MARTIN COUNTY CODE
VOLUME 2
LAND DEVELOPMENT REGULATIONS

Published in 2002 by Order of the Board of County Commissioners

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PREFACE

The Martin County Code consists of three volumes: Volume 1, Code of Ordinances, Volume 2, Land Development Regulations, and Volume 3, Comprehensive Growth Management Plan. This Volume is Volume 2 and constitutes a codification of Martin County Land Development Regulations.

Source materials used in the preparation of this Volume were the 1974 Code, as supplemented through May 23, 2000, ordinances adopted by the Board of County Commissioners and special acts adopted by the Florida Legislature. The source of each section is included in the history note appearing in parentheses at the end thereof. By use of the comparative tables appearing in the back of this Volume, the reader can locate any section of the 1974 Code, as supplemented, and any ordinance or special act included herein.

Material in brackets has been editorially supplied.

The various sections within each article have been catchlined to facilitate usage. Notes that tie related sections of the Volume together and that refer to relevant state law have been included. A table listing the state law citations and setting forth their location within this Volume is included at the back of this Volume.

Article and Section Numbering System

Each section number consists of two parts separated by a decimal point. The figure before the decimal point refers to the article number, and the figure after the decimal point refers to the position of the section within the article. Thus, the second section of article 1 is numbered 1.2, and the tenth section of article 6 is 6.10. Under this system, each section is identified with its article, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6.1 and 6.2 is desired to be added, such new section would be numbered 6.1.1. New divisions may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new division.

Page Numbering System

The page numbering system used in this Volume is a prefix system. The letters to the left of the colon are an abbreviation that represents a certain portion of the Volume. The number to the right of the colon represents the number of the page in that portion. In the case of an article of this Volume, the number to the left of the colon indicates the number of the article. In the case of an appendix to the Volume, the letter immediately to the left of the colon indicates the letter of the appendix. The following are the prefixes used in this Volume:

LAND DEVELOPMENT REGULATIONS	L1:1
LAND DEVELOPMENT REGULATIONS APPENDIX	LA:1
LAND DEVELOPMENT REGULATIONS COMPARATIVE TABLES	LCT:1
LAND DEVELOPMENT REGULATIONS STATE LAW REFERENCE TABLE	LSLT:1
LAND DEVELOPMENT REGULATIONS INDEX	Li:1

Index

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

Looseleaf Supplements

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

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

Acknowledgments

The preparation of this Volume was under the direct supervision of Roger D. Merriam, Senior Code Attorney, and Connie Timmons, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

RESOLUTION NO. 02-9.34

A RESOLUTION APPROVING THE RECODIFICATION OF THE ORDINANCES ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, AS THE MARTIN COUNTY CODE, COMPRISED OF THREE VOLUMES CONTAINING THE GENERAL ORDINANCES AND SPECIAL ACTS IN VOLUME 1, THE LAND DEVELOPMENT REGULATIONS IN VOLUME 2, AND THE COMPREHENSIVE GROWTH MANAGEMENT PLAN IN VOLUME 3; APPROVING A STANDARD METHOD OF CITATION TO THE MARTIN COUNTY CODE; AND PROVIDING DIRECTION CONCERNING AVAILABILITY OF COPIES OF THE MARTIN COUNTY CODE TO THE GENERAL PUBLIC

WHEREAS, it is required by Section 125.68(1)(a), Florida Statutes, that counties shall maintain a current codification of all ordinances, subject to certain exceptions, and that such codification shall be published annually by the board of county commissioners;

WHEREAS, the ordinances adopted by the Board of County Commissioners of Martin County, Florida, were recodified in a comprehensive manner in 1974 as the Code of Laws and Ordinances of Martin County, Florida, which has been updated subsequently through the periodic issuance of supplements;

WHEREAS, some of the ordinances adopted by the Board subsequent to such recodification have established or amended the Comprehensive Growth Management Plan of Martin County, Florida, and the Land Development Regulations of Martin County, Florida, in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, Section 163.3161, et seq., Florida Statutes;

WHEREAS, the Board has determined that the numbering system used within the Code of Laws and Ordinances has become unwieldy; that the numbering systems used within such Code, the Comprehensive Growth Management Plan, and the Land Development Regulations have been inconsistent; and that the different printing formats used for each of the foregoing have been incompatible and difficult to use;

WHEREAS, in order to respond to and correct the aforesaid problems, the Board authorized Municipal Code Corporation to prepare a new and comprehensive recodification of the ordinances adopted by the Board, in accordance with applicable Florida law;

WHEREAS, the Board has been provided with such a recodification of the ordinances by Municipal Code Corporation, entitled Martin County Code and comprised of three volumes, containing the General Ordinances and Special Acts in Volume 1, the Land Development Regulations in Volume 2, and the Comprehensive Growth Management Plan in Volume 3;

WHEREAS, the Board has determined that it is in the best interest of the public to establish a common form of citation to the new recodification of the Martin County Code; and

WHEREAS, the Board desires to make copies of the new recodification of the Martin County Code widely available to the general public and to facilitate its use and reference in all public proceedings conducted hereafter;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:

PART ONE: APPROVAL OF RECODIFICATION OF MARTIN COUNTY CODE

Section 1. The recodification of the ordinances adopted by the Board that has been prepared by Municipal Code Corporation in 2002, and that is contained in the copy which is attached hereto and incorporated herein by reference, is hereby approved as the Martin County Code, comprised of three volumes containing the General Ordinances and Special Acts in Volume 1, the Land Development Regulations in Volume 2, and the Comprehensive Growth Management Plan in Volume 3.

