See Dwelling, Conventional.

Corner Lot: See Lot, Corner.

Cornice: An exterior architectural feature on a structure crowning the walls at the roof line.

Correctional Facility: A facility for the housing of persons convicted of or being held for a crime.

> **Major Facility:** A prison facility regulated by the State of Florida Department of Corrections designed for maximum security to house persons convicted of a crime.
>
> **Community Facility:** A facility designed to house persons convicted of a crime, or for the custody of persons arrested for a crime and awaiting adjudication. Such facilities shall include community correctional centers, probation and restitution center, vocational training centers and forestry camps (all as defined by the State of Florida Department of Corrections), or local government jails or detention centers.

Covered Patio: A solid roofed structure attached to the primary structure which does not contain conditioned space, and which all sides not formed by the walls of the primary structure are at least 50 percent opened or composed of screening or vinyl panel windows.

Crematorium: An establishment for the burning of human remains or animal remains. For purposes of zoning regulation, this definition does not include publicly operated crematoriums which are classified as Public Service facilities.

Crime Prevention Through Environmental Design (CPTED): Specialized site design accomplished through the creation, re-creation and effective use of the physical environment leading to the reduction in the incidence and fear of crime.

Cross-Access: A vehicular and/or pedestrian connection between abutting properties which permits the exchange of trips between the two adjacent sites without the need to use the "public street system."

Cul-de-Sac: A minor street with one ingress-egress and with a turning area at the closed end.

Cultural Facility: Use of land, buildings, or structures to provide educational and informational services to the general public, including but not limited to art galleries, museums, and libraries.

Datum: A reference surface used to ensure that all elevation records are properly related. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

DBH (Diameter at Breast Height): The standard measure of a single stemmed tree at four and one-half feet above grade. When a tree has grown with one or more than one stem at four and one-half feet above grade, DBH shall be equal to the sum of the diameters of the individual stems measured at four and one-half feet above grade.

Dead-end street: See cul-de-sac.

Decibel Weighted Sound Level (DBA): Unit for describing the amplitude of sound as measured in decibels on a sound level meter using the A-weighting network.

Demolition: Any act that destroys, in whole or part, a landmark or potential landmark.

Density: Number of dwelling units per square measure of land, usually in acreage or in number of feet, excluding temporary dwellings, accessory dwellings and in some cases commercial apartments as permitted by this Code.

Dental Laboratory: See Medical Laboratory.

Developer: The owner or the owner's authorized agent undertaking any use or activity defined in this Code.

Development: Any human-initiated change to improved or unimproved real estate, including, but not limited to, buildings, or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations, or permanent storage of materials.

Development Activity: Any of the following activities:

1. Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site.

2. Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface, or water management system, and including the long-term storage of materials.

3. Subdividing land into two or more parcels

4. Tree removal for which authorization is required under this Code.

5. Erection of a permanent sign unless expressly exempted by Article X of this Code.

6. Alteration of a historic property for which authorization is required under this Code.

7. Changing the use of a site so that the need for parking is increased.

8. Construction, elimination or alteration of a driveway onto a public street.

9. Activities by a developer which creates a projected subsequent average daily traffic increase more than ten (10) average daily traffic counts (ADT) derived from the Institute of Transportation Engineers (ITE) Trip Generation Manual, Third Edition (as amended).

Development Order: Any order granting, denying or granting with conditions, an application for a Building Permit, zoning permit, subdivision approval, or any other official action of the City having the effect of permitting the development of land.

Developer: The owner or the owner's authorized agent undertaking any use or activity defined in this Code.

Development Permit: Any permit issued by the Chief Administrative Officer after a finding by the Chief Administrative Officer that the proposed development activity complies with all applicable provisions of the Code and other applicable City, State and Federal regulations.

Dilapidated Sign: Any sign which is structurally unsound, has defective parts or is in need of painting or maintenance.

Dimensional Variance: A departure from the terms of this ordinance pertaining to height, width, depth and area of structures and size of yards and open spaces, where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of this ordinance would result in unnecessary and undue hardship.

Direct Access: See Access, Direct.

Direct Egress: An exit by which a pedestrian, motorist, or cyclist leaves a development and immediately accesses a public roadway.

Directional Sign: A sign located at the exit or entrance of a premises which directs vehicular or pedestrian traffic and parking on private property. .

District Facilities Work Program or 5-Year Work Program: The financially feasible 5-year listing of capital outlay projects adopted by the School Board pursuant to s. 1013.35., *Florida Statutes*, as part of the district educational facilities plan, which is required in order to: (1) properly maintain the educational plant and ancillary facilities of the district; and (2) provide an adequate number of satisfactory student stations for the projected student enrollment of the district in K-12 programs in accordance with the goal in s. 1013.21, *Florida Statutes*. Financial feasibility shall be determined using professionally accepted methodologies.

Domestic Vehicle: Any vehicle, other than commercial vehicles, recreational vehicles and utility trailers as defined by this Code, licensed by any state of the United States or Mexico or Province or Territory of Canada, as a private vehicle for operation on streets and may include but not be limited to automobiles, private pickup trucks, and vans.

Dormitory: A building used as group living quarters for a student body, religious order or other group as an associated use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp, or other similar use. Dormitories also include accessory quarters for the temporary sequestering of human study subjects by pharmaceutical research facilities and other similar operations. Dormitories do not include kitchen or dining facilities except that a group kitchen, common dining facility or food service to serve all residents may be provided.

Double-Faced Sign: A sign having two display surfaces which are parallel and back-to-back and not more than 48 inches apart. "Double-Faced Signs" include "v-shaped" signs which are not more than 180 inches apart when measured at the widest point.

Drainage: Surface water runoff; the removal of surface water or groundwater from land by drains, grading or other means which include runoff controls.

DRI Application: Application for Development Approval of a Development of Regional Impact submitted pursuant to chapter 380, Florida Statutes.

Drinking Establishment: An establishment where alcoholic beverages are obtainable within or thereon and where such beverages are consumed on the premises. If the facility also sells food, and the sale of food products represents more than 50 percent of the facility`s total sales, the facility shall be considered an Eating Establishment.

Drip-Line: An imaginary, vertical line that extends downward from the outermost tips of the tree branches to the ground.

Drive-In Theater: A facility designed for the outdoor projection of motion pictures onto a permanent screen to be viewed from the patron's automobile.

Drive-In Window: A window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.

Driveway: As defined by the American Association of State Highways and Transportation Officials (AASHTO), a driveway is an access constructed partly within the public right-of-way, connecting the public roadway with adjacent property.

Drought Tolerant Plants: Plants that, once established, survive on natural rainfall with occasional irrigation during dry periods.

Drug Store: An establishment offering prescription and nonprescription drugs and medicines, prosthetic devices and medical and dental supplies at retail.

Dry Cleaner: An establishment engaged in providing laundry, dyeing, and dry cleaning services to individual customers

Dry Cleaner/General: An establishment engaged on a scale larger than a small dry cleaners and serving customers other than those served by a dry cleaning plant; or an establishment employing more than five persons.

Dry Cleaner/Small: An establishment engaged on a small scale in providing laundry, dyeing and dry cleaning services to individual customers which employs not more than five persons.

Dry Cleaning Plant: An establishment engaged in providing laundry, dyeing and dry cleaning services on a large scale for institutions, businesses or other such establishments.

Dwelling/Conventional: A dwelling unit built in compliance with the Florida Building Code shall be considered conventional for the purposes of these regulations. See also Modular.

Dwelling/Multiple Family: A structure containing three or more dwelling units attached to each other by walls, garages, carports, utility rooms, breezeways, etc. or conventional dwelling units, whether attached or detached from each other, which share a single deeded lot. Each dwelling unit of the multiple family structures may be located on one deeded lot or may be on separately deeded lots.

Multi-family includes such structures as triplexes, quadraplexes, townhouses and apartments, as well as dormitories, congregate living facilities, life care treatment facilities and professional residential facilities.

Dwelling/Single Family: A structure containing a single dwelling unit, detached from other dwelling units by horizontal or vertical space with no connection provided by walls, garages, carports, utility rooms, breezeways, etc., and located on a deeded lot with no other non-temporary dwelling units occupying the same lot.

Dwelling/Two-Family (Duplex or Villa): A structure containing two single-family dwelling units attached to each other by walls, garages, carports, utility rooms, breezeways, etc., whether or not separated by firewalls, but not attached to any other dwelling units. Two-family dwellings may be located on one deeded lot or on two separately deeded lots, but no other non-temporary dwelling unit may occupy the same deeded lot or lots. Occupancy of the two dwellings by members of the same family or other related persons shall have no bearing on the applicability of this definition.

Dwelling Unit: A room or groups of rooms forming a single independent habitable unit that is used for, intended to be used for, or may be used for, living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis. A dwelling unit shall contain an individual kitchen, as defined herein, sanitary and sleeping facilities. Access from the sleeping areas in the dwelling unit to the living, sanitation, cooking, and eating areas must be internal to the dwelling unit. Any detached structure, or any portions of a structure that cannot be accessed internally from within the structure, which does not meet the facilities requirements for a dwelling unit as described herein may not be utilized for living or sleeping purposes, including guest visits, at any time.

Easement: A grant of one or more of the property rights by the property owner to the public, a corporation, or another person or entity.

Easement/Drainage: An easement required for the installation of storm water sewers or drainage ditches, or required for the preservation or maintenance of a natural stream or water course or other drainage facility.

Eating Establishment/Walk-in/Drive-in: Eating establishment at which the customers receive the food and/or beverages at a counter, bar or drive-in window, but do not consume the products on the premises.

Eating Establishment/Fast-Food: Establishment at which customers receive the food and/or beverages at a counter, bar, or from a drive-in window. The customer may or may not consume the food or beverage on site.

Eating Establishment/Sit-down: Eating establishments at which food and/or beverages are served 1) by waitresses or waiters to patrons seated at booths or tables; or 2) cafeteria style.

Egress: An exit by which a pedestrian, motorist, or cyclist leaves a development.

Electric Substation: A facility in an electric power system comprised of transformers, circuit breakers, buses and related equipment through which electric energy is passed for transformation, switching and/or metering.

Electrical and Electronic Repair/Large Item: An establishment engaged in the repair of electrically powered equipment or electronic equipment such as but not limited to large appliances, large computers, radio and television broadcasting equipment, and similar items.

Electrical and Electronic Repair/Small Item: An establishment engaged in the repair of electrically powered equipment of electronic equipment such as but not limited to small appliances, televisions, radios, non-commercial stereo equipment, personal or mini computers, and similar equipment. As a general rule, if the item is too large to be hand carried by one or two people, it is not considered small equipment.

Electrical Power Generating Facility: For purposes of these regulations, means any steam or solar electrical generating facility using any process or fuel and includes associated facilities and those directly associated transmission lines required to connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends to connect, except that this term does not include any steam or solar electrical generating facility of less than 75 megawatts in capacity.

Electrical Sign: means a self-illuminated sign or sign structure in which electric wiring, connections or fixtures are used as part of the sign proper.

Electric Utility Transmission Easement: An easement pursuant to which the grantee has the right to maintain, construct, repair, operate, remove and replace electric utility transmission facilities, including but not limited to, lines of wires, cables, and any and all attendant structures on, over and through real property.

Elevated Building: A non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

Employee: A person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. The term "employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does the term "employee" include a person exclusively on the premises as a patron or customer. *Escort* means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Encroachment: The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Equivalent Residential Unit (ERU): The numerical value associated with the average household size of single-family dwelling units.

Escort Agency: A person who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment: Establishment includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business;

2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

3. The addition of any sexually oriented business to any other existing sexually oriented business;

4. The relocation of any sexually oriented business; or

5. A sexually oriented business or premises on which the sexually oriented business is located.

Exercise Area: An area associated with a kennel or animal hospital which is enclosed by a masonry wall on at least three sides which may have an open roof and is designed to permit the supervised walking and exercise of up to five animals.

Existing Construction: For the purposes of floodplain management, structures for which the start of construction commenced before the data of the initial Flood Insurance Rate Map (FIRM). Existing construction means, for the purpose of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before February 21, 1975, for FIRMs effective before that date. This term may also be referred to as existing structures.

Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the FIRM or before February 21, 1975 for FIRMs effective before that date.

Existing Sign: Any sign that was erected, mounted or displayed prior to the adoption of this Code.

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Expression Line: An exterior architectural feature on a structure defining the transition between the first floor and upper facade.

Extended Care Facility: See Nursing, Convalescent and Extended Care Facility.

Exterminator: An establishment engaged in the service of killing insects, mice, rats or other nuisance animals.

Facade: That portion of any exterior elevation of a building extending from finished grade to the top of the parapet, wall or eaves and the entire width of the building elevation.

Family: Any number of people related by blood, marriage or adoption or not more than five unrelated persons living together as a single housekeeping unit, using a single facility in a dwelling unit for culinary purposes. The term "family" shall not be construed to include a fraternity or sorority, club, rooming house, institutional group or the like.

Family, Immediate: Immediate family is defined as persons related by blood or marriage such as parents, spouses, siblings, and children.

Family Child Care Home: A family child care provider occupied home which regularly provides care for children not related to the caregiver in exchange for a payment, fee or grant, whether operated for a profit or not. The home shall provide care for one of the following groups of children: 1) a maximum of eight children from birth to 24 months of age; or 2) a maximum of 12 children under 13 years of age, provided no more than four are under 24 months of age. These groups shall include all children under 13 years of age who are related to the caregiver and provided care in the home. Family child care homes are permitted without special zoning approval or review, subject to child care licensing requirements.

Family Support Services: Non-profit establishments engaged in providing one or more of a variety of individual and family social, counseling, welfare or referral services, including refugee, disaster and temporary relief services. Such establishments may also provide respite care for adoptive/foster children as well as training, tutoring, mentoring, resource information, administrative aid, fund raising and clothing assistance services. Family support services do not include community residential homes or professional residential treatment facilities as defined in this Code. Government offices engaged in the delivery of social services are classified as Public Use Facilities.

Final Plat: The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the commission for approval, and which, if approved, will be submitted to the county clerk for recording.

Financial Feasibility: Financial feasibility shall have the same meaning as defined in s. 163.3164, *Florida Statutes*, as such statute may be amended or renumbered from time to time.

Financial Institutions (Other Than a Bank): Establishments engaging in extending credit in the form of loans; in underwriting, purchase sale or brokerage of securities and other financial contracts; in exchanges, exchange clearinghouses, and other services allied with the exchange of securities and commodities; but not engaged in deposit banking.

Finding of Available School Capacity: A determination by the school district that public school concurrency has been achieved, based on the projected impacts of the proposed development. A finding of available school capacity may be based on an executed proportionate share mitigation agreement.

Finding of No Available School Capacity: A determination by the school district that public school concurrency has not been achieved, based on the projected impacts of the proposed development and the failure of the applicant to proffer an acceptable proportionate share mitigation agreement.

FISH Capacity: FISH capacity is used in the context of school concurrency and shall refer to the Florida Inventory of School Houses ("FISH") report of permanent capacity of existing public school facilities. The FISH Capacity is the number of students that may be housed in a facility (public school) at any given time based upon a percentage by school type (*i.e.* elementary, middle, and high) of the total number of existing student stations and a designated size for each program. In the City of Brooksville and Hernando County, permanent capacity does not include temporary classrooms unless they meet the standards for long-term use pursuant to s. 1013.20, *Florida Statutes*.

Firing Range, Outdoor: An outdoor facility designed for the firing of arms at targets.

Firing Range, Small Arms: A facility designed to permit the firing of small arms at stationery targets.

Flag: A fabric or bunting containing distinctive colors, patterns or symbols used as a symbol of a government, political subdivision or other entity.

Flashing Sign: A sign designed to attract attention through the use of a flashing, changing, revolving or flickering light source, or a change of light intensity.

Flood or flooding: Flood or flooding shall be defined as follows:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

   a. The overflow of inland or tidal waters.

   b. The unusual and rapid accumulation or runoff of surface waters from any source.

   c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph 1.a. of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1.a. of this definition.

Flood Boundary and Floodway Map (FBFM): The official map of the community on which the Federal Emergency Management Agency (FEMA) has delineated the areas of special flood hazard and regulatory floodways.

Flood Hazard Boundary Map (FHBM): An official map of the community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as only Approximate Zone A.

Flood Insurance Rate Map (FIRM): An official map of the community, issued by FEMA, which delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS): The official hydraulic & hydrologic report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other related data and information.

Floodplain: Any land area susceptible to being inundated by water from any source (see definition of "flooding").

Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations: Articles within this Code, building codes, health regulations, and other applications of police power which control development in flood-prone areas. This term describes Federal, State or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Flood-proofing: Any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Floodway Fringe: That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

Floor Area: The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, and balconies, and any below-grade floor area used for access and storage. Not countable as floor area are covered parking structures, open terraces, patios, atriums, balconies, covered patios, entry ways, and breezeways.

Fraternity or Sorority House: A dwelling or combination of dwellings on a single lot occupied by and maintained exclusively for college students who are affiliated with a social, honorary, or professional organization recognized by the college or university.

Freeboard: The additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors such as wave action, bridge openings and hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected frequency flood and floodway conditions.

Freestanding or Detached Sign: A sign supported by a structure secured in the ground and which is wholly independent of any building, fence, vehicle or other object. By definition, freestanding or detached signs include all signs defined herein which are supported by a structure in the ground.

Front Yard: See Yard, Front.

Frontage: The length of the property line for a single parcel which runs parallel to and along each public right-of-way (exclusive of alleys) it borders.

Frontage Road Link: A length of frontage road approximating an optimum design distance of 1,320 linear foot. In cases where existing streets intersect the frontage road area, the link may be significantly less than 1,320 linear feet.

Frontage Road Segment: A length of frontage road running approximately parallel to the right-of-way of the arterial highway from property line to property line of any given property owner along the arterial highway. A frontage road segment may or may not constitute a link.

Full-Cutoff Light Fixture: A light fixture designed such that no light is projected at or above a 90-degree plane running through the lowest point on the fixture where the light is emitted and less than ten percent of the rated lumens are projected between 90-degrees and 80-degrees.

Fully Shielded: Outdoor light fixtures shielded or constructed such that light rays emitted by the fixtures are projected only below a horizontal plane passing through the lowest point of the fixture.

Functionally Dependent Use: A use that 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 or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Gas Station: An establishment where gasoline and/or diesel fuel is supplied and dispensed at retail and where no servicing or repair of vehicles is permitted. Convenience goods may be sold at such facilities but the sales shall be accessory to the sale of gasoline or diesel fuel.

Governing Body: The City Council for the City of Brooksville, Florida.

Government Uses and Structures: Any land, building, structure, use or activity that is owned and operated by the city, county, state or federal government or legally empowered special governmental district and is necessary to the conduct of government, the furnishing of public services or of an institutional character and over which such governments exercise direct and complete control.

Green Roof: A contained green space (also known as an eco-roof, living or vegetated roof) planted over a synthetic waterproofed membrane created by adding layers of growing medium and plants on top of a traditional roofing system which also includes a layer for drainage. The green space on the roof

may partially or completely cover the traditional roofing system. There are two types of green roofs: extensive and intensive. Extensive green roofs generally have a soil depth of less than 6 inches, require little maintenance, and are lightweight. Intensive green roofs typically have a soil depth of more than 6 inches, require more frequent maintenance, and are heavier than extensive green roofs. In order to be classified as an intensive green roof for open space credit, the green roof must have a minimum soil depth of 6 inches.