Section 2. It is the intent of the Board that this approval of the recodification of ordinances shall not be considered as a readoption, amendment, or repeal of any ordinance or of any prov. of any ordinance, and that therefore any ordinance adopted heretofore by the Board, but omitted from the Martin County Code, either in accordance with applicable Florida law, or due to its adoption too recently to be included in this recodification, or due to a pending legal challenge thereto, or due merely to inadvertence or oversight, or for any other reason, should be considered to be still in effect notwithstanding such omission.

PART TWO: APPROVAL OF STANDARD METHOD OF CITATION

Section 1. The Board hereby approves references to the three volumes of the Martin County Code by common abbreviations, as follows: Volume 1 - GEN, Volume 2 - LDR, Volume 3 - CGMP; and approves reference to a portion or prov. of an ordinance by reference to the appropriate volume and chapter, article, division, subdivision, section, subsection, table, or figure number of such portion or prov. as recodified in the Martin County Code (e.g., GEN, Ch. 1, Art. 1 or GEN, Sec. 1.1; LDR, Art. 4, Div. 1 or LDR, Sec. 4.1; CGMP, Ch. 5 or CGMP, Sec. A).

Section 2. The Board hereby directs the County Administrator and the County Attorney, and the members of their respective staffs, to commence using the approved standard method of citation as of October 1, 2002.

PART THREE: DIRECTION CONCERNING AVAILABILITY OF COPIES

The Board hereby directs the County Administrator to make copies of the Martin County Code available for review and use by the general public through placement of at least one copy thereof in each public library within Martin County and through notice to the general public that individual copies may be purchased henceforth from Municipal Code Corporation.

DULY PASSED AND ADOPTED THIS 17th DAY OF SEPTEMBER, 2002.

BOARD OF COUNTY COMMISSIONERS,
MARTIN COUNTY, FLORIDA

ATTEST:

MARSHA EWING
CLERK

ELMIRA R. GAINEY
CHAIRPERSON

APPROVED AS TO FORM AND CORRECTNESS:

STEPHEN FRY
COUNTY ATTORNEY

LAND DEVELOPMENT REGULATIONS

Article 1 GENERAL PROVISIONS [1]

Sec. 1.1. Title.

This code shall be entitled the "Martin County Land Development Regulations" and may also be referred to as and cited as the "Land Development Regulations" or the "LDR."

(Ord. No. 541, pt. 1, § 1.1, 2-9-1999)

Sec. 1.2. Authority.

The Land Development Regulations are enacted pursuant to the requirements and authority of the Local Government Comprehensive Planning and Land Development Regulation Act, specifically F.S. § 163.3202; F.S. § 125.01; and article VIII of the Florida Constitution.

(Ord. No. 541, pt. 1, § 1.2, 2-9-1999)

Sec. 1.3. Purpose and intent.

The Land Development Regulations have been adopted to implement the goals, policies and objectives of the Martin County Comprehensive Growth Management Plan and to insure that the use and development of land in the unincorporated area of Martin County is consistent with the Martin County Comprehensive Growth Management Plan. The Land Development Regulations in conjunction with the Martin County Comprehensive Growth Management Plan establish the regulations and procedures governing the use and development of land for the purpose of protecting natural and manmade resources and maintaining, through orderly growth and development, the character, stability and quality of life of present and future community residents.

(Ord. No. 541, pt. 1, § 1.3, 2-9-1999)

Sec. 1.4. Applicability.

1.4.A. *General applicability.* The provisions of the Land Development Regulations shall apply to all development and land use activities within the unincorporated area of Martin County. Existing

structures and uses that are inconsistent with the provisions of the Land Development Regulations shall be permitted only as provided for in article 8, Nonconformities. All development and land use applications filed after the effective date of the Land Development Regulations shall be required to comply with the provisions of the Land Development Regulations.

1.4.B. *Development order issued prior to effective date of LDR.* The provisions of the Land Development Regulations and any amendments hereto shall not affect the validity of any development order lawfully issued prior to the effective date of an applicable provision of the Land Development Regulations provided that the development order remains valid. In the event that a development order becomes invalid through expiration, revocation or lack of compliance with conditions of approval or timetable requirements, any further development on the site shall occur only in conformance with the requirements of the Land Development Regulations.

1.4.C. *Projects in the adopted CIP.* The development of capital improvement projects listed in the adopted Capital Improvements Plan may be exempt from strict compliance with any part of these LDR if determined appropriate by the Board of County Commissioners (BCC). In determining whether a requirement may be waived, the BCC shall consider:

1. The purpose that the requirement is intended to serve.
2. Whether waiver of the requirement will detrimentally affect the health, safety and welfare of the community.
3. Whether any alternative measures can be taken to substantially meet the purposes of the requirement.
4. The cost to the taxpayers of meeting the requirement as weighed against the benefits of the requirement.
5. The nature and extent of the proposed improvement.
6. No requirement may be waived if such waiver would be inconsistent with the requirements of the Comprehensive Plan.

(Ord. No. 541, pt. I. § 1.4, 2-9-1999; Ord. No. 587, pt. 2, § 1.4, 5-15-2001)

Sec. 1.5. Rules of Interpretation.

1.5.A. *Generally.* The Land Development Regulations shall be interpreted and administered to achieve consistency with the overall goals, policies, and objectives of the Comprehensive Growth Management Plan as interpreted by the Board of County Commissioners. The Land Development Regulations shall be construed liberally to effect the purposes thereof, and the rules of this section shall be observed except when the context clearly requires otherwise.

1. Words used or defined in one tense or form shall include other tenses or derivative forms.
2. Words in the singular shall include the plural and words in the plural shall include the singular.
3. The masculine gender shall include the feminine and the feminine shall include the masculine.
4. The particular shall control the general.
5. The words "should" or "shall" or "will" are mandatory.
6. The word "may" is permissive.
7. In the event of a conflict between the text of the Land Development Regulations and any caption, illustration, table, map, graph or chart, the text shall control.

8. The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

9. The word "erected" also includes constructed, reconstructed, altered, placed, or relocated.

10. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either…or," the conjunction shall be interpreted as follows:

    a. "And" indicates that all the connected terms, conditions, provisions or events shall apply.

    b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

    c. "Either… or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

11. Words or phrases shall be construed according to their customary meaning unless defined in the Land Development Regulations.

12. The terms "written" or "in writing" shall be construed to include any representation of words, letters, diagrams or figures, whether by printing or otherwise.

13. The word "person" includes individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

14. Any reference to laws, ordinances, codes, or other regulations shall include any future amendment to such laws, ordinances or regulations.

1.5.B. *Computation of time.* In computing any period of time prescribed by the Land Development Regulations, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day shall be included unless it is a Saturday. Sunday, or holiday recognized by Martin County, in which case the period shall run until the end of the next day that is not a Saturday, Sunday or holiday recognized by Martin County. Unless specified otherwise, a "day" shall be a calendar day.

1.5.C. *Delegation of authority.* When a provision requires a department head or some other County officer or employee to do some act or perform some duty, the provision shall be construed to authorize the County Administrator to delegate to another qualified County officer or employee the performance of the required act or duty unless the terms of the provision specify otherwise. When a provision requires the County Administrator to do some act or perform some duty, the provision shall be construed to authorize the Board of County Commissioners to delegate to another qualified County officer or employee the performance of the required act or duty unless the terms of the provision specify otherwise.

(Ord. No. 541, pt. 1, § 1.5, 2-9-1999)

Sec. 1.6. Effective date.

Provisions of the Land Development Regulations shall become effective as specified within the ordinance adopting the subject provision. When any provision of the Land Development Regulations is amended, the effective date of the amendment shall control for the purposes of deciding any question related to such amendment.

(Ord. No. 541, pt. 1, § 1.6, 2-9-1999)

Sec. 1.7. Severability.

If any portion of the Land Development Regulations is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of the Land Development Regulations. If the Land Development Regulations or any provisions thereof shall be held to be inapplicable to any person, property, or circumstance, such holding shall not affect its applicability to any other person, property, or circumstance.

(Ord. No. 541, pt. 1, § 1.7, 2-9-1999)

Sec. 1.8. Conflicting Provisions.

The provisions of the Land Development Regulations shall be construed in accordance with the rules of statutory construction. However, where there is a conflict with any other provision of the Land Development Regulations, the Martin County Comprehensive Growth Management Plan or the Code of Ordinances of Martin County, the more restrictive requirement shall govern.

(Ord. No. 541, pt. 1, § 1.8, 2-9-1999)

FOOTNOTE(S):

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Editor's note— The user of this volume should be aware that additional provisions relative to zoning and land use are included in the Code of Ordinances (volume 1 of this publication) in chapter 103. (Back)

Article 2 RESERVED

Article 3 ZONING DISTRICTS

DIVISION 1. GENERAL PROVISIONS

Sec. 3.1. Applicability.