Ground Sign: A sign that is supported by one or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building.

Hazardous: Those structures, uses, materials or premises that constitute a fire, explosion or safety hazard or emit any atmosphere or environmental pollutant, radioactive emissions, smoke or heat, glare, dust, dirt, odor, noise or vibrations which may be heard or felt off the premises.

Hazardous Waste: A material identified by the Florida Department of Environmental Protection as a hazardous waste. This may include but is not limited to a substance defined by the Environmental Protection Agency based on the 1976 Resource Conservation and Recovery Act, as amended, as:

1. Being ignitable, corrosive, toxic, or reactive

2. Fatal to humans in low doses or dangerous to animals based on studies in the absence of human data;

3. Listed in Appendix 8 of the Resource Conservation and Recovery Act as being toxic and potentially hazardous to the environment.

Hazardous Waste Transfer Facility: An establishment engaged in the short-term storage, less than 90 days, of hazardous waste.

Health Practitioner's Office: An establishment offering diagnostic and routine health care on an outpatient basis by licensed practitioners such as but not limited to physicians, dentists and chiropractors.

Health Services: The use of land, buildings and structures for uses such as but not limited to health practitioners, animal hospital or veterinarian clinic, hospitals, medical and dental laboratories, nursing, convalescent and extended care facilities, rehabilitation centers and sanitarium/mental institutions.

Heavy Industrial Uses: Heavy industrial uses are those uses which are hazardous although the maximum public and private safety precautions have been taken and the most stringent performance standards have been met. Uses that may be considered Heavy Industrial include, but are not limited to, air curtain incinerators, asphalt plants, concrete batch plants, fabrication facilities (involving open air grit blasting or open air painting), phosphate/nitrate fertilizer manufacturing (except phosphogypsum stack systems); fiberglass products manufacturing facilities, explosive storage and or manufacturing facilities, biohazardous waste incinerators, pesticide formulation facilities, scrap yard/shredding facilities, soil remediation facilities, bulk solvent chemical storage and or processing facilities, major coating facilities, paint/ink manufacturing facilities, secondary metals recovery or manufacturing

facilities, chrome plating facilities, asbestos products fabricators or manufacturers and livestock importing/exporting facilities.

Height: The vertical distance measured from the lowest proposed finished grade of the structure vertically beneath the highest point of the structure. Elevated structures within the designated Special Flood Hazard Area will have the vertical elevation measured from the Base Flood Elevation to the highest point of the structure. Finished grade shall be determined using all applicable regulations of the County, State and Federal governments.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic District: An area of architectural, historical, cultural or archaeological significance to the City of Brooksville, Hernando County, the State of Florida or the nation which meets the criteria for Landmark designation.

Historic Preservation Review Board (HPRB): The HPRB of the City of Brooksville is an appointed Board, created by the City Council, for the purpose of protecting the historic and pre-historic resources of the City of Brooksville.

Historic Resource: Any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value. These properties or resources may include, but are not limited to, monuments, memorials, Native American habitations, ceremonial sites, abandoned settlements, engineering works, architectural interiors, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the City or County.

Historic Resources Inventory: A listing of Landmarks and Historic and Archaeological Resources within the City of Brooksville identified through a Historic Resources Survey, Cultural Resources Assessment Survey, or a similar survey following the guidelines established by the Florida Division of Historical Resources.

Historical Site: Any place, building, or district of historical, architectural or archaeological significance or value which has been officially listed in the National Register of Historic Places (NRHP); determined eligible or potentially eligible for listing in the NRHP by the Florida Division of Historical Resources; designated as a Landmark or listed in the Historic Resources Inventory by the City; or recommended for preservation or more work needed before a determination of significance can be made as per the Florida Division of Historical Resources.

Home-Based Business: Any activity conducted by a resident within a dwelling unit which results in a product or service for financial gain. A home-based business is an accessory use to the primary residential use of the parcel.

Hospital: An establishment that offers medical care more intensive than personal care services and offers facilities and beds for use beyond 24 hours for individuals requiring diagnosis, treatment or cure for mental and physical illness, injury, deformity, infirmity, abnormality, disease, or pregnancy and which regularly makes available at least clinical laboratory services, diagnostic x-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar

extent. The term hospital shall include the buildings themselves and any accessory uses such as hospital maintenance and storage facilities, helistops for hospital emergency services, parking and emergency facilities, related teaching and training activities, accessory indoor auditoriums/conference rooms, accessory indoor minor retail, miscellaneous service, and personal service uses, and incidental publishing and printing of hospital related information. Hospitals do not include Congregate Living Facilities; Nursing, Convalescent, and Extended Care Facilities; or Professional Residential Facilities.

Hotel/Motel: A building or group of buildings containing lodging units intended primarily for rental or lease to transients by the day or week, and providing additional services such as restaurants, meeting rooms and recreation facilities.

Illegal Sign: A sign not lawfully erected in violation of Hillsborough County ordinances or regulations.

Illuminated Sign: A sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, neon, incandescent lights, backlighted and reflectorized signs which depend upon automobile headlights for an image.

Impervious Surface: A portion of land covered by buildings and/or a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

Industrial District: An industrial district is any parcel zoned I-1 or I-2 and any portion of a PDP district designated for industrial land uses pursuant to this Code

Ingress: An entrance by which a pedestrian, motorist, or cyclist enters a development

Intensity: A measure of the degree to which land is developed based on density, use, mass, size, impact and traffic generation often expressed in terms of floor area ratio.

Interior Lot: See Lot, Interior.

Junk: Old, dilapidated, scrap or abandoned materials that would not be considered to be economical to recycle, such as building materials, equipment, glass, appliances, furniture, parts of motor vehicles, etc.

Junkyard: Land used for the storage, keeping, handling, or display of junk.

Kennel: A commercial establishment for the boarding, holding, care or breeding of dogs and/or cats for compensation. Also, a non-profit establishment for the rescue, rehabilitation and adoption of dogs and/or cats.

Kitchen/Commercial: A facility used for the preparation of food which is sold to the public and that is subject to State and Local Health Department inspections.

Land Area: The total land area within the property lines of a parcel or tract of land.

Landmark: A resource of architectural, archaeological or historic significance to the City of Brooksville which meets one or more of the criteria for Landmark designation. Landmarks may include, but are not limited to, an historical site which was the location of a significant historical event, monuments, memorials, Native American habitations, ceremonial sites, abandoned settlements, sunken

or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to history, government, and culture. References to Landmarks shall include any or all designated Landmarked Historic or Archaeological Resources, Landmark Sites, and Historic Districts.

Landmark Site: The land on which a Landmark and its associated structures, grounds, premises and setting are located. A Landmark Site shall only be designated in conjunction with the designation of a Landmark and shall be identified through its legal description. A Landmark Site may include part of one or more parcels.

Landscaping: The use of any portion of existing vegetation, the planting of vegetation or the placement of other landscaping material in conjunction with new development and as required by Article IV of this Code.

Landscaping Contractor's Nursery: Land predominately devoted to the reproduction, growth and/or significant increase in value of plants, sod, trees and shrubs by a landscaping contractor, but also utilized for the storing and maintenance of vehicles, equipment and materials employed by the contractor in the off-site installation of the vegetation and maintenance.

Lawn Care and Landscaping Service: Establishments engaged in performing a variety of lawn and landscaping services such as but not limited to lawn fertilizing, mowing, spraying and planting, and the planting and maintenance of landscaping.

Library: A building in which literary, musical, artistic or reference materials are kept for use but not generally for sale.

Licensed Day Care Center: A facility licensed by the State of Florida, whether situated within the city or not, that provides care, training, education, custody, treatment or supervision for more than 12 children under 14 years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than 24-hours-a-day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

Licensee: A person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

Life Care Treatment Facility: A facility which provides one or more levels of personal care services to residents but which provides an independent or semi-independent lifestyle to its residents and which is not licensed as an Adult Congregate Living Facility or Community Residential Home by the Florida Agency for Health Care Administration. A life care treatment facility may be built in combination with a congregate living facility or a nursing convalescent and extended care facility.

Liquor: All spirituous beverages created by distillation and by mixture of distilled beverages by what is commonly termed "blending".

Liquor Store: An establishment engaged in the retail sale of packaged alcoholic beverages for consumption off-premises.

Loading, Off-Street: Space location outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

Local Planning Agency: The City Council or those individuals appointed by the City Council to serve as such.

Locksmith: An establishment engaged in the repair of locks, the making of keys, and the provision of the service of opening damaged or jammed locks upon request by the lock's owner.

Lot: A designated parcel or tract of land, identified by a legal description, established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit, or used for the purpose of property division.

Lot/Corner: A lot located at the intersection of two or more streets.

Lot/Interior: A lot other than a corner lot, and abutting one street. Alleys shall not be considered as streets (See Fig 6.1).

Lot/Through: A lot other than a corner lot and with frontage on more than one street (See Fig. 6.1).

Lot Coverage: That portion of the area of a lot, expressed as a percentage, occupied by all buildings or structures which include but are not limited to arcades, stairways, elevator shafts, and balconies that are roofed and that extend more than three feet above ground level. Terraces, patios, atriums, balconies, breezeways, covered patios, entryways, and any accessory structure are not included in the lot coverage.

Lot Line: A line that marks the boundary of a lot.

Lot Line/Interior: Any lot line that is not a street lot line; a lot line separating a lot from another lot.

Lot Line/Street: Any lot line separating a lot from a street right-of-way or general access easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot shall be considered the street lot line.

Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the office of the Clerk of the Circuit Court of Hernando County, or any parcel of land, whether or not part of a subdivision, that has been officially recorded by a deed in the office of the Clerk, provided such lot was of a size which met the minimum dimensions for lots in the district in which it was located at the time of recording or was recorded prior to the effective date of zoning in the area where the lot is located and met the requirements of the subdivision regulations in effect at the time of the recording.

Lot Width: The horizontal distance measured along a straight line connecting the points where the rear of the required yard line meets the interior lot lines or, if on a corner, the other rear of the required front yard.

Lowest Adjacent Grade: The lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the non-elevation design standards of ArticleV.

Mail Order Office: An establishment which engages in the taking of requests for mail order or catalog merchandise by telephone. An establishment where orders are picked up or taken in person are not considered mail order offices.

Mail Order Pickup Facility: An establishment which engages in the taking of requests in person or the on-premises delivery of mail order or catalog merchandise.

Major Collector Roads/Streets: Roads or streets which carry, or will carry, medium volumes of traffic primarily from minor collector roads to arterial roads.

Mansard Sign: Any sign attached to or erected against a mansard roof of a building, with the face horizontally parallel to the building wall. Since such sign is to be mounted parallel to and within the limitations of the building wall on which the same is to be mounted, the same is deemed to be a wall sign and not a roof sign.

Manufactured/Mobile Home: A structure, excluding Park Model/park Trailer as defined by this Code, designed for and limited to single family and duplex usage meeting the Federal Mobile Home Construction and Safety Standards, promulgated by the Department of Housing and Urban Development. Such a structure is complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on piers or a foundation, connections to utilities and the like. Alteration of a manufactured home in any way that changes its intended original usage shall negate its approval for any use. Manufactured/mobile homes shall not be allowed to be connected/married unless specifically designed and approved for that purpose as a part of the manufacturing process. For flood plain management purposes the term "manufactured/mobile home" includes all of the vehicles listed within the definition for Manufactured Home/ Mobile Home)and all other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured/Mobile Home Park: A premises or tract of land prepared and approved according to the procedures and requirements of this Code to accommodate mobile homes.

Manufactured/Mobile Home Park or Subdivision: For flood plain management purposes, the term "manufactured/mobile home park or subdivision means a parcel (or contiguous parcels) of land divided into 35 or more manufactured home lots for rent or sale.

Manufactured/Modular Building: A structure manufactured in manufacturing facilities for installation or erection as a finished building or as part of a finished building on the building site. This shall include, but not be limited to, residential, commercial, institutional, storage and industrial structures. The building must bear an insignia of approval from the Florida Department of Community Affairs.

Manufacturing, Heavy: All manufacturing, processing, and assembly uses which correspond with the definition of Heavy Industrial in this Code.

Manufacturing, Processing and Assembling: The mechanical or chemical transformation of materials or substances into new products. The land uses engaged in these activities are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under this definition if the new product is neither a fixed structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastics resins or liquors.

Marginal-access Streets: Minor streets which are parallel to and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

Market Value: The building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on site (as agreed to between a willing buyer and seller) as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), Actual Cash Value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values.

Marquee: A permanent roof-like shelter extending from part or all of the building face usually over a public right-of-way and constructed of some durable material such as metal, glass or plastic.

Masonry: Composed of stone, brick, concrete, gypsum, hollow clay tile, concrete block, interlocking steel and styrofoam panels encapsulated in stucco, or other similar building materials.

May: A permissive condition; where the word "may" is used, the requirement, standard or condition is optional.

Mean Sea Level: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, or North American Vertical Datum (NAVD) of 1988.

Medical Laboratory: An establishment engaged in the testing and analysis of material for medical or dental services or for the patient on prescription of a health practitioner.

Membership Organization: A membership establishment operated by a corporation or association of persons for activities which include but are not limited to business, professional, social, literary, political, educational, fraternal, charitable or labor activities, but which are not operated for profit or to render a service which is customarily conducted as a business.

Mental Health Care Facility: See Hospital.

Minor Collector Roads/Streets: Roads or streets which carry, or will carry, medium volumes of traffic primarily from minor streets to major collector streets.

Minor Industry: A non-intensive, relatively small-scale, light manufacturing operation in which the final product is crafted predominately from previously prepared materials. The operation may involve minor processing, assembly, treatment, packaging, incidental storage, sales and distribution of

products, but excludes basic industrial processing. Examples are cigar-making; small unit products such as electronic equipment and fishing tackle and smoking pipe manufacture; and forms of craftsmanship, such as cabinet-making which does not include milling.

Minor (Local) Roads/Streets: Roads or streets which are used or will be used for access to abutting properties and which carry, or will carry, limited volumes of traffic.

Minor Work: Alterations, removals and modifications to Landmarks or structures in Historic Districts which will 1) have no significant effect on the structure's cultural, historical or architectural importance, 2) tend to enhance its cultural or architectural significance. Examples of such activities include removal of intrusive elements or out buildings, removal of vinyl, aluminum or other artificial siding, construction or installation of appropriate fences, street furniture and landscape materials.

Mobile Home: See Manufactured Home.

Mobile Home Park: See Manufactured/Mobile Home Park.

Modular Structures: See Manufactured/Modular Building.

Monument Sign: Any sign, other than a Pole sign, which is placed upon or supported by structures or supports in or upon the ground and independent of support from any building and which does not exceed four feet in height, 20 feet in length and 15 inches in width, except as otherwise provided by in this Code.

Motel: See Hotel/Motel.

Motion Picture Studio: An establishment engaged in the production of motion pictures for commercial release and exhibition.

Motor Home: See Recreational Vehicle.

Motor Vehicle Repair: Motor vehicle repair shall be classified as Neighborhood Serving, Minor, and Major. Activities allowed within each classification are as follows.

Neighborhood Serving: Neighborhood serving repairs shall include:

1. Replacement of fan belts, brake fluids, light bulbs, fuses, floor mats, windshield wipers and blades, and mirrors.

2. Fluid replacement.

3. Greasing and lubrication.

4. Emergency repair of wiring.

5. Minor adjustment not involving removal of the head of crankcase and grinding valves.

6. Battery recharging.

7. Safety inspections.

8. Sale and service of sparkplugs and batteries

Minor: Minor vehicle repair shall include all neighborhood serving repair and the following:

1. Sale and service of distributor and ignition system parts.

2. Sales, service and repair or tires, but not recapping or regrooving.

3. Replacement of mufflers, tail pipes, water hoses, seat covers, grease retainers, wheel bearings, and the like.

4. Radiator cleaning and flushing.

5. Providing and repairing fuel pumps, oil pumps, and the like.

6. Minor adjustment and repair of carburetors.

7. Adjusting brakes and installing exchange brake shoes.

8. Wheel balancing.

9. Warranty maintenance.

10. Other minor servicing of a similar intensity to those listed above.

Major: Any automotive repairs or servicing not listed under Minor, above, excluding body work and/or painting.

Multiple Occupancy Parcel: Any parcel which is occupied by more than one establishment.

Museum: An establishment engaged in the procurement, care, study, and display of objects of historical, educational and cultural value and interest.

National Geodetic Vertical Datum (NGVD) of 1929: A vertical control used as a reference for establishing varying elevations within the floodplain.

National Register of Historic Places: The official listing of culturally significant buildings, structures, objects, sites, districts, and other historic properties significant in American history, architecture, archaeology, engineering and culture maintained by the Secretary of the Interior, as established by the National Historic Preservation Act of 1966 (16 USC 470 et seq.), as amended.

Neighborhood/Community Fair: The temporary outdoor use of land by for-profit or nonprofit organizations offering entertainment in form of games of chance and skill, educational exhibits, rides, accessory musical entertainment, and the like. Outdoor refers to the use outside of existing permanent structures. Activities listed for neighborhood/community fair, but located entirely inside an existing building, such as in a school or church, are permitted uses and require no additional zoning approval.

New Construction: For floodplain management purposes, any structure for which the start of construction commenced on or after February 21, 1975. The term also includes any subsequent improvements to such structures. For the purposes of determining rates, new construction means structures for which the start of construction commenced on or after June 1, 1982 and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision: For flood plain management purposes the term "new manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after October 20, 2008.

Nonconformity: Lots, uses of land, uses of structures, structures, or characteristics of uses, which were lawful before this Code was passed or amended, but which are prohibited, regulated or restricted under the terms of this Code. Nonconformity may also be created where lawful public takings have the same effect as violations of this Code, if undertaken privately. Nonconformities are classified as follows:

1. Lot;
2. Use;
3. Density;
4. Structure; and
5. Characteristic of use which was lawful but would be prohibited, regulated or restricted by the enactment of this Code or a subsequent amendment thereto.

Non-Motorized Circulation System: A designated pattern of pedestrian/bicycle trails, walks, and accessways which link structures and spaces together within developments as well as between developments.

Non-Profit Public Service Institution: Non-profit public service institutions include, but are not limited to, religious institutions, such as churches or synagogues; civic, fraternal or charitable organizations; or other similar non-profit or not-for profit organizations to which the general public may reasonably be expected to travel.

Non-Resident Employee: Employees who do not live on the parcel being used for a home-based business.

North American Vertical Datum (NAVD) of 1988: A vertical control used as a reference for establishing varying elevations within the floodplain.

Nude Model Studio: Any place where a person who appears in a state of nudity or semi-nudity or who displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration, either directly or indirectly.

Nudity or State of Nudity: The appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the nipple; or human male genitals in a discernibly turgid state even if completely and opaquely covered; or any condition under which a person is in violation of chapter 58, article II, of the City of Brooksville Code of Ordinances.

Off Premises: Not located on the zoning lot with the principal use or structure.

Off-Premises Sign: A sign relating in its subject matter to other than the premises on which it is located or to products, accommodations or activities available on premises other than the site on which the sign is located. A sign bearing a non-commercial message shall be deemed to describe activities on the premises where the sign is located. This definition includes Off-Site Signs.