3.1.A. This Article shall apply to all areas of land and water in the unincorporated areas of Martin County and shall be implemented as follows:

1. No building or structure shall be erected, reconstructed, moved or structurally altered, nor shall any building, land or water be used for any purpose other than a use allowed in the district in which such building, land or water is located.
2. No building or land shall be used so as to produce greater heights, smaller setbacks, or less open space and no building shall be occupied by more families than hereinafter prescribed for such building for the district in which it is located.
3. No lot, which is now or may be hereafter built upon as herein required, shall be so reduced in area that the lot size, setbacks or open spaces will be smaller than prescribed by this Article.
4. Any activity that occurs over submerged land but which relies upon access to an adjacent upland area for parking, utilities or other related services shall be subject to the requirements of this Article and other portions of the Land Development Regulations in the same manner as if the activity were to occur on the adjacent upland area. This shall mean, for example, that a restaurant located on a floating vessel which relies upon an adjacent upland parcel for providing customer parking and a means for patrons to access the vessel, shall only be allowed if a restaurant is a permitted use on the adjacent upland and that the adjacent upland site complies with all regulations that would normally be applicable to a restaurant use on such upland site.

3.1.B. The provisions of this Article shall not interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Article imposes

a greater restriction upon the uses of building and land or requires larger open space than is imposed or required by other rules or regulations or by easements, covenants or agreements, the provision of this Article shall govern.

3.1.C. The zoning designations of lands which had previously been zoned in accordance with the zoning provisions of Chapter 35 of the Code of Laws and Ordinances (1974) or pursuant to those zoning provisions of Article III, Appendix "A", of the Code of Laws and Ordinances (1974) shall, by adoption of this Article, be renamed to the zoning district as shown in the following tables. This subsection shall in no way limit the discretion of the Board of County Commissioners to rezone any lands pursuant to the provisions of this Article. Planned Unit Developments approved prior to the effective date of this ordinance shall be governed by the provisions of Division 5.

Ch. 35 Zoning District	Zoning District in This Article
AG	AG-20A
RR-5A	AR-5A
RE-2A	RE-2A
RE-1A	RE-1A
RE-0.5A	RE-½A
RS-15	RS-3
RS-10	RS-4
RS-7.5	RS-6
RM-5	RM-5
RM-8	RM-8
RM-15	RM-10
MHP	MH-P
MHS	MH-S
COR	COR-1

LC	LC
GC	GC
WRC	WRC
WGC	WGC
LI	LI
GI	GI
PS	PS-2

Article III, Appendix "A" Zoning District	Zoning District in This Article
AG	AG-20A
AR-5A	AR-5A
RE-2A	RE-2A
RE-1A	RE-1A
RE-½A	RE-½A
LDR	RM-5
MDR	RM-8
HDR	RM-10
MH	(none)
COR	COR-1

LC	LC
GC	GC
WRC	WRC
WGC	WGC
LI	LI
GI	GI
PS	PS-2
PR	PR
PC	PC
PAF	PAF

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 727, pt. 1, 10-24-2006)

Sec. 3.2. Zoning atlas and district boundaries.

3.2.A. *Creation of the Zoning Atlas.* For the purposes of implementing the zoning districts and zoning provisions set forth in this Article, the Board of County Commissioners shall, by resolution, determine the appropriate zoning districts and zoning boundaries for all land in the area of unincorporated Martin County. As soon as practicable after the adoption of a zoning resolution, the Growth Management Director shall record all such zoning designations and zoning district boundaries on the Zoning Atlas. The Zoning Atlas, as may be amended from time to time by resolution of the Board of County Commissioners, shall be considered a part of this Article as though it were fully set forth herein.

3.2.B. *Procedures for amendments to the Zoning Atlas.* The requirements for adopting a resolution that would change the zoning designation on a parcel of land or the dimensions of a zoning boundary as established by a previous resolution of the Board of County Commissioners, shall be as set forth in Article 10.

3.2.C. *Interpretation of district boundaries.* Where uncertainty exists as to boundaries of the districts on the Zoning Atlas, the following rules shall apply:

1. *Center lines.* Boundaries indicated as approximately following the center lines of streets, highways and alleys shall be construed as following the centerline between the two right-of-way lines.
2. *Lot, section and tract lines.* Boundaries indicated as approximately following platted lot lines, section or tract lines shall be construed as following such lines.
3. *Political boundaries.* Boundaries indicated as approximately following political boundaries shall be construed as following such political boundaries.
4. *Railroad lines.* Boundaries indicated as following railroad lines shall be construed to be following the centerline of the railroad right-of-way.
5. *Shorelines.* Boundaries indicated as following shorelines shall be construed as following such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, or other bodies of water shall be construed to follow such center lines.
6. *Bisecting lines.* Where district boundary lines approximately bisect blocks, the boundaries are the median line of such blocks, that is, they divide the blocks into two equal halves.
7. *Uncertainties.* Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Atlas, or in case any other uncertainty exists, the Board of County Commissioners shall interpret the intent of the Zoning Atlas as to the location of district boundaries.
8. *Street abandonment.* Where a public street or alley is officially vacated or abandoned, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned street or alley.
9. *Excluded areas.* Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, said parcels shall be given a classification by the Board of County Commissioners that is consistent with the CGMP. Such cases shall be processed in the same manner as applications for zoning district changes.