Off-Site Sign: See Off-Premises Sign.

Off-Street:

1. Loading: See Loading, Off-Street.

2. Parking: See Parking, Off-Street.

Off-Street Vehicular Use Area: Any area located outside of road right-of-way or easement and designed for parking, service, loading, circulation, storage or display of any type of vehicle, excluding parking garages.

On-Premises Sign: Any sign (1) that identifies an activity conducted or products or services available on the premises where the sign is located, or (2) displaying a non-commercial message, or (3) any combination of the first two. This definition includes On-Site Signs.

On-Site Sign: See On-Premises Sign.

Open Space: An area reserved for landscaping and permeable open area which shall be improved and maintained accordingly. Such areas may include landscaped buffers, vegetated yards, retention areas (if permeable) and associated landscaping, xeriscape preserved upland vegetation, environmentally sensitive areas, improved recreational facilities, parking area screening, landscaped islands, mulched and vegetative play areas, street furniture and areas paved with permeable blocks. Retention areas are considered open space if they serve as a water feature and are used as a design element within the overall site design.

Open Storage: The storage outside of building of materials, supplies, merchandise, equipment, truck trailers and metal containers including those utilized for storage of other items, commercial vehicles and junk as defined by this Code. This definition does not include principal-use retail displays of operable commercial vehicles, non-commercial vehicles, recreational vehicles, private pleasure craft and manufactured/mobile homes. Also excluded are portable temporary storage units as defined by this Code, displays of merchandise by retail stores which are moved indoors during non-business hours, and the display of children's outdoor play structures, such as swing sets, slides and jungle gyms, which cannot practically be moved indoors due to their size. Additionally, the outdoor display of ornamental

garden and landscape products, such as concrete statutes, fountains and planters, shall be classified as principal-use retail display and shall not constitute open storage.

Outdoor Advertising Service: A building, or portion of a building, occupied by an establishment primarily engaged in the maintenance, distribution and erection of display boards, posters, and painted and electric spectacular displays on panels, bulletins and frames principally outdoors and off the premises normally on a contract basis or for a fee or charge and not for resale.

Pain Management Clinic: A publicly or privately owned clinic, facility or office, including mobile medical-care facilities (such as mobile MRI services or blood mobiles), which (1) advertises in any medium for any type of pain management services, or holds itself out as a clinic, facility, or office for treatment of pain, or (2) where in any month a majority of patients are prescribed opiods, benzodiazepines, barbiturates or carisoprodol for the treatment of chronic nonmalignant pain. Included in this definition are facilities designating themselves as a pain research centers or emergency medical clinics, or (3) is required to register with the Florida Department of Health pursuant to Sections 458.309 or 459.005, Fla. Stat. (2009), or any successor state law.

Painted wall sign: Any sign which is applied with paint or a similar substance on the face of a wall. A painted wall sign shall be considered an attached sign.

Parapet: That portion of a wall which extends above the roof line.

Parcel: See Lot.

Package Sales: Alcoholic beverages that are sold only in containers sealed by the manufacturer for consumption off the licensed premises of the business establishment.

Parent Parcel: A parcel of land with a single folio number. Parent Parcels may be tracts created by plat or by the operation of the Subdivision Regulations of this Code.

Park Model/Park Trailer: A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface of the exterior walls at the level of maximum dimensions and including any bay window that extends to the floor line, does not exceed 400 square feet when constructed to ANSI A-119.5 standards, and 500 square feet when constructed to United States Department of Housing and Urban Development Standards. The length of a park trailer means the distance from the exterior of the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body (at the opposite end of the body), including any protrusions.

Parking Aisle: See Aisle, Parking.

Parking, Off-Street: Space located outside of any street right-of-way or easement and designed to accommodate the parking of domestic vehicles.

Parking, On-Street: Space located inside of any street right-of-way designed to accommodate the parking of domestic vehicles.

Parks and Recreation Facilities: Public land which has been designated for recreational activities including but not limited to nature trails, boating, picnicking, beaches, playgrounds, ball fields, basketball or tennis courts, pedestrian/bicycle paths, open space and wilderness areas.

Pennant: A triangular shaped sign or series of signs made of paper, plastic or fabric of any kind intended to be hung by being tethered along its base.

Permanent Sign: A sign which is affixed to a building or the ground in compliance with the requirements of the Hillsborough County Building Code and any other applicable Federal, State or local laws and in such a manner as to be immobile without the use of extraordinary means, such as disassembly.

Permittee: An individual or business entity holding a valid permit. This also includes the term "operator."

Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

Personal Care Service: The furnishing of service to residents including but not limited to individual assistance with, or supervision of, essential activities of daily living, such as eating, bathing, grooming, dressing and ambulation; the supervision of the administration of medication, counseling, training and other similar service. Personal care service shall not be construed to mean the provision of medical, dental, structured nursing, or mental health service.

Personal Service: An establishment that primarily provides service generally involving the care of a person or a person`s apparel, including but not limited to barber shop, beauty salon, seamstress shop, shoe repair and shining shop, dry cleaning and laundry pickup facility, coin-operated laundry and dry cleaning facility and small dry cleaners.

Pervious Open Space: The area on a lot or parcel not covered by a building or an impervious surface.

Physician: Any medical professional holding an MD, a PhD, or any other doctoral degree including but not limited to physicians, licensed psychologist, biomedical scientists, osteopathic doctors or dentists.

Planned Development Project (PDP): Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A planned development project includes principal and accessory structures and uses substantially related to the character and purposes of the PDP. A planned development project is built according to general and detailed plans which include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings. A PDP includes a program for the provisions, operations, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the PDP district, but which will not be provided, operated, or maintained at general public expense.

Plat: A map, plan or chart of a tract of land or property which is drawn to scale and shows the existing or proposed location of boundary lines, buildings, structures, uses or any other required data or information.

Plat, Final: A map or delineated representation of the subdivision of lands, being a complete and exact representation of the subdivision and other conformation in compliance with the requirement of all applicable sections of Chapter 177 and the requirements of this ordinance, and may include the terms "Replat," "Amended Plat," or "Revised Plat" as well as "Final Plat."

Plat, Preliminary: A map or delineated representation of the subdivision of land, being a complete, but conceptual representation of the subdivision and containing certain other data as required by the ordinance.

Pole Sign: A sign supported by a pole (sometimes more than one) and otherwise separated from the ground by air. A pole sign shall be considered a freestanding or detached sign.

Porch: A roofed, open area that is permanently affixed to the principal structure with direct access to and from said structure.

Political Sign: A sign identifying and urging voter support of or opposition to a particular issue, political party, or candidate for public office. A "political sign" does not include bumper stickers, magnetic signs, window decals and any similar items attached or affixed to a licensed motor vehicle, or balloons, stickers, novelty items or any type of item designed to be worn by a person.

Portable Sign: Any sign which is not permanently affixed to a building, structure or the ground in accordance with the requirements of the Florida Building Code and which may be moved readily from place to place; except that this definitions shall not apply to signs painted directly on vehicles or signs displayed through, but not on, windows.

Portable Temporary Storage Units (PTSU): Storage units which are delivered to a site for temporary use of limited duration, then returned to a central keeping/facility.

Portico: An open sided structure attached to a building sheltering an entrance or serving as a semi-enclosed space.

Premises: A lot or other tract of land and all of the structures located on the lot or tract of land.

Premises, Sexually Oriented Business: The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Article IV, Section 4-8.6.C. of this Code.

Principal building: The building in which is conducted the principal use of the lot on which it is situated.

Private Road: Any roadway that is neither owned nor maintained by the State, County or City.

Private Pleasure Craft: A vessel which is privately owned or leased primarily for aquatic recreational purposes. Private pleasure craft do not include commercial, official, or scientific vessels. Private pleasure craft may or may not contain facilities qualifying them as dwelling or lodging units.

Professional Residential Facility: Any residential establishment, other than a hospital or nursing home, providing board, lodging, supervision, medication, counseling, or other diagnostic or therapeutic services to persons, not related to the owner or operator by blood, marriage, or adoption, in need of a structured environment, and licensed by the Agency for Health Care Administration.
For purposes of this Code, Professional Residential Facilities shall not be deemed to include boarding houses; fraternities/sororities; monasteries; convents; hotel/motels; congregate living facilities; or nursing, convalescent and extended care facilities. "Placed," as used in reference to Professional Residential Facilities in this Code, shall mean the persons placed, supported or sponsored by, or the residents of a facility licensed by the State of Florida Agency for Health Care Administration.

1. Recovery Home A: A group residential facility providing room, board, and medical services to no more than eight "placed" persons in need of a structured environment.

2. Recovery Home B: A group residential facility providing room, board, and medical services to not more than 16 "placed" persons in need of a structured environment.

3. Recovery Home C: A group residential facility providing room, board and medical services to more than 16 "placed" persons in need of a structured environment.

Professional Service: An establishment containing practitioners of a calling or vocation in which a knowledge of some department of science or learning is used in its application to the affairs of others. Such activities would include but not be limited to accounting, auditing and bookkeeping services, architectural services, engineering and surveying services, interior design services, and legal services. Physicians and dentists are classified as Health Practitioners (See Health Services and Health Practitioners).

Projecting Sign: Any sign other than a wall sign affixed to any building or wall whose leading edge extends beyond such building or wall.

Property line: The recorded boundary of a lot or other tract of land.

Proportionate Share Mitigation: An applicant's voluntary provision of public school facilities proportionate to a development proposal's impact on school capacity. Proportionate Share Mitigation options may include contribution of or payment for land acquisition; construction or expansion of, or payment for construction of public school facilities; or the creation of mitigation banking based on the construction of public school facilities, in exchange for the right to sell capacity credits to other residential development affecting those facilities. Proportionate Share Mitigation must be identified in a Work Program, unless the School District has committed itself in a Proportionate Share Mitigation Agreement to include the mitigation in the Work Program during the next annual update to the Work Program.

Proportionate Share Mitigation Agreement: A voluntary, legally-binding commitment to provide Proportionate Share Mitigation to ensure public school concurrency can be achieved, where school

capacity would not otherwise be adequate to support the demand resulting from approval of a development proposal at the time the development proposal is being considered. The Applicant, School District and the City shall be parties to a Proportionate Share Mitigation Agreement pursuant to s. 163.3180(13)(e)1, Florida Statutes.

Public Facility: The use of land, buildings or structures for uses such as but not limited to public service facility and public use facilities.

Public Parks and Recreation Facilities: Publicly-owned land which may be utilized for any type of recreational use.

Public Street System: The network of roadways owned and/or maintained by the State, County, or City.

Public Service Facility: The use of land, buildings, or structures by a public utility, railroad, or governmental agency, including water treatment plants or pumping stations, electrical substations, telephone exchanges, and other similar public service structures, but not including land, buildings, or structures devoted solely to the storage and maintenance of equipment and materials.

Public Use Facility: The use of land, buildings, or structures by a municipal or other governmental agency to provide protective, administrative, social, and recreational services directly to the general public, including police and fire stations, municipal buildings, public health clinics and any other public facility providing the above services, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and not including cultural facilities or public service facilities.

Radio/Television Transmitting or **Receiving Facility:** The use of land, buildings, or structures for the above-ground transmission or reception of airborne radio, telephone, microwave or television, signals, including all transmitting and receiving towers, dishes and antennas except accessory radio or television receiving antennas and dishes, and those facilities classified as wireless communications facilities. See Communications Facility, Wireless.

Radio/Television Receiving Antenna and Dish Accessory: An antenna or dish designed for the above-ground reception of airborne radio or television signals and serving only the needs of the occupants of a single building or of a single residential development.

Railroad Switching and Classification Yard: A facility engaged in the furnishing of terminal facilities for rail traffic for linehaul service and in the movement of railroad cars between terminal yards, industrial sidings and other such facilities.

Real Estate Sign: A sign indicating the availability for sale, rent or lease of the specific lot, building or portion of a building upon which the sign is erected or displayed

Recreational Uses, General Indoor/Outdoor: For profit or non-profit recreational uses and facilities providing sports or recreation opportunities within an enclosed building and/or an outdoor area. Such uses shall include but not be limited to bowling alleys, skating rinks, movie theatres, gymnasiums, fitness centers, dance schools, miniature golf, baseball hitting cages, and playfields. This use shall not include recreational uses specifically listed in Section 2-2.2, Table of Allowable Uses in Zoning

Districts, nor Private Community Recreational Uses, Regional Recreational Uses, or Public Parks and Recreation Facilities as defined in this Code.

Recreational Use, Passive: Recreational areas that are left in a predominately natural state with minimal site improvements. Typical on-site uses include walking, hiking, or bike trails, fishing areas, picnicking, bridle paths, and bird watching. Passive Recreational Facilities are generally not lighted. This use shall not include recreational uses specifically listed in Section 2-2.2, Table of Allowable Uses in Zoning Districts, nor Private Community Recreational Uses, General Recreational Uses, Regional Recreational Uses, or Public Park and Recreation Facilities as defined by this Code.

Recreational Uses, Private Community: The use of a structure, building, or parcel of land by members of a residential community, as opposed to the general public, for social, cultural or any General or Passive recreational use. Private Community Recreational Uses shall be owned and operated by a homeowners association or similar entity.

Recreational Uses, Regional: For-profit or non-profit recreational uses and facilities which typically serve several communities or an entire region. Regional Recreational Uses include, but are not limited to, aquariums, amusement parks, mud bogging, rodeos, entertainment/sporting facilities, racetracks (auto, dog, go-kart, horse, motorcycles, and motor cross) and zoos. This use shall not include recreational uses specifically listed in Section 2-2.2, Table of Allowable Uses in Zoning Districts, nor General Recreational Uses, Private Community Recreational Uses, Passive Recreation Uses, or Public Parks and Recreational Facilities as defined by this Code.

Recreational Van: See Recreational Vehicle.

Recreational Vehicle: A motor vehicle primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle; travel trailers, camping trailers, truck campers, motor homes, private motor coaches, van conversions, park trailers, and fifth-wheel trailers are types of recreational vehicles.

Recreational Vehicle Park: The provision of two or more recreational vehicles spaces on a single zoning lot.

Recreational Vehicle Space: A area of land designated for the location of a recreational vehicle while said recreational vehicle is in used as a dwelling unit.

Recyclable Household Goods: Small household goods which are utilized in residential units and can be recycled and reused. Such items include but are not limited to aluminum cans, glass bottles, old newspapers, and used clothing. Not included are items defined as junk or large items not normally produced in residential dwelling units.

Recyclable Household Goods Collection Facilities: A facility where recyclable household goods are collected for recycling. Such facilities do not recycle the goods or distribute them as new products; they are just points of collection.

Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Rehabilitation Center: An establishment engaged exclusively in the provision of outpatient services to correct, cure or assist an individual in adjusting to a physical disability. Such services include but are not limited to physical therapy, occupational therapy, speech therapy, audiology, radiology and respiratory therapy, but excluding therapy for mental illness, drug or alcohol dependency, or rehabilitation of criminals.

Religious Establishment: See Church/Synagogue.

Remedy a Deficiency or Violation: To bring the regulation, procedure, structure or other development into compliance with State, Federal or local floodplain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Riverine: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Rental and Leasing of Commercial Vehicles and Heavy Equipment: An establishment engaged in the renting or leasing of commercial vehicles and heavy equipment including but not limited to concrete mixers, construction equipment, and like items.

Repair Bay: An area in an establishment which repairs motor vehicles in which one vehicle may be repaired.

Repair Service: The use of land, structures or buildings for the purposes of mending, or restoring items after decay, damage, dilapidation or partial destruction. Such services include but are not limited to motor vehicle repairs, bicycle repair, electrical and electronic repairs, gunsmiths, locksmiths, re-upholstery services, furniture refinishing and repair, small motor repair, and watch, clock and jewelry repair. Construction activities shall not be included in repair services.

Residential district: An R-1A, R-1B, R-1C, R-2 or R-3 zoning district or any part of a Planned Development Project (PDP) designated for residential use.

Residential Support Uses: The use of land, buildings or structures for uses which include but are not limited to child care centers, home-based businesses, and places of worship.

Residential Use: The use of land, buildings or structures for uses which include but are not limited to community residential facilities, dwelling units, fraternity and sorority houses, life care treatment facilities, private pleasure craft used as a residence, professional residential facilities and temporary living facilities.

Resource Recovery Facility: A facility in which garbage, minerals, glass, tin cans, paper, rags, and other materials are reclaimed or converted into energy.

Restaurant: See Eating Establishments.

Riverine: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Roof: The stationary, solid top covering of a building or structure.

Roof Line: The top edge of the roof or parapet, whichever forms the top line of the building silhouette when viewed from the ground level.

Roof Sign: Sign erected, constructed or maintained on the roof of any building.

Rooming House: See Boarding House.

Sale of Alcoholic Beverages: Any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as part of, a transfer of property other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage by a club licensed under the beverage law.

Sandwich Board Sign: A double-faced or single-faced portable display designed for temporary use which may readily be moved from place to place. Each sign face shall not exceed a maximum of two feet wide by three feet high. The sign height shall not exceed five feet, or occupy more than 13 square feet of ground space.

School: A facility which is in compliance with the compulsory school attendance law, Chapter 232, Florida Statutes, and provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools. See also Trade School, Technical School, Business School, Vocational School, and College.

School Interlocal Agreement: That certain agreement between Hernando County, the City of Brooksville and the Hernando County School District titled "2009 Amended and Restated Interlocal Agreement", together with any subsequent amendments, which sets forth the processes and procedures necessary to coordinate their respective plans and to ensure that new or expanded public educational facilities are coordinated in time and place with plans for residential development concurrently.

Screening: A method of visually shielding or obscuring an abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Semi-nude or Semi-nudity: The appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part and the person is not in violation of any other ordinance or Code provision regulating public nudity.

Service: The use of land, structures or buildings for the provision of facilities or work done for others and excluding all but incidental sales of merchandise. For the purpose of this Code, services shall include but not be limited to banking services; business services; health services; lodging places; professional services; recreation and amusement services; repair services and other such services.

Service Station: An establishment where gasoline and/or diesel fuel is supplied and dispensed at retail and where, in addition, the following services only may be rendered and sales made accessory to the sale of gasoline and/or diesel fuel:

1. Minor motor vehicle repair;

2. Sale of beverages, packaged food, tobacco products, and similar convenience goods for customers, as accessory and incidental to principal uses;

3. Provision of road maps and other travel information to customers;

4. Provision of restroom facilities; and

5. Warranty maintenance and safety inspections.

Uses permissible at a service station do not include major mechanical and body work, straightening of body parts; painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations.

Sexual Encounter Center: A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

2. Activities between male and female persons or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

Sexually Oriented Business: An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

Shall: A mandatory condition—Where the word "shall" is used, the requirement is considered to be mandatory.

Shared Access Facility: A driveway connecting two or more contiguous sites to the public street system.

Shopping Center: For the purpose of parking regulation, a group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site. Free-standing outparcels are not included in parking calculations for a shopping center and must be accounted for separately.

Shallow Flooding: See Area of Shallow Flooding.

Should: An advisory condition—Where the word "should" is used, the requirement is advisable, recommended, but not mandatory.