3.2.D. *Replacement of the Zoning Atlas.*

1. In the event that the Zoning Atlas becomes damaged, destroyed, lost, or difficult to interpret because of the nature and number of changes and additions, the Board of County Commissioners may, by resolution of the board, adopt a new Zoning Atlas which shall supersede the prior Zoning Atlas, provided that such replacement does not alter the zoning categories or have the effect of materially altering the location of any zoning boundary.
2. Unless the prior Zoning Atlas has been lost or destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption and amendment.

3.2.E. *Standards for amendments to the Zoning Atlas.*

1. The Future Land Use Map of the CGMP establishes the optimum overall distribution of land uses. The CGMP also establishes a series of land use categories which provide, among other things, overall density and intensity limits. The Future Land Use Map shall not be construed to mean that every parcel is guaranteed the maximum density and intensity possible pursuant to the CGMP and these Land Development Regulations. All goals, objectives and policies of the CGMP shall be considered when a proposed rezoning is considered. The County shall have the discretion to decide that the development allowed on any given parcel of land shall be more limited than the maximum allowable under the assigned Future Land Use Category; provided, however, that the County shall approve some development that is consistent with the CGMP, and the decision is fairly debatable or is supported by substantial, competent evidence depending on the fundamental nature of the proceeding. If upon reviewing a proposed rezoning

request the County determines that the Future Land Use designation of the CGMP is inappropriate, the County may deny such rezoning request and initiate an appropriate amendment to the CGMP.

2. In the review of a proposed amendment to the Zoning Atlas, the Board of County Commissioners shall consider the following:

   a. Whether the proposed amendment is consistent with all applicable provisions of the Comprehensive Plan; and

   b. Whether the proposed amendment is consistent with all applicable provisions of the LDR; and

   c. Whether the proposed district amendment is compatible with the character of the existing land uses in the adjacent and surrounding area and the peculiar suitability of the property for the proposed zoning use; and

   d. Whether and to what extent there are documented changed conditions in the area; and

   e. Whether and to what extent the proposed amendment would result in demands on public facilities; and

   f. Whether and to what extent the proposed amendment would result in a logical, timely and orderly development pattern which conserves the value of existing development and is an appropriate use of the County's resources; and

   g. Consideration of the facts presented at the public hearings.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.3. Glossary of terms.

For purposes of this Article, the following words, terms and phrases shall have the meanings as set forth below:

Accessory dwelling unit. (See: Dwelling unit, accessory.)

Administrative services, not-for-profit. Offices for the provision of government services to the public, including social services and utilities, either by a governmental entity or by a private not-for-profit service provider.

Agriculture, bona fide. Good faith commercial agricultural use of the land classified by the property appraiser for assessment purposes as agricultural, pursuant to the provisions of F.S. § 193.461.

Agriculture processing. The initial compressing, milling, shelling, threshing, sorting, grading, sawing, or packaging of farm products, which processing is reasonably required to take place in proximity to the site where such products are produced.

Agricultural veterinary medical services. Establishments providing professional medical care of nonhousehold pets (those other than dogs, cats, caged birds, etc.).

Airport. A facility designed to facilitate the take-off and landing of aircraft, including all accessory uses customarily incidental to aircraft operations, such as but not limited to, administrative offices, runways, taxiways, communication and visual guidance systems and areas, whether indoor or outdoor, for the storage and maintenance of aircraft.

Airport, general aviation. An airport encompassing all facets of civil aviation except air carriers holding a certificate of public convenience and necessity from the Federal Aviation Administration and large aircraft commercial operators or regularly scheduled commercial operators.

Airstrip. An airport that is restricted to the use of the owner of the parcel on which it is located and the invited guests of the parcel owner, and which is further restricted to agricultural support uses, such as, but not limited to, crop dusting.

Alley. A public right-of-way dedicated to public use which affords only a secondary means of access to abutting property and which is not intended for general traffic circulation.

Apartment hotel. An establishment offering transient lodging accommodations to the general public and where rooms or suites may include kitchen facilities and sitting rooms in addition to sleeping areas.

Aquaculture. The commercial cultivation of aquatic life, such as, but not limited to, fish, shellfish, and seaweed.

Assisted living facility. (See: Residential care facility.)

Bed and breakfast inn. An establishment operated by an owner or manager living on the premises which offers transient lodging accommodations to the general public. This definition specifically excludes halfway houses and nonsecure residential drug and alcohol treatment and rehabilitation facilities.