Side Yard: See Yard, Side.

Sight Distance: The length of road visible to a driver from a side street or driveway.

Sign: Any writing, graphic or pictorial presentation, number, illustration, or decoration, flag, banner or pennant, or other device, including the sign structure and sign face area, which is used to announce, direct attention to, or otherwise make anything known, and which is visible from any street, right-of-way, sidewalk, alley, or other public property. The term shall not be construed to include "building" or "landscaping," or any architectural embellishment of a building not intended to communicate information.

Sign Area: The entire area within the periphery of a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed, but not including a sign structure that does not bear copy. The surface area of the sign shall be measured from the outside edges of the sign or the sign frame, whichever is greater.

Sign Face: The area of a sign on which the copy is placed which may or may not be part of the support structure as may be determined by the Chief Administrative Officer.

Sign Height: The vertical distance measured from the finished grade at the base of the sign to the top of the sign face or sign structure, whichever is greater.

Sign Number: In cases where individual sign faces are displayed in a random or unconnected manner, or where there is reasonable doubt as to the intended relationship of such components, each component or element shall be considered to be a single sign. A projecting sign or ground sign or roof sign with sign faces on both sides of such sign shall be construed as a single sign, and the total area of such sign shall be the area computed on both sides of the sign.

Sign Support Structure: Structure which is designed specifically for the purpose of supporting a sign, has supported, or is capable of supporting a sign. This definition shall include any decorative coves, braces, wires, support or components attached to or placed around the sign structure.

Small Motor Repair: An establishment engaged in the repair of small motors including but not limited to lawn mowers, go-carts, pump motors, and like motors.

Snipe Sign: Any sign which is attached in any way to a utility pole, tree, fence post, or any other object located on public or private property. Any sign designed to provide warning to the public shall not be construed to be a snipe sign.

Social Club: A chartered membership organization.

Sorority House: See Fraternity or Sorority house.

Special Exception Use: A use which is essential or would promote the public health, safety or welfare in one or more districts, but which would impair the integrity and character of the district in which it is located or in adjoining districts unless restrictions or conditions on location, size, extent and character of performance are imposed.

Special Use: A use which would not be appropriate generally or without special study throughout the zoning district but which, if controlled as to number, size, location or relation to the neighborhood, would promote the public health, safety and general welfare.

Specified Anatomical Areas: Specified anatomical areas shall be defined as :

1. The human male genitals in a discernibly turgid state, even if fully and opaquely covered;

2. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

Specified Criminal Activity: Specified criminal activity means any of the following offenses:

1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries; or

2. Any criminal violation of this chapter; or

3. Any felony; or

4. An offense under Chapter 794, Fla. Stat. (Sexual Battery); or

5. An offense under Chapter 796, Fla. Stat. (Prostitution); or

6. An offense under Chapter 800, Fla. Stat. (Lewdness; Indecent Exposure); or

7. An offense under Chapter 826, Fla. Stat. (Bigamy; Incest); or

8. An offense under Chapter 847, Fla. Stat. (Obscene Literature; Profanity); or

9. An offense under an analogous federal law, statute of a state other than Florida or under an analogous ordinance of another county or city.

10. For which;

    a. Less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

    b. Less than ten years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

c. Less than ten years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

11. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

Specified Sexual Activities: Specified sexual activities means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

3. Masturbation, actual or simulated; or

4. Excretory functions as part of or in connection with any of the activities set forth in subsections 1. through 3. of this section.

Start of Construction: For other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (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 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 building.

Storm Cellar: A place below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornadoes or similar windstorm activity.

Street: Any access way such as a street, road, lane, highway, avenue, boulevard, parkway, viaduct, circle, court, terrace, place or cul-de-sac and also includes all of the land lying between the right-of-way lines as delineated on a plat showing such street, whether improved or unimproved, but shall not include those access ways such as easements and rights-of-way intended solely for limited utility purposes, such as for electric power lines, gas lines, telephone lines, water lines, drainage and sanitary sewers, and easements or rights-of-way of ingress and egress.

Street/Arterial: See Arterial.

Street Banner: A non-rigid sign made of paper, plastic or fabric of any kind held by standoffs that are attached by brackets at the top and bottom to a light pole.

Street/Collector: See Collector.

Street Frontage: The length of the property line for a single parcel which runs parallel to and along each public right-of-way (exclusive of alleys) it borders.

Street/Local: See Local.

Street/Marginal Access: A street that is parallel and adjacent to an arterial or expressway and which provides access to abutting property.

Street/Private: A roadway, not dedicated to the public, providing primary access to adjacent properties.

Street/Public: A dedicated and accepted right-of-way maintained by the City of Brooksville, Hernando County or the State of Florida and providing access to adjacent property. See also Arterial, Collector, and Local.

Street Furniture: Street furniture includes benches (which do not display advertising) and other forms of seating, plant containers, sculptures, fountains, street lights, pedestrian area lighting, drinking fountains, and waste containers.

Structure: Anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to principal or accessory buildings, signs, fences, walls, ridges, monuments, flagpoles, antennas, transmission poles, towers, and cables. For floodplain management purposes, a structure is considered a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Structure/Principal: A structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.

Structured Environment: A residential setting within which persons, progressing from relatively intensive treatment for crime, delinquency, mental or emotional illness, alcoholism, drug addiction or similar conditions to full participation in community life, are provided professional staff services, as well as board, lodging, supervision, medication and other treatment.

Subdivision: As used within these regulations the term "subdivision" shall mean the division of a parent parcel into two or more lots, blocks, parcels, tracts, or other portions, however designated. The reference point for the division of these lots shall be a parent parcel. When appropriate to the context, "subdivision" relates to the process of subdividing or to the lands or areas subdivided. However, condominium projects may be developed in accordance with Chapter 718, Florida Statutes, as amended. The term "subdivision" shall also incorporate the following definitions:

1. Major subdivision: Any subdivision of land not classified as a minor subdivision, including, but not limited to, a subdivision of five or more lots, or any subdivision requiring any new street or extension of municipal facilities internal to the site. Major subdivisions shall be subject to the requirements and procedures for preliminary and final plats as set forth in applicable sections of this Code.

2. Minor subdivision: Any subdivision which meets either of the following conditions:

   a. Parcels or lots may be combined by deed for the purpose of enlarging individually owned parcels. The subdivision of such lots or parcels, as enlarged or reduced, may not result in the creation of a nonconforming lot pursuant to the terms of the Land development Code; or

   b. The division of no more than ten acres of land into three or fewer lots, each of which meet the minimum zoning standards and has frontage on, and access to, a preexisting and maintained public or private street; provided, that no new public or private street is created; and further provided, that such subdivision is not in conflict with any provision or portion of this Code or the Comprehensive Plan.

Subdivision Sign: Any sign designated to identify a subdivision or neighborhood.

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

Substantial Enlargement of a Sexually Oriented Business: The increase in floor area occupied by the business by more than 25 percent, as the floor area exists on the effective date of the ordinance from which this article is derived.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions.

Substantially Improved Existing Manufactured Home Parks or Subdivisions, Flood Plain Management: The repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Surfaced in a Stable Manner: Surfaced in a manner approved by the administrative official, or other designated official; however, such pavement shall be of a stable type and shall be designed to carry the anticipated traffic loads of the premises and uses served. Loose aggregate will not be considered a completed surface.

Survey: The orderly process of determining data relating to the natural, physical or chemical characteristics of the earth and may be further defined according to the type of data obtained, the methods and instruments used, and the purpose to be served. All surveys showing land boundary information must be in accordance with Rule 21HH-6 of the Minimum Technical Standard for Land Surveys in the State of Florida.

Surveyor of Record: An individual registered under Chapter 472 Florida Statutes. Further, the individual must be in good standing with the Florida Board of Professional Land Surveyors.

Swimming Club: A recreational facility containing one or more swimming pools and may contain accessory uses such as diving facilities, administrative offices, or locker rooms.

Synagogue: See Church/Synagogue.

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

Temporary Sign: A sign intended to be displayed for a limited period of time.

Tennis Club: A recreational facility containing one or more tennis courts and may contain accessory uses such as administrative offices, or locker rooms.

Tent Camp: A collapsible portable temporary dwelling unit, generally made of flexible materials, used for travel, recreation and vacation housing.

Tent/Display/Meeting: A collapsible portable unit, generally made of flexible materials, which may or may not have sides, used for protection from the elements for temporary outdoor sales, exhibits, or displays, or for short term meeting places or social gatherings.

Terminal: See Train Terminal, Bus Terminal, and Truck Terminal.

Tiki Hut: See Chickee Hut.

Townhouse: A single-family dwelling constructed in a series or group of attached units with property lines separating each unit shall be allowed in two-family and multi-family pods or districts. Each townhouse shall be considered a separate building and shall be separated from adjoining townhouses by the use of separate exterior walls meeting the requirements of the Standard Building Code.

Tract: See Lot.

Trade School: An establishment in which is offered, for compensation, instruction in a trade or craft, including but not limited to, carpentry, masonry, metal working, machinery repair and operation, welding, fabrication and the like.

Transfer of Ownership or Control of a Sexually Oriented Business: Transfer of ownership or control of a sexually oriented business means and includes any of the following:

1. The sale, lease, or sublease of the business;

2. The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or

3. The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Travel Trailer: See Recreational Vehicle.

Truck Terminal: An area and building where cargo is stored and where trucks load and unload cargo on a regular basis.

Use: The specific purpose, activity, or function for which land, a building, a lot, a sign, or a structure is intended, designated, arranged, occupied, or maintained.

Use, Accessory: A use on the same lot or in the same structure with, and of a nature and extent customarily incidental and subordinate to, the principal use of the lot or structure.

Use, Principal: The primary use and chief purpose of a lot or structure.

Used Merchandise: An establishment engaged in the sale of previously owned goods, except the sale of used motor vehicles.

Utility: A community service available to the general public, including but not limited to electricity, telephone, cable television, water supply, gas and sanitary sewers.

Utility Trailer: Any trailer, other than a recreational vehicle or commercial vehicle as defined by this Code, which has an axle and frame and can be used for hauling material or goods, excluding any trailer when loaded with a private pleasure craft.

Vacate: When used with reference to the plat of a subdivision means the procedures for vacation and annulment of plats provided in Chapter 177, Florida Statutes or when used with reference to strict right-of-way means the procedures for vacation and abandonment of right-of-way as outlined in Chapter 336 Florida Statutes.

Variance: A grant of relief to a person from the literal requirements of this code which permits construction in a manner otherwise prohibited by the Land Development Regulations where specific enforcement would result in unnecessary hardship as outlined in the code.

Use: The specific purpose, activity, or function for which land, a building, a lot, a sign, or a structure is intended,

Variance: Authorization for the construction or maintenance of a building or structure, or for the establishment, maintenance or operation of a use of land, which is prohibited by the Code without such authorization, except as otherwise provided. Variances cannot be requested for land use, floor area ratio (FAR) or required review process.

Vehicle: Every device, whether motorized or nonmotorized, upon, or by which any person or property is or may be transported or drawn, excepting devices used exclusively upon stationary rails or tracks.

Vehicle Auction: The sale of vehicles where the method of sale is through competitive bidding and the price is determined by the highest bid offered.

Vehicle Auction, Retail: The sale of vehicles to the general public where the method of sale is through competitive bidding.

Vehicle Auction, Wholesale: The sale of vehicles other than retail where the method of sale is through private sector competitive bidding.

Vehicle Parts Sales, New: The sale of vehicle parts that have not been used previously or have been remanufactured.

Vehicle Parts Sales, Used: The sale of vehicle parts that have been used previously.

Vehicle Recycling: Land used for the recycling of ten or more inoperable vehicles for parts such as engines, transmissions, body parts, etc., including the storage, stripping, compacting rebuilding, sales and shipping of vehicles or parts thereof.

Vehicle Recycling, Enclosed: A building or buildings used for the recycling of inoperable vehicles for parts where the storage of parts and vehicles are completely within an enclosed building.

Vehicle Recycling, Open: Land used for the recycling of inoperable vehicles for parts where storage of parts or vehicles is not within a completely enclosed building.

Vehicle Sign: Any sign displayed upon a vehicle where the principal purpose of the vehicle is not general transportation, but the display of the sign itself.

Vendor (Temporary): An individual or group selling general merchandise, rugs, prepared foods, crafts, fresh fruits and vegetables, seasonal items, pumpkins, Christmas trees, etc., from a temporary location.

Veterinary Clinic: See Animal Hospital.

Violation: The failure of a structure or other development to be fully compliant with the requirements of this Code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Code is presumed to be in violation until such time as that documentation is provided.

Vocational School: An establishment in which is offered, for compensation, instruction in a vocation such as but not limited to barbering, cosmetology, hair styling, bartending and interior decorating.

Wall Sign: A sign attached to or erected against the wall of a building with the face in a parallel plane to the plane of the building wall and not extending more than one foot. A wall sign shall be considered an attached sign.

Window Sign: Any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior. A window sign shall be considered an attached sign.

Wastewater Treatment Facility: Facilities such as percolation and/or holding ponds and pump/lift stations which support the functioning of a wastewater treatment system.

Wastewater Treatment Plant: An arrangement of devices and structures for the treating of wastewater, industrial waste, and sludge.

1. Type 1: An interim wastewater treatment plant with a capacity of under 500,000 gallons per day.

2. Type 2: A permanent wastewater treatment plant with a capacity under 500,000 gallons per day.

3. Type 3: A wastewater treatment plant with a capacity of over 500,000 gallons per day.

Watercourse: A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water Features: Features of a site that hold water temporarily or permanently. These may include both natural features (lakes, wetlands, rivers, creeks, etc.), or artificial features (retention and detention ponds, fountains, ditches and canals.)

Water Surface Elevation: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Window Sign: A sign which is painted on, attached to or visible through a window. The display of merchandise is not a window sign.

Yard: A open space unoccupied and unobstructed by any structure or portion of a structure from 36 inches above the general ground level of the graded lot upward (except as otherwise provided by these regulations), provided, however, that fences and walls may be permitted in any yard subject to height limitations established herein, and further provided that poles, posts, and other customary yard accessories, ornaments, and furniture shall be permitted in any required yard, if they do not constitute substantial impediments to free flow of light and air across the yard to adjoining properties. For purposes of this Code, required yard is synonymous with yard.

Yard, Front: An area from the primary structure and extending between the side lot lines across the portion of a lot adjacent to a street.

Yard, Rear: A minimum required yard, as provided in this Code, extending across the rear of a lot between the side lot lines. The rear yard shall be at the opposite end of the lot from the front yard, excepting in the case of through lots, corner lots and waterfront lots.

Yard, Side: A minimum required yard, as provided in this Code extending along the side of a lot between the front yard and the rear yard except on corner lots where the side yard is the yard along any interior lot line which intersects with a street lot line.

Yard Waste Composting Facility: A facility where the yard trash and wood fraction of solid waste is processed by natural or mechanical means to aid the microbial decomposition of the organic material.

Yard Waste Transfer Facility: A facility where yard trash and wood waste from several relatively small vehicles is placed into a large vehicle before being transferred to a yard waste composting or disposal facility.

Zoning Permit: A permit, required by appropriate authority under the provisions of this Code, which authorizes the excavation, construction or alteration of a structure and is required prior to such construction or alteration, except for recurring maintenance work regardless of cost of the installation of required improvements according to an approved preliminary development plat or on approved preliminary development plat including planned development projects, conditional uses, special uses and special exception uses.

AGENDA ITEM NO. G-2
10/3/11

AGENDA ITEM MEMORANDUM

To: Honorable Mayor and City Council Members

Via: T. Jennene Norman-Vacha, City Manager

From: Janice L. Peters, CMC, City Clerk

Subject: Resolution No. 2011-12 FDOT Closure for the 37th Annual Brooksville Christmas Parade

Date: October 3, 2011

GENERAL INFORMATION: The Kiwanis Club of Brooksville is planning the 37th Annual Brooksville Christmas Parade for Saturday, December 10, 2011. Line-up begins at 7:00 a.m. at on Oakwood Drive with the parade from 10:00 a.m. – 12:30 p.m.

The route will be the same as last year, from Oakwood Drive to Howell Avenue to Main Street crossing over State Road 50A (Jefferson Street) to U.S. 41 (Broad Street) then east on U.S. 41 to Bell Avenue North crossing State Road 50A (Jefferson Street) again to Oak Street.

Staff will need to submit a permit to the State of Florida FDOT, along with a Resolution, upon approval by Council, for closure of Jefferson and Broad Streets. Release of the permit will be pending submittal of the Certificate of Insurance which will be supplied by the Kiwanis Club after November 10, 2011. Their insurance company will not release a certificate more than 30-days prior to an event.

SD
BUDGET IMPACT: There is no budget impact associated with approval of this Resolution.

JCA
LEGAL NOTE: The City is authorized to issue a Street Closure Permit pursuant to Section 74-165(a), which requires a permit to be obtained for parades or other public assembly events.

STAFF RECOMMENDATION: Staff recommends Council consideration for approval of Resolution No. 2011-10.

ATTACHMENT: Resolution No. 2011-12
State of Florida Road Closure Permit
Parade Route Map

RESOLUTION NO. 2011-12

RESOLUTION OF THE CITY OF BROOKSVILLE, FLORIDA SUPPORTING A REQUEST TO CLOSE JEFFERSON STREET AND BROAD STREET BETWEEN MAIN STREET AND BELL AVENUE IN DOWNTOWN BROOKSVILLE ON DECEMBER 11, 2010; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City wishes to promote businesses in and to draw visitors to the downtown area; and,

WHEREAS, the City wishes to support the 37th Annual Brooksville Christmas Parade that brings visitors to the City and to the downtown area; and,

WHEREAS, pursuant to the City of Brooksville Code of Ordinances, Section 74-1(b) and Section 74-165(a), the City Council may close streets for a parade; and,

WHEREAS, the Brooksville Kiwanis Club, the sponsoring organization for the parade, has been approved for a right-of-way closure and use permit and has provided liability insurance in an amount appropriate for the parade.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, that:

SECTION 1. STREET CLOSURES. The City Council recognizes the closure of the following Brooksville roadway segments to street traffic is necessary for public safety during the Brooksville Christmas Parade; and the City Council authorizes the following closures for the date of the parade:

Jefferson Street, from Bell Avenue to Main Street
Main Street, from Jefferson Street to Broad Street
Broad Street, from Main Street to Bell Avenue
Bell Avenue, from Broad Street to Jefferson Street

SECTION 2. CONFLICT. Any prior resolution or policy of the City inconsistent with the provisions of this resolution are hereby repealed to the extent of such inconsistency.

SECTION 3. SEVERABILITY. If any provision of this resolution or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications, and to this end, the provisions of this resolution are hereby declared severable.

SECTION 4. EFFECTIVE DATE. This resolution shall take effect immediately upon adoption by the City Council.

ADOPTED this 3rd day of October, 2011.

CITY OF BROOKSVILLE

ATTEST: _____
Janice L. Peters, City Clerk

By: _____
Frankie Burnett, Mayor

APPROVED AS TO LEGAL FORM FOR THE RELIANCE OF THE CITY OF BROOKSVILLE ONLY:

_____
Thomas S. Hogan, Jr., City Attorney

VOTE OF CITY COUNCIL
Bernardini ___
Bradburn ___
Burnett ___
Hohn ___
Johnston ___

Rule 14-65, F.A.C.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

REQUEST FOR TEMPORARY CLOSING/SPECIAL USE OF STATE ROAD

850-040-65
MAINTENANCE
03/06

Instructions: 1. Obtain signatures of local law enforcement and city/county officials.
2. This form must be submitted by the local governmental authority to FDOT to obtain written approval. Allow adequate time for the review.
3. Attach any necessary maps or supporting documents.

NAME OF ORGANIZATION	PERSON IN CHARGE	DATE
Brooksville Kiwanis Club	Diana KOONTZ	08/24/11

ADDRESS OF ORGANIZATION	TELEPHONE NUMBER
P.O. Box 685, Brooksville, FL 34605-0685	352-601-1339

TITLE OF EVENT
37th Annual Brooksville Christmas Parade

DATE OF EVENT	STARTING TIME OF EVENT	DURATION OF EVENT (APPROX.)	ACTUAL CLOSING TIME (INCLUDING SETTING UP BARRIERS, ETC.)
12/10/11	10:00 a.m.	4 Hours	See attached Exhibit "A"

PROPOSED ROUTE (INCLUDE STATE ROAD NUMBER, SPECIFIC LOCATION, ETC. – INCLUDE MAPS)
South on Main Street crossing over Jefferson Street (State Road 50A) to Broad Street (U.S. 41) then east on Broad Street (U.S.41) to Bell Avenue then north on Bell Avenue crossing Jefferson Street (State Road 50A)

DETOUR ROUTE (INCLUDE ALTERNATE ROUTES – INCLUDE MAPS)
See Attached Exhibit "A"

NAME OF DEPT. RESPONSIBLE FOR TRAFFIC CONTROL, ETC. (CITY POLICE, SHERIFF'S DEPT., FLORIDA HWY. PATROL, ETC.) (INCLUDE PRECINCT NO.)
Public Works to close streets, Police Dept. to manage traffic control.

SPECIAL CONDITIONS

THIS SECTION IS TO BE COMPLETED WHEN PERMITTING SPECIAL USE OF A STATE ROAD FOR FILMING

LICENSED PYROTECHNICS OPERATOR _____ LICENSE NO. _____

APPROVAL OF LOCAL FIRE DEPARTMENT _____

LIABILITY INSURANCE CARRIER _____ POLICY EFFECTIVE DATE _____

COVERAGE AMOUNT _____ ($1,000,000 MINIMUM)

LENGTH OF COVERAGE _____ DAYS

FEDERAL AVIATION ADMINISTRATION APPROVAL FOR LOW FLYING FILMING _____

ADDITIONAL LIABILITY INSURANCE AMOUNT _____ ($5,000,000 MINIMUM)

TYPED NAME AND TITLE (INCLUDE BADGE NO. IF APPROPRIATE)	SIGNATURE OF CHIEF OF LAW ENFORCEMENT AGENCY	DATE SIGNED
George Turner, Police Chief		

TYPED NAME AND TITLE OF CITY/COUNTY OFFICIAL	SIGNATURE OF CITY/COUNTY OFFICIAL	DATE SIGNED
Frankie Burnett, Mayor		

AUTHORITIES: CHAPTER 14-65, FLORIDA ADMINISTRATIVE CODE: RULES OF THE DEPARTMENT OF TRANSPORTATION – TEMPORARY CLOSING AND SPECIAL USE OF STATE ROADS, SECTIONS 337.406(1), 496.06 AND 316.008, FLORIDA STATUTES.

The Permittee, shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any acts, actions, neglect, or omission by the Permittee, its agents, employees, or subcontractors during the performance of the Contract, whether direct or indirect, and whether to any person or property to which the Department or said parties may be subject, except that neither the Permittee nor any of its subcontractors will be liable under this Article for damages arising out of the injury or damage to persons or property directly caused or resulting from the SOLE negligence of the Department or any of its officers, agents or employees.

Contractor's obligation to indemnify, defend, and pay for the defense or at the Department's option, to participate and associate with the Department in the defense and trial of any damage claim or suit and any related settlement negotiations, shall be triggered by the Department's notice of claim for indemnification to Contractor. Contractor's inability to evaluate liability or its evaluation of liability shall not excuse Contractor's duty to defend and indemnify within seven days after such notice by the Department is given by registered mail. Only an adjudication or judgment after highest appeal is exhausted specifically finding the Department SOLELY negligent shall excuse performance of this provision by Contractor. Contractor shall pay all costs and fees related to this obligation and its enforcement by the Department. Department's failure to notify Contractor of a claim shall not release Contractor of the above duty to defend.

It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the State's right, title, and interest in the land to be entered upon and used by the Permittee, and the Permittee will, at all times, assume all risk of and indemnify, defend and save harmless the State of Florida and the Department from and against any and all loss, damage, cost, or expense arising in any manner on account of the exercise or attempted exercises by said Permittee of the aforesaid rights and privileges.

During the event, all safety regulations of the Department shall be observed and the holder must take measures, including placing and display of safety devices, that may be necessary in order to safely conduct the public through the project area in accordance with the Federal Manual on Uniform Traffic Control Devices (MUTCD), as amended, and the Department's latest Roadway and Traffic Design Standards.

In case of non-compliance with the Department's requirements in effect as of the approved date of this permit, this permit is void and the facility will have to be brought into compliance or removed from the R/W at no cost to the Department.

Submitted by: Brooksville Kiwanis Club
Permittee

Place Corporate Seal

Signature and Title

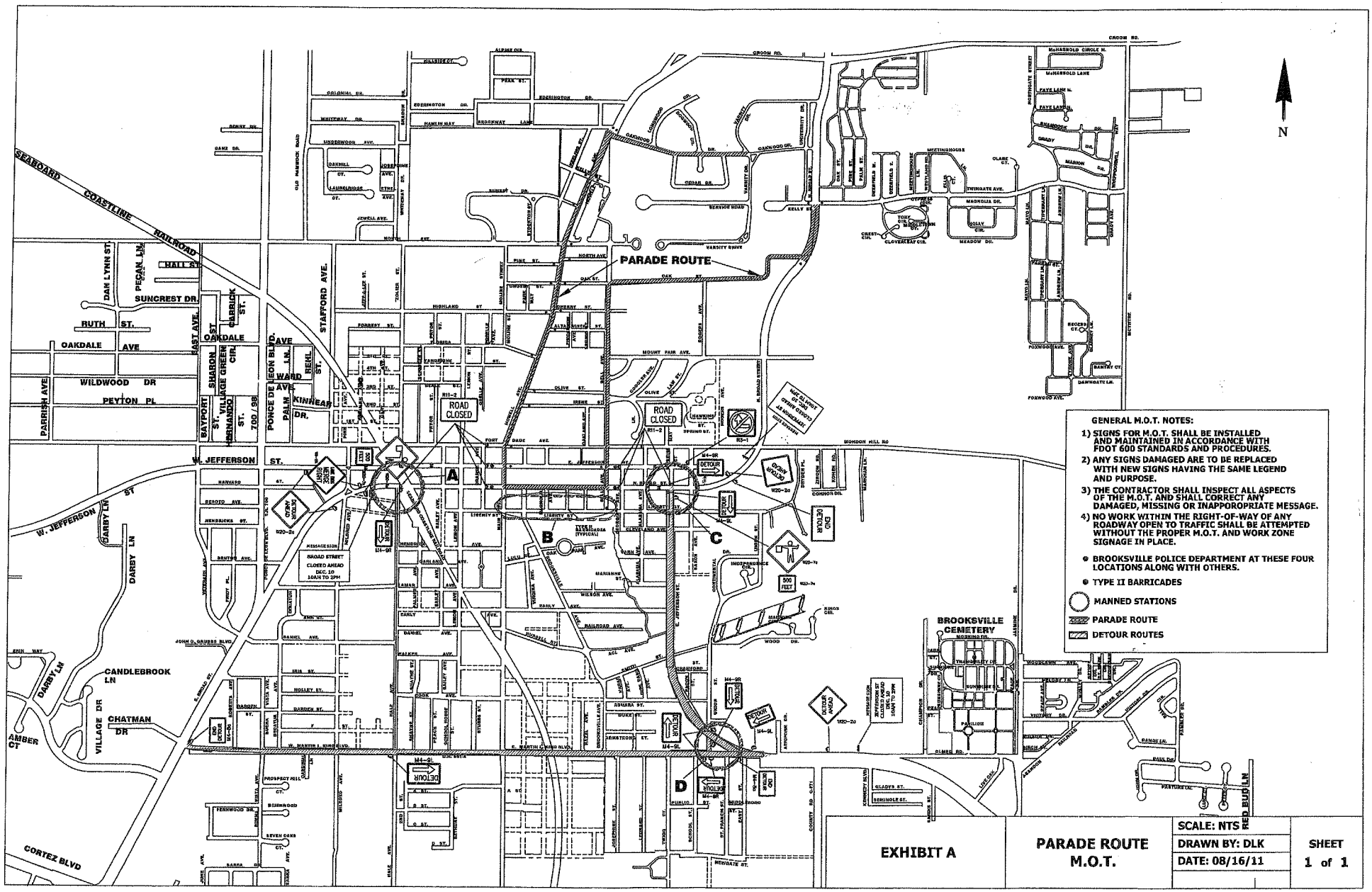
Attested

Department of Transportation Approval: This Request is Hereby Approved

Recommended for approval _____ Title _____ Date _____

Approved by: _____ Date _____
District Secretary or Designee

DISTRIBUTION: Original – Permittee
1st copy – District Maintenance Office
2nd copy – Local Maintenance Engineer


PARADE ROUTE
ROAD CLOSED
ROAD CLOSED
BROOKSVILLE CEMETERY
N
A
B
C
D
GENERAL M.O.T. NOTES:
1) SIGNS FOR M.O.T. SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH FDOT 600 STANDARDS AND PROCEDURES.
2) ANY SIGNS DAMAGED ARE TO BE REPLACED WITH NEW SIGNS HAVING THE SAME LEGEND AND PURPOSE.
3) THE CONTRACTOR SHALL INSPECT ALL ASPECTS OF THE M.O.T. AND SHALL CORRECT ANY DAMAGED, MISSING OR INAPPOROPRIATE MESSAGE.
4) NO WORK WITHIN THE RIGHT-OF-WAY OF ANY ROADWAY OPEN TO TRAFFIC SHALL BE ATTEMPTED WITHOUT THE PROPER M.O.T. AND WORK ZONE SIGNAGE IN PLACE.
BROOKSVILLE POLICE DEPARTMENT AT THESE FOUR LOCATIONS ALONG WITH OTHERS.
TYPE II BARRICADES
MANNED STATIONS
PARADE ROUTE
DETOUR ROUTES
EXHIBIT A
PARADE ROUTE M.O.T.
SCALE: NTS
DRAWN BY: DLK
DATE: 08/16/11
SHEET 1 of 1

ACORD TM CERTIFICATE OF LIABILITY INSURANCE

DATE 10/07/10

PRODUCER
Hylant Group
P.O. Box 40925
Indianapolis, IN 46280-0925

Phone No. 317-817-5000 Fax No. 317-817-5151

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER, THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW

INSURED: **Kiwanis International - All Clubs & Their Members Insured Local Club:**

CLUB NAME: Kiwanis Club of Brooksville

CLUB ADDRESS: **Post Office Box 685**
Brooksville, Fl 34605-0685

COMPANIES AFFORDING COVERAGE

COMPANY A: **Lexington Insurance Company**

COMPANY B:

COMPANY C:

COMPANY D:

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [X] OCCUR [ ] OWNERS&CONTRACTOR'S PROT [X] AGG PER DISTRICT	013135795	11/01/09	11/01/10	GENERAL AGGREGATE PRODUCTS-COMP/OP AGG PERSONAL&ADV INJURY EACH OCCURRENCE FIRE DAMAGE (Any one fire) MED EXP (Any one person)	$ 2,000,000 $ 2,000,000 $ 2,000,000 $ 2,000,000 $ 100,000 $
A	[X] LIQUOR LIABILITY	013135795	11/01/09	11/01/10	LIQUOR LIABILITY	$ 1,000,000
A	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [X] HIRED AUTOS [X] NON-OWNED AUTOS [X] $3,000,000 Aggregate	013135795	11/01/09	11/01/10	COMBINED SINGLE LIMIT BODILY INJURY (Per person) PROPERTY DAMAGE	$ 1,000,000 $ $
	GARAGE LIABILITY [ ] ANY AUTO				AUTO ONLY-EA ACCIDENT OTHER THAN AUTO ONLY EACH ACCIDENT AGGREGATE	$ $ $ $
	EXCESS LIABILITY [ ] UMBRELLA FORM [ ] OTHER THAN UMBRELLA FORM				EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYER'S LIABILITY THE PROPRIETORS/ PARTNERS/EXECUTIVE OFFICERS ARE: [ ] IN CL [ ] EXCL				WC STATU-TORYLIMITS [ ] OTH-ER EL EACH ACCIDENT EL DISEASE-POLICY LIMIT EL DISEASE-EA EMPLOYEE	$ $ $ $
A	Self Insured Retention	013135795	11/01/09	11/01/10	All Claims	$ 100,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

CERTIFICATE HOLDER

Name:

Attn:

Address:

ACORD 25-S(1/95)
© ACORD CORPORATION

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATI DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHAL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

AGENDA ITEM NO. G-3
10/3/11

AGENDA ITEM
MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCILMEN

VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER

FROM: GEORGE TURNER, POLICE CHIEF

SUBJECT: SENSYS AMERICA TRAFFIC INFRACTION DETECTION AND ENFORCEMENT PROGRAM AGREEMENT

DATE: SEPTEMBER 26, 2011

GENERAL SUMMARY/BACKGROUND: Council, at its September 19, 2011, meeting directed staff to bring back an agreement for consideration of reinstating the Traffic Infraction Detection and Enforcement Program. Staff was able to get permission from Sensys America, Inc. and the City of Deland to piggyback on the City of DeLand's competitive bid for traffic infraction detection and enforcement which was awarded in February 7, 2011.

Please find the Service Agreement between the City of Brooksville and Sensys America, Inc. for Traffic Infraction Detection and Enforcement Program for your consideration.

BUDGET IMPACT: Upon approval, Traffic Camera Fund (128) will be amended to include revenues and expenses related to the limited number of manpower hours needed for the Police Officer/reviewer required for the program. Allocation of additional outlay of expenses will be presented for Council approval at the appropriate time.

LEGAL REVIEW: City Council has home-rule authority (Art. VIII, 2(b), Fla Const./Section 166.011, F.S.) to consider matters of fiscal. Pursuant to Section 5.04 of the City Charter, competitive bidding is required except to the extent that Council authorizes otherwise by ordinance. Pursuant to Section 2-304 (a) (1) and (2) of the Code of Ordinances, the amount of expenditure for which the City may obligate itself without competitive bidding by the City is increased provided: (1) the City Manager recommends to the City Council that a specific purchase be made by piggybacking on an award by another governmental entity's competitive bidding process; and (2) the other governmental entity's competitive biding process provides substantially equivalent guarantees of fairness and competiveness to those of the City. The City is authorized to engage in traffic infraction detection and enforcement by camera pursuant to Fla. Stat.-§316.0083 and Sec. 74-201 Code of Ordinances.

STAFF RECOMMENDATION: Staff recommends Council consideration and direction; should Council approve, we recommend approval of appropriate budget amendment for outlined revenues and expenditures above.

ATTACHMENTS: Services Agreement

SERVICES AGREEMENT
BETWEEN THE CITY OF BROOKSVILLE AND SENSYS AMERICA, INC. FOR TRAFFIC INFRACTION DETECTION & ENFORCEMENT PROGRAM

This **AGREEMENT** (the "Agreement") made this ____ day of October, 2011, by and between Sensys America, Inc., a Delaware corporation having a place of business at 80 SW 8th Street, 20th Floor, Miami, Florida 33130 ("Sensys"), and the City of Brooksville, Florida, a municipal corporation of the State of Florida, having an address at 201 Howell Avenue, Brooksville, Florida 34601 (the "City" and together with Sensys, the "Parties" and each singularly a "Party").

WITNESSETH:

WHEREAS, pursuant to Sec. 316.0776, Florida Statutes, the City may implement a red light camera enforcement program;

WHEREAS, the City adopted Ordinance No. 758, as subsequently amended, providing for a red light camera enforcement program codified in Sections 74-201, et. seq.;

WHEREAS, Sensys has the knowledge, possession, and ownership of certain equipment, licenses and processes, referred to collectively as the Sensys Red Light Safety System;

WHEREAS, City desires to use the Sensys Red Light Safety System to monitor and enforce red light violations in accordance with applicable laws and ordinances;

WHEREAS, the Parties desire to enter into this Agreement, whereby Sensys will (i) install and assist the City in the administration and operation of the Sensys Red Light Safety Systems, traffic signal violation detection systems, and streaming video monitoring systems, each described in more detail on Exhibit A to this Agreement (the "System(s)") at the intersections located within the City, and provide to the City the services (the "Services"), all as more fully described on Exhibit A, and (ii) in connection with the Services, license certain software and lease certain equipment to the City.

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions contained herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **RECITALS AND EXHIBITS**. The foregoing recitals are true and correct and are hereby incorporated in *haec verba*. All exhibits attached to this Agreement contain additional terms of this Agreement and are hereby incorporated in *haec verba*.

2. **SERVICES.**

   A. Sensys agrees to use commercially reasonable efforts to install and provide to the City for the Term the Systems (the "Equipment") and software (the "Software") to be supplied and installed by Sensys in accordance with Exhibit A (including the provision of all construction drawings, permit applications and other documents required by applicable law for the installation and operation of the

System). In addition, if and to the extent set forth in Exhibits A, B, and C, Sensys shall also supply to the City:

(1) citation preparation processes that assist the City in complying with current applicable law;

(2) training of personnel designated by the City involved with the operation of the Systems and/or the enforcement and disposition of citations;

(3) expert witness testimony regarding the operation and functionality of the System; and

(4) other support services for the System as set forth in Exhibit A.

B. If and to the extent the City has or obtains during the Term custody, possession or control over any of the Equipment or Software, the City agrees:

(1) such Software, if manufactured or licensed by Sensys, is supplied under the license set forth in Exhibit B (the "License") to which the City agrees;

(2) such Software, if manufactured by third parties, is supplied under third-party licenses accompanying the Software, which licenses the City acknowledges receiving and to which it hereby agrees; and

(3) such Equipment is supplied under the lease terms set forth in Exhibit C (the "Lease") to which the City hereby agrees.

C. The City understands and agrees that (i) Sensys may, subject to the prior approval of the City, which approval shall not be unreasonably delayed, conditioned or withheld, subcontract with third parties for the provision or installation of part or parts of the Systems or Services and (ii) installation of the Systems requires the City's cooperation and compliance with Sensys' reasonable instructions (including but not limited to City's provision of the personnel, equipment, engineering plans, and other resources as described in Exhibit A or as otherwise reasonably requested by Sensys) and reasonable access by Sensys (or such third parties) to City premises and systems and the City agrees to provide all of the foregoing to Sensys.

D. The City understands and agrees that the Systems will be owned by Sensys (or its designees). The City shall use its best efforts to assist Sensys to identify any third-party who is responsible for damage to the Systems or any part thereof.