Biofuel facility. An industrial plant engaged in the collection, storage, processing or refining of vegetable oil or other non-petroleum based fats, oils and grease, for the purpose of converting such materials into fuel. "Biofuel facility" does not include restaurants or other sources of the raw materials used by a biofuel facility to produce fuel.

Bona fide agriculture. (See: Agriculture, bona fide.)

Building. Any structure having a roof supported by columns or walls, including domes.

Building coverage. The horizontal area measured from the exterior surface of the exterior walls of the ground floor of the principal and accessory structures on a lot.

Building permit. A permit issued pursuant to Chapter 21, Article 1, General Ordinances, Martin County Code.

Business and professional offices. Office uses which extend services by providing advice, information or consultation of a professional nature, such as, but not limited to, insurance, real estate, and executive management, but specifically excluding the storage or display of goods or chattels for the purpose of sale, lease, or rent and specifically excluding financial institutions. Business and professional office use shall also include the creation and processing of information, such as, but not limited to, life sciences, technology, research, computer software development, information storage and retrieval and publishing, excluding pain management clinics.

Campground. An establishment which offers transient lodging accommodations to the general public by providing designated spaces for tents or recreational vehicles, with or without utilities (see recreational vehicle park).

Cemeteries, crematory operations and columbaria. Uses typically associated with the interment of the dead.

Commercial amusements. Active or passive commercial recreation services including, but not limited to, theaters, bowling, tennis and other racket sports, miniature golf, swimming and other water-related sports and spectator sports.

Commercial day care. (See: Day care, commercial.)

Commercial kennel. (See: Kennel, commercial.)

Commercial marina. (See: Marina, commercial.)

Commercial stable. (See: Stable, commercial.)

Community center. A facility operated by a public or not-for-profit entity which is used for recreational, social, educational, or cultural activities.

Composting. A facility designed to convert organic solid waste into compost by means of biological decomposition carried out under controlled, primarily aerobic conditions.

Construction industry trades. Skilled occupations typically involved in construction, such as carpenters, painters, plumbers, masons, electricians, tile contractors, etc.

Construction sales and service. An establishment primarily engaged in construction activities which may include incidental storage on lots other than construction sites, as well as the retailing and wholesale of construction materials with outdoor storage.

Convenience restaurant. (See: Restaurant, convenience.)

Convenience store. (See: Retail sales and services, limited).

Corner lot. (See: Lot, corner.)

Crawl space. The area between the slab, or finished grade where there is no slab, and the base of any structure elevated above that slab or finished grade.

Crop farms. Growing and harvesting of agricultural products including, but not limited to, row crops and field crops (vegetables, fruits, grains, nuts, fibers, etc.).

Cultural or civic uses. Uses typically associated with public or not-for-profit private entities for the promotion of a common cultural or civic objective such as literature, science, music, drama, art, sport or similar objectives.

Dairies. Production of dairy products.

Day care, commercial. An establishment providing supervised care of people, either children or adults, but not overnight accommodations.

Day care, family. A residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit as licensed by the State of Florida, pursuant to F.S. § 402.302.(7).

Dredge spoil facility. An area of land which is designed for the safe storage and processing of sand, silt, muck and other natural materials dredged from waterways under the supervision of the Florida Inland Navigation District. Spoil materials are generally allowed to dry naturally and may later be removed to be used for other purposes.

Duplex dwelling. (See: Dwelling, duplex.)

Dwelling, duplex. Two dwelling units, whether side-by-side or stacked, within one building located on a single lot but specifically excluding mobile homes as defined in this section (3.3).

Dwelling, multifamily. Three or more dwelling units within one building located on a single lot.

Dwelling, single-family detached. A dwelling unit that is not physically attached to any other dwelling by any means, which is surrounded by open space on all sides and which is the only dwelling unit on a lot. This definition specifically excludes mobile homes as defined in this section (3.3). Two or more single-family detached dwelling units placed on a single lot shall be considered a duplex or multifamily dwelling use, depending on the number of dwelling units involved.

Dwelling, townhouse. A single-family dwelling unit which is physically connected to another dwelling unit on at least one side, in which each individual dwelling unit extends from ground to roof and has a separate entrance from the outside.

Dwelling unit. A building comprised of one or more rooms providing cooking, sleeping, and sanitary facilities, designed for the exclusive use of a single family.

Dwelling unit, accessory. A dwelling unit of any physical type (e.g., a single-family detached dwelling, a duplex dwelling, or a townhouse dwelling) except a mobile home, located on a lot developed for nonresidential purposes, and which is designed and used exclusively by the landowner as either a

personal residence (for the landowner and his family) or for the use of any employee (along with the family of the employee) of any nonresidential establishment on the lot.

Dwelling, zero lot line single-family dwelling. A single family dwelling unit which has one or more walls located on or close to one interior side lot line or shares a party wall with another such unit on an adjacent lot.