E. Sensys shall coordinate its work with the City's police, public works and engineering departments and, as necessary or required, with the Florida Department of Transportation.

3. **TERM**

A. The effective date of this Agreement shall be the date first written above (the "Effective Date"). The initial term of this Agreement, the License and the Lease shall begin upon the Effective Date, following full execution of the Agreement by the Parties, and shall continue until the third (3rd) anniversary of the Installation Date (the "Initial Term").

B. The City shall have the option to extend this Agreement, the License and the Lease for three (3) additional thirty-six month terms (each, a "Renewal Term"), on the same terms and conditions specified herein except that the amounts due pursuant to Section 5 hereof shall be adjusted in accordance with the change in the Consumer Price Index – All Urban Consumers – U.S. City Average ("CPI") by multiplying said amounts by the percentage change in the CPI from the beginning of the immediately preceding term to the end of the immediately preceding Term. (Each Renewal Term, if any, together with the Initial Term, the "Term"). The "Installation Date" shall be the latest date that a System becomes installed and operational at any of the intersections described in Sections 1.A or 1.B of Exhibit A.

4. **TERMINATION AND EXPIRATION**

A. This Agreement may be terminated by mutual written consent of the Parties.

B. This Agreement may be terminated for cause, by either Party if the other Party fails in any material way to perform its obligations under the Agr eement or otherwise defaults in the performance of any obligation under this Agreement and such failure or default continues for more than forty-five (45) days after written notice thereof to the defaulting Party.

C. Sensys may terminate this Agreement, without liability, on thirty (30) days advance written notice if Sensys concludes in its reasonable discretion that (i) potential or actual liability of Sensys to third parties (other than persons claiming to own Intellectual Property required for the operation of the System) arising out of or in connection with the System makes the program impractical, uneconomical or impossible to continue.

D. The City may terminate this Agreement on thirty (30) days advance written notice if City concludes in its reasonable discretion that (i) potential or actual liability of City to third parties arising out of or in connection with the System makes the program impractical, uneconomical or impossible to continue; and/or (ii) the Systems cannot be installed.

E. Upon termination or expiration of this Agreement, either for default or because it has reached the end of its term, the Parties recognize that the City will have to process violations in the "pipeline," and that Sensys accordingly must assist the City in this accord. Accordingly, the Parties shall take the following actions

during the wind-down period, and shall have the following obligations, which obligations shall survive termination or expiration of the Agreement:

(1) The City shall cease using the Software and Equipment in its possession, custody or control and shall (a) immediately allow Sensys a reasonable opportunity to remove such Equipment not to exceed sixty (60) days and (b) (i) immediately deliver to Sensys or irretrievably destroy, or cause to be so delivered or dest royed, any and all copies of such Software in whatever form and any written or other materials relating to such Software in the City's possession, custody or control and within thirty (30) days deliver to Sensys a certification thereof or (ii) allow Sensys reasonable access to the System(s) on which such Software is loaded and permission to Sensys to remove such Software and documentation.

(2) Unless directed by the City not to do so, Sensys shall continue to process all images taken by the City before termination and provide all services associated with processing in accordance with this Agreement, and shall be entitled to Fees specified in the Agreement as if the Agreement were still in effect.

F. Notwithstanding anything to the contrary contained herein, or in the License or the Lease, but except as provided in Section 21, the License and the Lease shall terminate upon the termination or expiration of this Agreement.

5. **FEES AND PAYMENT**

A. The City agrees to pay Sensys a monthly fee as follows (the "Monthly Fees"):

(1) $4,500 per month (pro rated for any partial month) in arrears with respect to each approach installed with standard flash ("Standard System"). Such payment shall commence on the first business day of the month following Commencement of Operations of each Standard System and shall continue on the first business day of each month for the Term or until this Agreement is sooner terminated or such payment is modified in accordance with Section 5.B. For purposes of this Agreement, "Commencement of Operations" shall mean the first full day that the System captures events for processing and issuance of notices of violation.

(2) $4,600 per month (pro rated for any partial month) in arrears with respect to each approach installed with infrared flash ("Infrared System"). Such payment shall commence on the first business day of the month following Commencement of Operations of each Infrared System and shall continue on the first business day of each month for the Term or until this Agreement is sooner terminated or such payment is modified in accordance with Section 5.B.

(3) $100 per month (pro rated for any partial month) in arrears with respect to each streaming video monitoring System (a "Video Monitoring System").

Such payment shall commence on the first business day of the month following first full day that such Video Monitoring Systems provides live feed to the Police Department and shall continue on the first business day of each month for the Term or until this Agreement is sooner terminated.

B. No Monthly Fees shall be due or payable by City on any Approach or System during any period in which only notices or warning are issued.

C. Notwithstanding anything in this Agreement to the contrary, if amounts due to Sensys pursuant to Section 5.A in any month during the Term plus any amounts due to Sensys pursuant to this Section 5.B ("Monthly Photo Enforcement Fees") exceed fifty percent (50%) of the revenue generated by operation of the Systems and actually received by the City during that same month ("Monthly Photo Enforcement Revenue") then the City shall pay to Sensys for such month only fifty percent (50%) of the amount of Monthly Photo Enforcement Revenue. In such case, the difference between Monthly Photo Enforcement Fees and Monthly Photo Enforcement Revenue (a "Payment Shortfall") shall be accumulated and added to the Monthly Photo Enforcement Fees for the following month. Payment Shortfalls, if any, shall accumulate from month-to-month until paid in full, provided that under no circumstances shall the City ever be required to make a payment of Monthly Photo Enforcement Fees to Sensys except from Monthly Photo Enforcement Revenue. Any Payment Shortfall not paid from Monthly Photo Enforcement Revenue during the Term shall be forfeited as of termination or expiration of the Agreement.

D. The City is a tax-exempt entity and is exempt from the payment of sales tax; however, in the event that any excise, sales or other taxes are due relating to this Agreement, the City will be responsible for the payment of such taxes; provided, however, that any taxes imposed by the City to Sensys shall be waived by the City or reimbursed to Sensys by the City.

E. Subject to Section 5.B, in the event that the United States Postal Service increases applicable First Class Mail and/or Certified Mail postage, Sensys may invoice the City for the increased postage actually paid by Sensys in connection with this Agreement. For example, if First Class Mail postage were increased by $0.02, and Sensys mailed 1,000 notices, Sensys would invoice the City $20.00. As of the date hereof, First Class Mail postage is $0.44 per letter and standard Certified Mail postage is $1.15.

F. Payment of all fees and other charges owed pursuant to this Agreement is due as set forth above, and, to the extent invoice is required, within forty-five (45) days after receipt of the invoice. Invoices will be sent to the City at:

City of Brooksville
201 Howell Avenue
Brooksville, Florida 34601

6. RESPONSIBILITIES OF THE CITY

A. The City shall provide Sensys with any "as built" drawings in electronic format (AutoCad) that are available at no cost to the City and shall consider for approval Sensys' engineering drawings without unusual or unreasonable cost or delay.

B. The City shall not levy any permit fees or, if municipal ordinance requires the assessment of fees, the City shall waive or be responsible for such fees associated with the installation of the System.

C. The City shall diligently prosecute citations in court at its own expense. Sensys shall, at its own expense, participate in any proceeding challenging the use of the System or validity of its results and/or use of the U.S. Mails to deliver the citation.

D. The City will cooperate with Sensys in obtaining electrical connections at the roadside and Sensys shall pay all costs associated with such connection and shall pay for all power required by the System.

E. To allow for proper operation of the System, when known to the City, the City shall provide Sensys with advance written notice of any modifications proposed to intersections or roadways, including traffic signal operations, after installation of a System. In the event any such intersection or roadway modification requires a material change to the System, Sensys shall pay the costs reasonably incurred by Sensys to adapt the affected video monitoring system(s) or fixed speed enforcement unit(s) to make such video monitoring system(s) or fixed speed enforcement unit(s) compatible therewith. Notwithstanding the above, Sensys makes no guarantee that it will be able to make any such adaptation. In the event that Sensys is unable to adapt the affected System, then both parties shall be relieved of any further obligations under this Agreement with respect only to the affected System. In addition, Sensys does not, and will not, make recommendations or otherwise manage the configuration or operation of the intersection traffic light system.

F. During the Term, except as expressly permitted by this Agreement the City shall not use the System, or allow the System's use by a third party, without the prior written permission of Sensys.

7. LIMITED WARRANTY AND LIMITATION ON DAMAGES

A. Sensys warrants that the System's functionality will conform in all material respects to the description of the System set forth on Exhibit A. This warranty is subject to the conditions of Section 7.D.

B. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, SENSYS HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE SERVICES AND SYSTEM, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, NON-INTERFERENCE WITH

ENJOYMENT, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES IMPLIED FROM ANY COURSE OF DEALING OR USAGE OF TRADE. CITY ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY PROVIDED HEREIN NO OTHER WARRANTIES HAVE BEEN MADE TO MUNICIPALITY BY OR ON BEHALF OF SENSYS OR OTHERWISE FORM THE BASIS FOR THE BARGAIN BETWEEN THE PARTIES.

C. The City acknowledges and agrees that:

(1) The Systems may not detect every red light violation;

(2) Since the System may flag as a violation conduct that is in fact not a violation, the output of the System will require review, analysis and approval by personnel appropriately qualified and authorized by the City under applicable law prior to the issuance of any citation;

(3) The System has no control over, and relies on the proper functioning of equipment for signal light changes, which equipment is provided by entities other than Sensys;

(4) The proper functioning of the System requires the City's full and complete compliance with the Systems' operating instructions, which it hereby agrees to do; and

(5) Sensys shall not be responsible for the configuration and/or operation of any intersection traffic light systems and Sensys shall have no liability or obligations with respect thereto.

8. INDEMNIFICATION AND INSURANCE

A. Sensys shall at all times comply with all federal, state and local laws, ordinances and regulations and shall comply with the maintenance procedures and manufacturer recommendations for operation of the Systems which affect this Agreement, and shall indemnify and save harmless the City against any claims, arising from Sensys' violation of any such laws, ordinances and regulations or any claims arising from Sensys' performance of this Agreement, including as a result of the negligence or willful misconduct of Sensys, its officers and directors, agents, attorneys, and employees, but excluding any employees or agents of City.

B. Sensys agrees to indemnify, defend, and hold harmless the City from any claim of damages (including the payment of reasonable attorneys' fees) by a third party arising solely from either (a) a finding that the System infringes any validly issued United States patent or (b) Sensys' negligence, provided that such claim of damages is not attributable to (i) any act or omission set forth in Section 7.2 or (ii) any third-party software or other third-party products used with, required for use of, or supplied under their own names with or as part of the System. If, as a final result of any litigation of which Sensys is obligated to indemnify, the use of the System by City is prevented, in whole or in part, by an injunction, Sensys' sole obligation to the City as a result of such injunction shall be, at Sensys' option,

either to (i) replace such part as has been enjoined, or (ii) procure a license for Sensys or the City to use same, or (iii) remove same and terminate this Agreement at no additional cost to the City.

C. Notwithstanding anything in this Agreement to the contrary, Sensys assumes no obligation or liability for any claim of damages (including the payment of reasonable attorneys' fees) by a third party arising from or related to (i) any modification of the System made by the City, (ii) the negligence or intentional act of City, (iii) the failure to function properly of any hardware, software or equipment of any kind used by, in or on behalf of the City (other than that supplied by Sensys), (iv) the review and analysis of the System data output by City personnel for citation preparation, or (v) the City's use and/or administration of any traffic signal.

D. The rights of the City to seek indemnification under this Section 8.B shall be conditioned upon (i) the City notifying Sensys promptly upon receipt of the claim or action for which indemnification is sought (but the failure to do so shall not relieve Sensys of its obligations under this Section 8.B unless it is, and then only to the that extent it is materially prejudiced thereby) and (ii) the City's full cooperation with Sensys in the settlement or defense of such claim or action at no cost to the City. The City agrees not to charge Sensys for the reasonable time of the City's personnel engaged in such cooperation. Such cooperation shall include, but not be limited to, the City providing access for, and permission to, Sensys for the purpose of the replacement of such part or parts of Systems as Sensys may deem necessary or desirable. The City may participate in the defense of any indemnified matter through counsel of its own choice and at its own expense provided that Sensys shall remain in, and responsible for, control of the matter. This Section 8 states the entire liability and obligation and the exclusive remedy of the City with respect to any actions or claims (i) of alleged infringement relating to or arising out of the subject matter of this Agreement or (ii) otherwise the subject of this paragraph.

E. Sensys shall maintain the following minimum scope and limits of insurance

(1) Comprehensive general liability insurance including but not limited to coverage for bodily injury, property damage, premises and operations, products/completed operations, personal and advertising injury, and contractual liability, with a combined single limit of $1,000,000 per occurrence, with an aggregate liability per occurrence of $2 million. Such insurance shall include the City, its officers, directors, employees, and elected officials as additional insured for liability arising from Contractor's operation.

(2) Workers Compensation as required by applicable state law; and

(3) Comprehensive Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by Sensys with a minimum

$1,000,000 per occurrence combined single limit bodily injury and property damage.

F. The City, its elected officials, officers, employees, agents and representatives, shall be named as additional insured on the comprehensive general liability policies provided by Sensys under this Agreement. Sensys shall require any subcontractors doing work under this Agreement to provide and maintain the same insurance, which insurance shall also name the City and its officers, employees, and authorized volunteers as additional insured.

G. Certificates showing Sensys is carrying the above described insurance, and evidencing the additional insured status specified above, shall be furnished to the City within thirty (30) calendar days after the date on which this Agreement is made. Such certificates shall show that the City shall be notified of all cancellations of such insurance policies. Sensys shall forthwith obtain substitute insurance in the event of a cancellation.

H. All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of Florida and shall name as additional insured the City, its elected officials, officers, employees, agents and representatives. Sensys will furnish City with Certificates of Insurance and applicable endorsements for all such policies promptly upon receipt of them. Sensys may effect for its own account insurance not required under this Agreement.

9. **CHANGE ORDERS OR ADDITIONAL SERVICES.** Changes to Services and additional Systems may be added to this Agreement by mutual consent of the Parties in writing as an addendum to this Agreement. City and Sensys agree that should legislation or local ordinance be enacted to enable speed enforcement within the City limits, the City shall have the option to negotiate services and fees and issue a change order to cover such services.

10. **CONFIDENTIAL AND PROPRIETARY INFORMATION; PUBLIC RECORDS LAW COMPLIANCE.**

A. The Parties agree that they shall comply with the public records disclosure provisions of Art. 1, Sec. 24 of the Constitution of the State of Florida and Chapter 119, Florida Statutes.

B. Sensys agrees that:

(1) All information obtained by Sensys through operation of the Systems shall be made available to the City at any time during Sensys' normal business hours, excluding Proprietary Information not reasonably necessary for the prosecution of citations or fulfillment of the City's obligations under this Agreement.

(2) It shall not use any information acquired from the performance of the Services contemplated in this Agreement, including without limitation, information with respect to any violations, violators, information obtained from recorded images or information concerning the City's law enforcement activities for any purpose other than for the benefit of the City.

C. No information given by Sensys to the City will be of a confidential nature, unless specifically designated in writing as "Proprietary Information" and expressly exempt from public records disclosures required by Art. 1, Sec. 24 of the Constitution of the State of Florida and Chapter 119, Florida Statutes.

D. As used in this Agreement, the term "Proprietary Information" shall mean all trade secrets or confidential or proprietary information designated as such by Sensys, whether letter or by the use of an appropriate proprietary stamp or legend, prior to or at the time any such trade secret or confidential or proprietary information is disclosed by Sensys to the City. In addition, the term "Proprietary Information" shall be deemed to include: (a) any notes, analyses, compilations, studies, interpretations, memoranda or other documents prepared by the Recipient which contain, reflect or are based upon, in whole or in part, any Proprietary Information furnished to the Recipient.

E. The City shall use the Proprietary Information only for the purpose of fulfilling its duties hereunder (the "Purpose") and such Proprietary Information shall not be used for any other purpose without the prior written consent of Sensys. "Purpose" shall be deemed to not include any disclosure of the Proprietary Information to any person or entity. The City shall hold in confidence, and shall not disclose to any person or entity, any Proprietary Information nor exploit such Proprietary Information for its own benefit or the benefit of another without the prior written consent of Sensys.

F. Notwithstanding anything contained in this Agreement to the contrary, this Agreement shall not prohibit the City from disclosing Proprietary Information to the extent required in order for the City to comply with applicable laws and regulations, provided that the City provides prior written notice of such required disclosure to Sensys.

11. **INDEPENDENT CONTRACTOR; NO AGENCY.**

A. It is understood that Sensys is an independent contractor and not an agent or employee of the City for any purpose including, but not limited to, federal tax and other state and federal law purposes. Sensys assumes responsibility for payment of all federal, state and local taxes imposed or required of Sensys under unemployment insurance, Social Security and income tax laws. Sensys shall be solely responsible for any worker's compensation insurance required by law and shall provide the City with proof of insurance upon demand. The parties agree that the City shall not:

(1) Pay dues, licenses or membership fees for Sensys;

(2) Require attendance by Sensys, except as otherwise specified herein;

(3) Control the method, manner or means of performing Services under this Agreement, except as otherwise specified herein; or

(4) Restrict or prevent Sensys from working for any other party.

B. Neither party has the right or the power to enter into any contract or commitment on behalf of the other party, including entering into agreements with third parties, exercising incidents of ownership with respect to property owned by the Party or executing contracts binding upon the other Party.

C. Sensys is an independent contractor providing services to the City and the employees, agents and servants of Sensys shall in no event be considered to be the employees, agents, or servants of the City. Except as expressly provided herein, this Agreement is not intended to create an agency relationship between Sensys and the City.

12. **NOTICES.**

A. Any notices or demands which under the terms of this Agreement or under any statute must or may be given or made by Sensys or City shall be in writing and shall be given or made by personal service, telegram, first class mail, FedEx, or by certified or registered mail to the parties at the following address:

CITY	***CONTRACTOR***
T. Jennene Norman Vacha	Sensys America, Inc.
City Manager	80 SW 8th St., 20th Floor
City of Brooksville	Miami, Florida 33130
201 Howell Avenue	Attn: Carlos Lofstedt
Brooksville, Florida 34601	

B. Except as otherwise specified, all notices, payments and reports hereunder shall be deemed given and in effect as of the date of mailing or transmission, as the case may be, when sent by next day delivery or courier service, postage pre-paid, or three days after the date of mailing when sent by first class mail, postage pre-paid, addressed in all such cases to the Parties as set forth in the preamble to this Agreement directed in each case to the President of Sensys at the address in the preamble or the Chief of Police of the City at the address in the preamble, or to such other addresses as the Parties may from time to time give written notice of as herein provided.

13. **ASSIGNMENT**. Except as specifically provided in this Agreement, neither Party may assign, or delegate performance of its obligations under, this Agreement, without the

express written consent of the other Party, except that Sensys may assign or otherwise encumber this Agreement, the License and the Lease for the purpose of obtaining financing; provided, however, that this Agreement may be assigned to any Person that acquires all or substantially all of Sensys' assets in one transaction.

14. **AMENDMENT AND MODIFICATION**. This Agreement may be modified or amended from time to time by the Parties, provided, however, that no modification or amendment hereto shall be effective unless it is stated in writing, specifically refers to this Agreement and is executed on behalf of the Party against whom enforcement of such modification or amendment is sought.

15. **NON WAIVER**. The failure of either Party to require performance of any provision of this Agreement shall not affect the right to subsequently require the performance of such provision or any other provision of this Agreement. The waiver of either Party of a breach of any provision shall not be taken or held to be a waiver of any subsequent breach of that provision or any subsequent breach of any other provision of this Agreement.

16. **FORCE MAJEURE.** Neither Party shall be liable to the other for failure or delay in meeting any obligations hereunder which arises in whole or in part from causes which are unforeseen by, or beyond the control of, such Party, including without limitation, acts of God or of a public enemy, acts of terrorism, acts of the Government (other than the City in the case of the City) in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, acts or omissions of (i) non-subcontractor third-parties and (ii) third party equipment, telecommunications and software suppliers, and unusually severe weather. When any such circumstance(s) exist, Sensys shall have the right, in its sole discretion, to allocate its available production, deliveries, services, supplies and other resources among any and all buyers (whether or not including the City), as well as among departments and affiliates of Sensys, without any liability to the City.

17. **DISPUTE RESOLUTION AND REMEDIES.**

    A. All disputes arising out of or in connection with the Agreement shall be attempted to be settled through good-faith negotiation between the City Manager and the President of Sensys, followed if necessary within thirty (30) calendar days by professionally-assisted mediation. Any mediator so designated must be acceptable to each party and must be a Florida Supreme Court Certified Circuit Civil Mediator. The mediation will be conducted as specified by the mediator and agreed upon by the Parties. The Parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute. The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings. Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the Parties.

B. Failing resolution through negotiation or mediation, each party to this Agreement shall be entitled to seek enforcement of this Agreement against the other party and shall have all remedies available at law or in equity, including the remedy of specific performance and all forms of injunctive relief.

18. **GOVERNING LAW; JURISDICTION; VENUE.** The parties agree that this Agreement is consummated, entered into, and delivered in Hernando County, Florida. Notwithstanding conflicts of laws provisions, this Agreement has been and is to be governed by, construed, interpreted and enforced in accordance with the laws of the State of Florida. In the event that any litigation is commenced by either party to enforce this Agreement, the action will be filed and litigated, if necessary, solely and exclusively in a State court of competent jurisdiction located in Hernando County, Florida. The parties waive any and all rights to have this action brought in any place other than Hernando County, Florida, under applicable venue laws. The Parties hereby irrevocably waive any and all rights to have this action brought in any place other those stated herein. The Parties hereby irrevocably waive any claim that any such action has been brought in an inconvenient forum.

19. **ATTORNEY'S FEES AND COSTS.** In the event suit is commenced to enforce this Agreement, costs of said suit including reasonable attorney's fees in all proceedings, trials, investigations, appearances, appeals and in any bankruptcy proceeding or administrative proceeding shall be paid to the prevailing party by the other party.

20. **GENERAL AND MISCELLANEOUS.**

A. Time shall be of the essence of this Agreement.

B. In this Agreement, wherefore the singular and masculine are used, they shall be construed as if the plural or the feminine or the neuter had been used, where the context or the party or parties so requires, and the rest of the sentence shall be construed as if the grammatical and the terminological changes thereby rendered necessary had been made.

C. Paragraph headings are provided as an organizational convenience and are not meant to be construed as material provisions of this Agreement.

D. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not, solely as a member of judicial construction, be construed more severely against one of the parties than the other.

E. This Agreement may be executed in counterparts, each constituting a duplicate original, but such counterparts shall constitute one and the same Agreement.

F. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement from and after the Effective Date.

G. Each Party to this Agreement agrees to do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances in a manner and to the degree allowed by law, as shall be reasonably requested by the other party in order to carry out the intent of and give effect to this Agreement. Without in any manner limiting the specific rights and obligations set forth in this Agreement or illegally limiting or infringing upon the governmental authority of the City, the Parties declare their intention to cooperate with each other in effecting the purposes of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

H. Except as set forth in this Agreement and the Exhibits hereto, no representation, statement, understanding or agreement, whether written or oral, has been made and there has been no reliance on anything done, said or any assumption in law or fact with respect to this Agreement for the duration, termination or renewal of this Agreement other than as expressly set forth in this Agreement and there has been no reliance upon anything so done or said that in any way tends to change or modify the terms or subject matter of this Agreement or to prevent this Agreement from becoming effective.

I. This Agreement supersedes any agreements and understandings, whether written or oral, entered into by the Parties hereto prior to the effective date of this Agreement.

21. **SURVIVABILITY**. Termination or expiration of this Agreement shall not relieve either Party of their respective obligations, which are expressly noted to survive termination or expiration or under the following sections which shall survive termination and expiration: Sections 4E, 5, 7.B, 7.C, 7.D, 8, 10, 17, 18, 19, and 20. Sections 4, 7, 8 and 9 (but only to the extent Section 9 corresponds to Sections of the Agreement which survive) of the License and Sections 3, 4, 5, 6, 7 and 9 (but only to the extent Section 9 corresponds to Sections of the Agreement which survive) of the Lease shall survive any expiration or termination of this Agreement, the License or the Lease.

22. **SEVERABILITY**. If any covenant or provision of this Agreement is, or is determined to be, invalid, illegal or unenforceable by a court of competent jurisdiction, then such covenant or provision will be ineffective only to the extent of such prohibition or invalidity. All remaining covenants and provisions of this Agreement shall nevertheless remain in full force and effect, and no covenant or provision of this Agreement shall be deemed to be dependent upon any covenant or provision so determined to be invalid, illegal or unenforceable unless otherwise expressly provided for herein. The invalidity of any provision of this Agreement or any covenant herein contained on the part of any party shall not affect the validity of any other provision or covenant hereof or herein contained which shall remain in full force and effect.

Each party acknowledges that it has read this Agreement and understands the terms and conditions herein. Further, the parties have caused this Agreement to be executed on its behalf by the authorized officer whose signature appears below under its name, to be effective as of the date written above.

IN WITNESS WHEREOF, the Parties hereto have set their hands by their duly authorized representatives as of the day and year first above written.

Witness:

By: _____

By: _____

SENSYS AMERICA, INC.

_____
Carlos Lofstedt
President and CEO

BROOKSVILLE, FLORIDA

_____
T. Jennene Norman-Vacha
City Manager

Attest:

_____
Janice L. Peters, CMC
City Clerk

Approved as to Form for the Reliance of the City of Brooksville Only:

_____
Thomas S. Hogan Jr.
The Hogan Law Firm
As City Attorney

Distribution: Original to City Clerk, Copy to Contractor, Finance, and City File

EXHIBIT A SERVICES

Sensys shall provide the City with the Systems. In connection with furnishing the Systems, Sensys shall provide the following, each of which is more fully described below:

1. SITE INSTALLATION PLANNING; DESIGN AND EQUIPMENT INSTALLATION
2. USER TRAINING AND SUPPORT
3. NOTICE OF VIOLATION AND UTC PREPARATION AND PROCESSING SERVICES
4. MAINTENANCE AND SUPPORT
5. PUBLIC EDUCATION CAMPAIGN
6. EXPERT WITNESS TESTIMONY AND COURT TRAINING
7. VIOLATION REVIEW STATION
8. REPORTING
9. MEETINGS

1. SITE INSTALLATION PLANNING, DESIGN AND EQUIPMENT INSTALLATION

A. *The Systems.*

(1) Sensys will install up to twenty (20) Systems (which shall remain property of Sensys), monitoring such locations as the City and Sensys shall mutually agree. Up to ten (10) additional Systems may be added at the option of the City with Sensys' consent. Each System shall comprise equipment capable of monitoring red light violations at a single approach to an intersection for up to three lanes of traffic. Sensys will install new Systems upon mutual agreement of the Parties.

(2) Such number of Video Monitoring Systems as the City may request (which shall remain property of Sensys) shall be installed, providing continuous video monitoring of the selected intersections. Each such Video Monitoring System shall comprise an IP addressable digital video camera inside a secure virtual private network, video streaming to the police department via secure, encrypted network to a supplied digital video recording device capable of storing at least 60 days of video. Sensys will install additional Video Monitoring Systems in connection with any System at the request of the City.

(3) In the event that the City desires to relocate any System after 1 full year of continuous operation of such System, Sensys will effect such relocation at no cost to the City provided that the Initial Term of the Agreement shall not be within one year of expiration.

(4) The Systems shall include all equipment located at each intersection, all equipment in the City Police Department (including court laptop), telecommunications equipment, and Software and shall have the capability

of transferring images from the roadside to the City's Police Department processing facility.

B. *Substitution or Addition of an Intersection.* If Sensys or the City reasonably determines that one or more intersections selected for installation of a System is not for any reason appropriate for the System (and such determination is made at least fifteen (15) days prior to the commencement of installation of the System at any such intersection), then alternate intersection(s) may be substituted by written consent of the Parties.

C. *Timeframe for Installation of the System.* Sensys shall install and activate the Systems in accordance with an Implementation Plan to be mutually agreed to by Sensys and the City, which installation shall, at minimum, conclude within 60 days after all necessary permits and approvals are received by Sensys. Sensys shall use reasonable commercial efforts to install the System in accordance with the schedule set forth in the Implementation Plan. The City agrees that the estimated dates of installation and activation of the System set forth in the Implementation Plan are subject to delay based on conditions beyond the control of Sensys and are not guaranteed.

D. *Installation/Ownership of the System.* Sensys shall procure, install and provide support of Equipment at each of the agreed upon locations. As between Sensys and the City, all components for the System will remain the property of Sensys.

E. *Installation*

(1) Sensys shall submit plans and specifications to the City for review and approval, which review and approval will not be unreasonably withheld, delayed or conditioned. These plans and specifications shall be signed and stamped as approved by a professional engineer licensed to practice in the State in which the City is located if the same is required by law. Sensys shall provide at least three sets of drawings of the wiring for the System circuitry.

(2) All cameras and other equipment shall be enclosed in lockable, weather and vandal-resistant housing. All wiring shall be internal to equipment (not exposed) and if commercially reasonable and if capacity exists, underground in existing traffic signal conduits, except where required to directly interface with the traffic signals and electrical service. Separate conduits or overhead wiring may be used by Sensys if existing conduit(s) are at capacity. If existing conduits are used, the City will not unreasonably withhold, delay or condition consent to such use.

(3) The System may be mounted on or utilize support of existing traffic signal poles, arms or other intersection structures where possible, subject to City

review and approval, such review and approval not to be unreasonably withheld, delayed or conditioned.

(4) The System poles, foundations and new infrastructure, as required, shall conform to applicable law.

F. *Restoration of Intersections.* Upon termination or expiration of the Agreement, Sensys shall remove the System and restore the affected public facilities including returning the intersections to their original condition; provided, however, that Sensys shall not be required to remove any conduit, in-ground fixture, underground wiring or other infrastructure that will require excavation or demolition. All costs incurred by Sensys thereby will be the responsibility of Sensys.

G. *Compliance with Law.* Sensys shall design and install the System in compliance with all currently existing federal, Florida and municipal laws and regulations. Sensys covenants and agrees that its Red Light Safety Systems shall, at all times, comply with all applicable laws, regulations, rules and orders ("Legal Requirements"). Sensys shall continuously monitor the status of such Legal Requirements to ensure continuous compliance. In the event of any change in the Legal Requirements, Sensys shall modify or replace (at its sole cost) all or any portion of its non-compliant Red Light Safety Systems. Any such modification shall be effected by Sensys in a reasonable period of time (not to exceed 90 days for modification or 180 days for complete system replacement) and Sensys' failure to effect such modification or replacement in a timely manner shall be grounds for the City to terminate this Agreement for cause. Any such termination shall not relieve Sensys of its obligation to restore each site to its original condition.

2. **PRODUCTION OF VIDEO FILES.** Sensys shall produce digital video files of each red light violation, capable of identifying vehicles traveling through the intersection during the red light phase.

3. **TRAINING OF CITY PERSONNEL.** After System installation, Sensys shall provide up to eight (8) hours of training for up to ten (10) persons at two (2) sessions at the City's facilities to acquaint City personnel with System operation. Training shall consist of instructional and operational training as well as hands-on equipment exercises with an instructor. All necessary training materials and documentation will be provided by Sensys at Sensys' expense. Sensys shall make all such training services available to the City prior to the end of the thirty (30) day period following the Installation Date. If the City requests additional courses or training, Sensys shall provide these on a cost reimbursement basis.

4. **CITATION PREPARATION AND PROCESSING SERVICES**

A. *Citation Preparation and Processing.* Sensys shall perform the initial review of all data generated at the roadside, process and format violations utilizing a computerized traffic citation program that shall store all information required for citation processing by Florida and City law ("Ticket Agent"), and transfer the citations to the Police Department's computer for review and decision on whether or not to issue a citation. If Sensys is permitted by applicable law or regulation to do so, Sensys shall also review all DMV information and print and mail citation forms. Sensys shall pay all mailing and postage costs, and such other miscellaneous costs and expenses as may be reasonably necessary to issue a citation and deliver it by U.S. mail. To the extent required by applicable law, Sensys shall obtain a certification of mailing issued by the Post Office. Notwithstanding anything to the contrary in the foregoing provisions of this Section 4.A, Sensys will not process nor support any citations not captured by the System and/or approved by the City.

(1) *Mailing of Citations.* Citations shall be mailed to the violator as soon as is reasonably practicable, and in no event longer than five (5) business days after being approved by the City and Sensys has been notified of such approval. The form of citation shall be subject to the approval of the City, which approval may not be unreasonably delayed, conditioned or withheld.

(2) *Cooperation With Police and the Courts.* Sensys shall be responsible for, and pay for the cost of issuing and the mailing (via certified mail) Uniform Traffic Citations in accordance with applicable law. Sensys shall coordinate with the City and the Courts, and shall comply with the applicable law regarding the mailing and other requirements necessary for the issuance of Uniform Traffic Citations. All citations shall be reviewed and approved by the City's Police Department prior to mailing. In addition, Sensys will cooperate with the Courts to set up the necessary communications and procedures that will enable Sensys to send delinquent notices to those registered owners/drivers for whom such notices are appropriate.

(3) *Preparation of Evidence Packages.* Sensys shall prepare evidence packages in such form as may be reasonably agreed upon to enable the City to enforce its citations in court, and in compliance with the Florida Rules of Evidence.

B. *Access to Drivers License Information.* Sensys shall maintain the ability to access the driver's license information and the registered owner residence address for all US registered vehicles, and the per-request fee for information, if any, shall be paid by Sensys. If Sensys is unable to access such information, Sensys shall provide the make and license plate number of each violator to the City, which will

obtain and input the information into the System, or provide such information to Sensys, within a reasonable period of time. Any costs incurred by the City in obtaining this information (including personnel costs) shall be reimbursed by Sensys.

C. *Numbering System.* Sensys, in coordination with the City, shall develop and implement an independent numbering system for automated red light citations.

D. *Transmission of Information.* Sensys shall make all citation information available via an electronic file using comma separated value files on a secure FTP site. Sensys shall maintain a documented chain of custody for all electronically transmitted information while the information is under Sensys' control.

E. *Customer Service.* Sensys shall provide an automated customer service telephone number to the public. Customer Service Representatives will be available Monday through Friday, from 9:00 a.m. to 5:00 p.m. local time (of the City), excluding holidays, in order to schedule violation video viewing appointments for the Police Department and to answer basic questions regarding the City's program.

5. **MAINTENANCE**

A. *Maintenance of System.* Except as provided herein, Sensys shall Maintain the System (as such term is defined below); provided however, that Sensys shall not be responsible for any maintenance, repair or replacement required as a result of (i) the negligence or intentional act of the City, its employees, agents or independent contractors (other than Sensys) and/or (ii) any equipment or software not provided by Sensys. Sensys shall maintain a maintenance log that documents all service issues. To "Maintain the System" shall mean to keep the System in a state of operation such that the System's functionality and operation conforms in all material respects to the description of the System set forth in this Exhibit. All problems shall be documented and repairs commenced within twenty-four (24) hours of the time Sensys receives notice thereof. Sensys shall also install all software revisions for Systems and Ticket Agent as and when developed and made commercially available by Sensys.

B. *Equipment Checks.* Sensys shall use commercially reasonable efforts to perform remote camera and PC equipment checks to confirm proper operation of computers, cameras and communications network. Routine in-field camera equipment inspection will be done as needed. The System shall have the capability of on-line monitoring of all cameras at each intersection.

6. **PUBLIC EDUCATION CAMPAIGN**

A. *Public Awareness Program.* Sensys shall assist the City with a Public Awareness Program. Such assistance shall consist of:

(1) Paying for all signage required by law or as otherwise required by resolution of the City Council
(2) Reasonable assistance for a media event to launch the community education program
(3) Preparing, publishing and printing a brochure for distribution
(4) A reasonable amount of training for a City staffed speaker's bureau
(5) Providing a toll-free customer service hotline which shall be staffed sufficiently during all regular business hours.

7. **EXPERT WITNESS TESTIMONY AND COURT TRAINING**

A. *Expert Witness Testimony.* Sensys shall provide expert witness testimony at its sole expense, as reasonably necessary, to testify regarding the accuracy and technical operation of the System as necessary for court challenges to the operation of the System.

B. *Court Training.* Sensys shall conduct a one-day workshop-orientation session for Municipal Court judges (and/or their designees), hearing officers, other appropriate court officials and the City prosecutor.

8. *Provision of PC Equipment.* Sensys shall provide desktop workstations as reasonably necessary to accommodate citation volume, one (1) laptop workstation and one (1) printer (all of which shall remain the property of Sensys) to be used by the City for citation review and approval, violation video viewing appointments and court hearings.

9. **REPORTING**

A. *Monthly Report.* Sensys shall submit to the City a Monthly Report on project results within thirty (30) days after the end of each calendar month. The Monthly Report shall include information for each violation recorded by the System as well as the following items:
(1) Number of violations recorded
(2) Number of non-issued violations
(3) Breakdown of reasons for non-issuance
(4) Number of citations issued
(5) Court hearings scheduled and held
(6) Number of calls for information
(7) Number of violation video viewing appointments scheduled

B. *Additional Reports or Information.* Any other reports and information are not part of the Agreement and the preparation and delivery of any other such reports or information may result in additional fees.

C. Database. Sensys shall maintain a database with the following information per violation:
(1) Location, date and time

(2) Number of seconds of yellow traffic signal and speed of vehicle
(3) Type of violation
(4) Vehicle description including license plate state and number
(5) Applicable vehicle code section violated (if available to Sensys)
(6) Citation prepared or reason for not preparing citation (if available to Sensys)
(7) Registered vehicle owner's name and address, driver's license number and related information required to prepare citations where violation is made by a driver other than registered owner (if available to Sensys) (Affidavit of Non-Liability)
(8) Status of citation (outstanding, cancelled, reissued, paid, bail forfeited, traffic school, warrants issued, etc.) (if available to Sensys)
(9) Sensys shall maintain at its sole expense all records, including, but not limited to all video recordings, which it generates or receives as a result of the performance of services pursuant to the Agreement for the period of time required by, and otherwise in accordance with, Chapter 119, Florida Statutes, as same may be amended from time to time. Upon receipt of a request from the City for a copy of any record being maintained by Sensys, Sensys shall provide the requested record to the City within a reasonable time following such request, but in no event later than seven (7) days following the date the request is received by Sensys. Sensys shall be responsible for all costs associated with the providing the requested records to the City.