Educational institution. Public or private organizations authorized by the Florida Statutes to provide instructional services. Organizations providing instructional services which are not authorized by Florida Statutes shall be considered business and professional offices.

Exotic wildlife sanctuary. A public or private, nonprofit facility established for the protection, permanent care and/or rehabilitation of exotic Class I, Class II or Class III wild animals as defined by the Florida Fish and Wildlife Conservation Commission. Accessory uses to such facilities may include veterinary labs and services, directly related to the sanctuary, administration offices, conference rooms, maintenance facilities, a caretaker residence, indoor and outdoor wildlife enclosures, other related support facilities and infrastructure improvements as determined appropriate by the Board of County Commissioners.

Extensive impact industry. (See: Industry, extensive impact.)

Family:

1. One or more persons related by blood, marriage, adoption, or guardianship occupying a single residential dwelling unit as a single housekeeping unit and sharing common facilities; or
2. Any group of up to five persons occupying a single dwelling unit as a single housekeeping unit and sharing common facilities.

Family day care. (See: Day care, family.)

Farmer's market. An establishment providing for the retail sale of agricultural products, primarily involving the sale of fresh produce, such as fruits and vegetables, but also including such products and services that are customarily provided in rural or agricultural areas.

Feed lot. A plot of land on which livestock is confined and fattened.

Financial institution. A use which provides banking, or other financial services, including information, advice or consultation of a professional nature.

Fishing and hunting camps. Recreational facilities established for the purpose of hunting and/or fishing which may provide overnight accommodations, food, transportation, guides and other customary accessory uses and facilities as set forth in section 3.76.1.

Flea market. Any premises where the principal use is the sale of new and used household goods, personal effects, tools, art work, small household appliances, and similar merchandise, objects, or equipment, in small quantities, in broken lots, not in bulk, for use or consumption by the immediate purchaser, in open air or partly enclosed booths or stalls which may or may not be within a wholly enclosed building.

Funeral homes. Undertaking and funeral services involving the care and preparation of deceased humans prior to burial but specifically excluding cemeteries, crematory operations and columbaria.

General restaurant. (See: Restaurant, general.)

General retail sales and services. (See: Retail sales and services, general.)

Golf course. A public or private establishment which allows use of golf facilities for a fee.

Gross floor area. The sum of the horizontal areas of each story of a building, measured from the outside of exterior walls or from the center line of party walls, excluding enclosed parking or loading areas and any space where the floor-to-ceiling height is less than six feet.

Guest house. A set of living quarters on the same lot as a single-family detached dwelling, having sanitary and/or cooking facilities separate from the principal dwelling, which is intended for temporary occupancy by guests of family members of the principal household.

Halfway house. A licensed home for inmates on release from more restrictive custodial confinement or where inmates are initially placed in lieu of more restrictive custodial confinement, and where supervision, rehabilitation, and counseling are provided to prepare residents for a return to society, enabling them to live independently. Such placement is pursuant to the authority of the Florida Department of Corrections, or the state judicial system.

Home occupation. Any for-profit activity carried out within, or on the same lot as a residential dwelling unit, by a resident of such dwelling unit.

Hospital. An institution requiring a certificate of need that:

1. Offers services more intensive than those required for room, board, personal services and general nursing care;
2. Offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and
3. Regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery, obstetrical care, or other definitive medical treatment of similar extent.

A hospital may include offices for medical and dental personnel, central service facilities such as pharmacies, medical laboratories, day care centers for employees, and other related uses.

Hotels and motels. A building or other structure used, maintained or advertised as a place where sleeping accommodations are supplied for short term rent to tenants. Hotels and motels typically include accessory uses such as meeting or convention facilities and recreational facilities but individual rooms do not include kitchen facilities.

Independent living facility. (See: Residential care facility.)

Indoor shooting range. (See: Shooting range, indoor.)

Industrial use. The manufacture, warehousing, assembly, packaging, processing, fabrication, storage or distribution of goods and materials, publishing, and the research and development of pharmaceutical products.

Industry, extensive impact. An industrial use that, due to materials or processes utilized or products produced, has the potential for negative impacts on the environment or on surrounding uses in terms of noise, glare, vibration, smoke, vapors, odors, fire or explosive hazards or an industrial use where more than 20 percent of the use, measured as a percentage of the gross floor area of all buildings on the lot, is conducted outside of an enclosed building. This definition specifically excludes other separately defined uses referenced in these regulations, such as, but not limited to, mining, salvage yards, and solid waste disposal facilities.

Industry, limited impact. Any industrial use that is not an extensive impact industry.

Interior lot. (See: Lot, interior.)

Kennels, commercial. Facilities used for the commercial boarding of domestic animals such as dogs and cats.

Library, public. A government-owned or operated facility providing reading and other materials on loan to the general public and which may also provide general community services, such as meeting facilities.

Limited impact industry. (See: Industry, limited impact.)