10. Additional Services (if requested by the City in writing):

A. *Payment Processing Services.* Sensys shall use reasonable commercial efforts to receive citation fees from violators, deposit amounts collected into an appropriate bank account, provide accounting records to the City, and remit the amounts received as instructed by the City. In addition, Sensys will provide an online payment portal for violators.

B. *Intersection Assessment Program.* Sensys will generate a video-based analysis of an intersection designed to evaluate the frequency of red-light violations for each approach at the targeted intersection. The video media will contain up to 16 hours of IAP monitoring assuming the equipment remains installed at the intersection during the course of monitoring, but not to exceed three consecutive calendar days. A report summarizing the results, along with the media generated will be provided to the City. There is no charge for the initial 20 intersection approaches to be evaluated by Sensys pursuant to this Agreement.

C. Sensys will install additional Video Monitoring Systems in connection with any System at the request of the City Intersection Video Monitoring System IP addressable digital video camera inside a secure virtual private network, video streaming to the police department via secure, encrypted network to a supplied digital video recording device capable of storing at least 60 days of video.

EXHIBIT B
LICENSE AGREEMENT FOR RED LIGHT SAFETY SYSTEM SOFTWARE

This LICENSE AGREEMENT (the "License") is part of an agreement (the "Agreement") (to which a copy of this License is attached as Exhibit B) between the City named in the Agreement and Sensys America, Inc. ("Sensys") for the Sensys software product identified above, which includes computer software and may include associated media, printed materials, and "online" or electronic documentation (the "SOFTWARE PRODUCT"). The SOFTWARE PRODUCT also includes any updates and supplements to the original SOFTWARE PRODUCT provided to the City by Sensys. Any software provided along with the SOFTWARE PRODUCT that is associated with a separate license agreement is licensed to the City under the terms of that license agreement. By execution of the Agreement, the City has agreed to be bound by the terms of this License. Such agreement by the City is an express condition to its ability to use the SOFTWARE PRODUCT.

1. GRANT OF LICENSE. The SOFTWARE PRODUCT is licensed, not sold. This License grants the City only the following rights: The City may use those copies of the SOFTWARE PRODUCT as installed by Sensys on its network ("Network"). A license for the SOFTWARE PRODUCT may not be shared or used concurrently on different Networks.

2. DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS. The City may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCT, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. The SOFTWARE PRODUCT is licensed as a single product. Its component parts may not be separated for use on more than one computer unless so installed by Sensys. The City may not rent, lease, transfer or lend the SOFTWARE PRODUCT. This License does not grant the City any rights in connection with any trademarks or service marks of Sensys. Without prejudice to any other rights, Sensys may terminate this License if the City fails to comply with the terms and conditions of this License. In such event, the City must permit Sensys reasonable access to its computer system for the purpose of removing all copies of the SOFTWARE PRODUCT or deliver to Sensys or destroy all copies of the SOFTWARE PRODUCT and all of its component parts.

3. SUPPORT SERVICES AND UPGRADES. Sensys may provide the City with support services related to the SOFTWARE PRODUCT ("Support Services"). Use of Support Services is governed by the Agreement. Any supplemental software code provided to the City as part of the Support Services shall be considered part of the SOFTWARE PRODUCT and subject to the terms and conditions of this License. With respect to technical information the City provides to Sensys as part of the Support Services, Sensys may use such information for its business purposes, including for product support and development. In particular, Sensys will not utilize such technical information in a form that personally identifies the City or any motor vehicle, tag or person. If the SOFTWARE PRODUCT is labeled as an upgrade, the City must be properly licensed to use a product identified by Sensys as being eligible for the upgrade in order to use the SOFTWARE PRODUCT. A SOFTWARE PRODUCT labeled as an upgrade replaces and/or supplements the product that formed the basis for the City's eligibility for the upgrade. The City may use the resulting upgraded product only in accordance with the terms of this License. If the

SOFTWARE PRODUCT is an upgrade of a component of a package of software programs that the City licensed as a single product, the SOFTWARE PRODUCT may be used and transferred only as part of that single product package and may not be separated for use on more than one computer.

4. COPYRIGHT. All title and intellectual property rights in and to the SOFTWARE PRODUCT (including but not limited to any images, photographs, animations, video, audio, music, text, and "applets" incorporated into the SOFTWARE PRODUCT), the accompanying printed materials, and any copies of the SOFTWARE PRODUCT are owned by Sensys or its suppliers. As between the City and Sensys, all title and intellectual property rights in and to the images and information which may be generated through use of the SOFTWARE PRODUCT is the City's property. All rights not expressly granted are reserved by Sensys.

5. DUAL-MEDIA SOFTWARE. The City may receive the SOFTWARE PRODUCT in more than one medium. Regardless of the type or size of medium the City receives, the City may use only one medium that is appropriate for its Network. The City may not use or install the other medium on another Network. The City may not loan, rent, lease, lend or otherwise transfer the other medium to another user.

6. BACKUP COPY. After installation of one copy of the SOFTWARE PRODUCT pursuant to this License, the City may keep the original media on which the SOFTWARE PRODUCT was provided by Sensys solely for backup or archival purposes. If the original media is required to use the SOFTWARE PRODUCT on the COMPUTER, the City may make one copy of the SOFTWARE PRODUCT solely for backup or archival purposes. Except as expressly provided in this License, the City may not otherwise make copies of the SOFTWARE PRODUCT or the printed materials accompanying the SOFTWARE PRODUCT.

7. COMPLIANCE WITH LAW AND EXPORT RESTRICTIONS. The City represents and agrees that its does not intend to and will not use, disseminate or transfer in any way the SOFTWARE PRODUCT in violation of any applicable law, rule or regulation of the United States, or any State of the United States or any foreign country of applicable jurisdiction. Without limiting the foregoing, the City agrees that it will not export or re-export the SOFTWARE PRODUCT to any country, person, entity or end user subject to U.S. export restrictions. The City specifically agrees not to export or re-export the SOFTWARE PRODUCT: (i) to any country to which the U.S. has embargoed or restricted the export of goods or services, which currently include, but are not necessarily limited to Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria, or to any national of any such country, wherever located, who intends to transmit or transport the products back to such country; (ii) to any end-user who the City knows or has reason to know will utilize the SOFTWARE PRODUCT or portion thereof in the design, development or production of nuclear, chemical or biological weapons; or (iii) to any end-user who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government.

8. OTHER PROVISIONS. Sections 3, 4, 7, 10, 17, 18, 19, 20, and 22 of the Agreement are hereby incorporated by reference as if herein set forth in full.

EXHIBIT C
LEASE AGREEMENT FOR RED LIGHT CAMERA SYSTEMS

This LEASE AGREEMENT (the "Lease") is part of an agreement (the "Agreement") (to which a copy of this Lease is attached as Exhibit C) between the City named in the Agreement and Sensys America, Inc. The Parties hereto agree as follows:

1. LEASE. Sensys hereby leases to City and City hereby leases from Sensys, subject to the terms and conditions of this Lease, such items of System equipment (together with all attachments, replacements, parts, additions, substitutions, repairs, accessions and accessories incorporated therein and/or affixed thereto, the "Equipment") that City obtains possession, custody or control of pursuant to the Agreement.

2. USE AND LOCATION. The Equipment shall be used and operated by City only in connection with the operation of the System by qualified employees of City and in accordance with all applicable operating instructions, and applicable governmental laws, rules and regulations. City shall not part with control or possession of the Equipment without Sensys' prior written consent.

3. CONDITION. Sensys shall maintain the Equipment in good condition and working order in accordance with Section 5.A of Exhibit A. City shall not damage the Equipment or make any alterations, additions or improvements to the Equipment without Sensys' prior written consent unless such alterations, additions or improvements do not impair the commercial value or the originally intended function or use of the Equipment and are readily removable without causing material damage to such Equipment so as to return the Equipment to its original state, less ordinary wear and tear. Any alteration, addition or improvement not removed prior to the return of the Equipment shall without further action become the property of Sensys, provided, however, that any alterations, additions and improvements which would reduce the value of the Equipment must be removed prior to the return of such Equipment.

4. RETURN. Upon the expiration or earlier termination of the Agreement, City shall allow Sensys reasonable access to remove the Equipment at Sensys' expense.

5. OWNERSHIP, LIENS. The Equipment is and shall at all times be the property of Sensys. City agrees to take all action necessary or reasonably requested by Sensys to ensure that the Equipment shall be and remain personal property. Nothing in this Lease, the Agreement or any Exhibit shall be construed as conveying to City any interest in the Equipment other than its interest as a lessee hereunder. If at any time during the term hereof, Sensys wishes to place on the Equipment labels, plates or other markings evidencing ownership, security or other interest therein, City shall allow Sensys reasonable access therefore and keep the same displayed on the Equipment.

6. NO CITY SUBLEASE; ASSIGNMENT. City shall not assign or in any way dispose or otherwise relinquish possession or control of all or part of its rights or obligations under this lease or enter into any sub-lease of all or any part of the equipment without the prior written consent of Sensys.

7. OTHER PROVISIONS. Sections 3, 4, 7, 10, 17, 18, 19, 20, and 22 of the Agreement are hereby incorporated by reference as if herein set forth in full.

AGENDA ITEM NO. G-4
10/3/11

AGENDA ITEM
MEMORANDUM

To: **Honorable Mayor and City Council Members**

Via: **T. Jennene Norman-Vacha, City Manager**

From: **Janice L. Peters, CMC, City Clerk**

Subject: **Council Board Positions**

Date: **September 21, 2011**

Due to the resignation of Emory Pierce, the following boards with Council representation are subject to appointment:

1. Children's Advocacy Center/Community Alliance
   This board meets the 2nd Thursday bi-monthly at 10:00 a.m. in the Mid-Florida Services Building.

2. Florida League of Cities Action Committees
   Energy and Environmental Committee – Meetings vary, notices are mailed.

3. Withlacoochee Regional Water Supply Authority (WRWSA)
   This board meets the 3rd Wednesday of each month at 4:30 p.m. and is held in alternating places which include Ocala, Hernando, Citrus and Sumter. Travel & Per Diem is reimbursed by WRWSA.

4. Youth and Family Alternatives
   This board meets the 1st Wednesday of each month at Noon.

SB

FINANCIAL IMPACT:
None.

LEGAL IMPACT:
Pursuant to Sec. 2-01 of the City Charter, which grants the City Council legislative powers, the Council may appoint a Council Member to represent it as a liaison to various community advisory boards.

RECOMMENDATION:
Staff requests delegation of members to the position vacancies as provided.

ATTACHMENT: List of Boards

OUTSIDE AGENCIES, BOARDS AND COMMITTEES APPOINTED BY COUNCIL
MEETING DATES AND TIMES

CHILDREN'S ADVOCACY CENTER/COMMUNITY ALLIANCE 880 Kennedy Boulevard PO Box 896 Janice Roy 754-8809 **_____, Council Member**	2nd Thursday bi-monthly at 10:00 am Mid-Florida Services Building Community Alliance at 9:00 am
FLORIDA LEAGUE OF CITIES INC (Action Committees) Fiscal Stewardship Legislative Council Rene Flowers, President 301 S Bronough St Suite 300 PO Box 1757 Tallahassee FL 32302-1757 850-222-9684 (fax 850-222-3806) www.flcities.com INTERGOVERNMENTAL COMMITTEE **Joe Johnston** ENERGY & ENVIRONMENTAL COMMITTEE **_____** FINANCE & TAXATION COMMITTEE **Frankie Burnett** GROWTH MGMT & TRANSPORTATION **Lara Bradburn** URBAN ADMINISTRATION COMMITTEE **Joe Bernardini**	Varies; notices are mailed
WITHLACOOCHEE REGIONAL WATER SUPPLY AUTHORITY PO Drawer 190 Tallahassee FL 32302 **_____, Council Member** **Travel & Per Diem reimbursed by WRWSA to Member	3rd Wed of each month at 4:30 pm Held in alternating places: Ocala, Hernando, Citrus and Sumter 2011 SCHEDULE ATTACHED
YOUTH AND FAMILY ALTERNATIVES Gloria Gorby 727-835-4166 ext 304 18377 Sheriff Mylander Way, Brooksville FL 34601 **_____, Council Member**	Leadership Council Meeting 1st Wed. of each month at noon

CORRESPONDENCE-TO-NOTE
REGULAR COUNCIL MEETING – October 3, 2011

1. TYPE: Letter
   DATE RECEIVED: August 1, 2011
   RECEIVED FROM: U.S. Department of Housing and Urban Development
   ADDRESSED TO: Mayor Frankie Burnett
   SUBJECT: Receipt and Approval for Release of Florida Small Cities CDBG Program Funds and Certification

2. TYPE: Letter
   DATE RECEIVED: August 18, 2011
   RECEIVED FROM: Dept. of Community Affairs - Susan Flemming, Florida Small Cities CDBG Program
   ADDRESSED TO: Mayor Frankie Burnett
   SUBJECT: Plans & Specifications Acceptance – South Brooksville Water Line Project – CDBG Program Contract No: 11DB-C5-05-37-02-N11

3. TYPE: Letter
   DATE RECEIVED: August 29, 2011
   RECEIVED FROM: Dept. of Community Affairs – Jacqueline W. Dupree, Florida Small Cities CDBG Program
   ADDRESSED TO: Mayor Frankie Burnett
   SUBJECT: Florida Small Cities CDBG Agreement 11DB-C5-05-37-02-N11 Single Source Request for Engineering Services Approval

NOTE: COPIES OF ALL CORRESPONDENCE ON FILE IN THE OFFICE OF THE CITY CLERK

Authority to Use Grant Funds

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

To: (name & address of Grant Recipient & name & title of Chief Executive Officer)

The Honorable Frankie Burnett
Mayor, City of Brooksville
201 Howard Avenue
Brooksville, Florida 34601

Copy To: (name & address of SubRecipient)

Bill Geiger, City of Brooksville
Andy Easton & Associates
Susan Fleming, DCA

We received your Request for Release of Funds and Certification, form HUD-7015.15 on	July 14, 2011
Your Request was for HUD/State Identification Number	11DB-C5-05-37-02-N 11

All objections, if received, have been considered. And the minimum waiting period has transpired.
You are hereby authorized to use funds provided to you under the above HUD/State Identification Number.
File this form for proper record keeping, audit, and inspection purposes.

The Department of Community Affairs has received your community's environmental assessment. The Request for Release of Funds certifies that an environmental impact statement was not required. Based upon this certification, it appears that the requirements of 24 C.F.R. Part 58 have been met.

A detailed review of the environmental assessment indicates that applicable procedures were followed in assessing the environmental impact of the project, public notices were published and, to our knowledge, no objections were raised.

City of Brooksville - Fire protection, water line and sidewalk installation in the amount of $750,000.

This notice constitutes your authority to expend Florida Small Cities CDBG program funds unless otherwise restricted by the Special Conditions of the award agreement.

Please do not hesitate to call the CDBG Program office at (850) 487-3644 if you have questions about this notice.

We look forward to working with you to ensure the successful completion of your project.

Typed Name of Authorizing Officer	Signature of Authorizing Officer	Date (mm/dd/yyyy)
Tammy A. Anderson Title of Authorizing Officer Community Assistance Consultant	Tammy X Anderson Digitally signed by Tammy Anderson DN: cn=Tammy Anderson, o=DCA/HCD, ou=CDBG, email=tammy.anderson@dca.state.fl.us, c=US Date: 2011.08.01 09:59:55 -04'00'	8/1/2011

Previous editions are obsolete

form HUD-7015.16 (2/94)
ref. Handbook 6513.01

CTN 10.03.11 JW

AUG 18 2011

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

RICK SCOTT
Governor

BILLY BUZZETT
Secretary

August 10, 2011

The Honorable Frankie Burnett
Mayor, City of Brooksville
201 Howell Avenue
Brooksville, Florida 34601

RE: Plans and Specifications Acceptance – South Brooksville Water Line Project
Florida Small Cities Community Development Block Grant (CDBG) Program
Contract Number: 11DB-C5-05-37-02-N11

Dear Mayor Burnett:

We have reviewed the construction bidding documents, received with your CDBG application on November 17, 2010, submitted to satisfy the special condition of the subgrant agreement, which requires submission of these documents to, and their acceptance by, the Department before advertising for construction bids. The documents appear consistent with the application and the work may be advertised for bids. The City is reminded to include a current wage decision in the bidding document prior to advertisement for bids.

The CDBG procurement regulation prohibits the use of single source specifications unless you obtain prior approval from the Department after providing a technical basis for restricting competition. Brand names may be specified only if the documents clearly note that the brand name is used for descriptive purposes, that "equal" equipment or material will be accepted, and that the documents identify the minimum requirements that must be met to establish equality. If it is later determined that the documents contained restrictive specifications, the cost of the equipment or material involved may be disallowed for grant funding. Please ensure that your engineer is aware of these requirements.

Also, please note that geographic preference is prohibited by 24 CFR 85.36 (c) (2). If we later determine that local or geographic preference was used to award a contract, the contract may be disallowed for CDBG funding. Please coordinate with your purchasing staff to ensure that any local or geographic preference language, which may routinely be included in non-CDBG solicitations, is not included in this solicitation.

Should the plans or bid proposal be revised prior to bid opening to add or delete any work or change the location of the work, please submit the revisions to the Department for our review. Other revisions do not need our review.

2555 SHUMARD OAK BOULEVARD TALLAHASSEE, FL 32399-2100
850-488-8466 (p) 850-921-0781 (f) Website: www.dca.state.fl.us
COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f)
HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f)

CTN 10.03.11 JW

AUG 29 2011

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

RICK SCOTT
Governor

BILLY BUZZETT
Secretary

August 24, 2011

The Honorable Frankie Burnett
Mayor, City of Brooksville
201 Howell Avenue
Brooksville, Florida 34601

RE: Florida Small Cities CDBG Agreement 11DB-C5-05-37-02-N11
Single Source Request for Engineering Services--Approved

Dear Mayor Burnett:

I have reviewed the City's August 12, 2011, letter requesting single source procurement of Coastal Engineering Associates, Inc., for construction engineering services for this project. The engineering firm designed the project for the City to receive "Readiness to Proceed" points in its CDBG application and the award to another firm for construction engineering services would be infeasible.

Under 24 CFR 85.36 (d) (4), the Department may authorize procurement from one source. Since the advertisement procedure and Request for Proposals comply with program requirements, the Department accepts the award of the contract to Coastal Engineering Associates, Inc. The contract between the City and Coastal Engineering is also approved.

If you have any questions before August 31, 2011, please call Ms. Susan Fleming at (850) 922-1893. After that date, please call Mr. Roger Doherty at (850) 922-1885.

Sincerely,

Jacquelyn W. Dupree, Program Administrator
Florida Small Cities CDBG and Neighborhood
Stabilization Programs

JWD/swf

cc: Mr. Bill Geiger, Community Development Director, Brooksville
Mr. Andy Easton, Andy Easton & Associates, Inc.

CTN 10.03.11

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• HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) •