Limited retail sales and services. (See: Retail sales and services, limited.)

Living area. The gross floor area of a dwelling unit, excluding any floor area of accessory structures.

Lot. A parcel of land, distinguished from surrounding parcels by ownership boundaries and excluding public rights-of-way.

Lot, corner. A lot abutting upon two streets at their intersections.

Lot, interior. Any lot which is not a corner lot.

Lot line means those lines defining ownership of an individual parcel of land, separating such parcel from separately owned parcels. Lots lines are further distinguished as follows:

1. *Front lot line:* The line dividing a lot from the street which provides primary vehicular access to the lot. On a corner lot only one lot line shall be considered the front line.
2. *Rear lot line:* The lot line opposite the front lot line.
3. *Side lot line:* Any lot line which is not a front lot line or a rear lot line.

Manufacturing. The mechanical or chemical transformation of materials or substances into new products, including the assembly or manipulation of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

Marina, commercial. A facility with three or more wet and/or dry slips for the commercial docking, launching, mooring or storage of vessels and which may include accessory retail and service uses, such as, but not limited to, the sale, lease, or rental of boats, bait and tackle shops, off-loading and processing of commercial seafood products, and marine equipment sales.

Medical services. The provision of therapeutic, preventive or other corrective personal treatment services by physicians, dentists, and other licensed medical practitioners, as well as the provision of medical testing and analysis services. These services are provided to patients who are admitted for examination and treatment by a physician involving no overnight lodging, excluding pain management clinics.

Mining. The excavation of more than 10,000 cubic yards of rock, gravel, soil, shellrock or minerals from any project site in any calendar year, where the excavated material is hauled from that project site to another location across any street.

Mobile home. A structure transportable in one or more sections which is built on a permanent chassis and is designed for use as a single-family residential dwelling unit when connected to the required utilities. If fabricated after June 15, 1976, each section should bear a U.S. Department of Housing and Urban Development (HUD) label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards, 42 USC 5401 and 24 CFR 3282 and 3283. This use does not include manufactured units meeting the criteria contained in the definition of a modular home and does not include park trailers contained in the definition of recreational vehicles.

Modular home. A structure transportable in one or more sections, with or without a permanent chassis, which is designed for and used as a residential dwelling unit when connected to a foundation and the required utilities. Fabrication of such units shall comply with F.S. Ch. 553 and the Florida Building Code. A modular home does not include manufactured units meeting the criteria contained in the definition of a mobile home and does not include park trailers contained in the definition of recreational vehicles.

Multifamily dwelling. (See: Dwelling, multifamily.)

Neighborhood assisted residence. A residential arrangement in which a state-licensed person or agency provides assistance to the residents, such as housekeeping, centralized cooking or dining, personal care, nursing care, and counseling. This land use category is limited to facilities involved in the housing and care of frail elders, as defined in F.S. § 400.618; physically disabled or handicapped persons, as defined in F.S. § 760.22(7)(a); developmentally disabled persons, as defined in F.S. §

393.063(11); nondangerous mentally ill persons, as defined in F.S. § 394.455(18); and children, as defined in F.S. §§ 39.01(11), 984.03(9), 984.03(12), and 985.03(8).

Nonsecure residential drug and alcohol treatment and rehabilitation facilities. Inpatient facilities, not involving confinement as in a prison or jail facility, which provides care for persons with drug and/or alcohol dependency problems and which may include outpatient follow-up care to the facility's patients. The residents of these facilities shall not include correctional inmates, violent offenders, or habitual criminal offenders.

Nursing home. (See: Residential care facility.)

Open space. That portion of a development that is permeable and remains open and unobstructed from the ground to the sky, specifically excluding parking areas, whether permeable or impermeable.

Orchards and groves. Growing and harvesting of tropical and deciduous fruits including citrus fruits such as oranges and grapefruits.

Outdoor shooting range. (See: Shooting range, outdoor.)

Pain management clinic. The same as the definition found in Sec. 458.3265(1)(a), Florida Statutes (2010), as may be amended from time to time, and shall also include any dispensing organization approved to dispense low-THC cannabis, or any medical marijuana treatment center as those terms are defined by Florida Statutes or the Florida Constitution. Notwithstanding this definition, the use of the words "wellness center" and "detox center" shall not exempt clinics, facilities or offices which advertise in any medium for any type of pain management services, or employ a medical or osteopathic physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications from this definition. Such definition shall not include any of the following:

1. A clinic that is licensed as a facility pursuant to chapter 395; or
2. A majority of the physicians who provide services in the clinic primarily provide surgical services; or
3. 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 $50 million; or
4. The clinic is owned by, leased by or contractually affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows; or
5. The clinic does not prescribe or dispense controlled substances for the treatment of pain; or
6. The clinic is owned by a corporate entity exempt from federal taxation under 26 U.S.C. § 501(c)(3); or
7. A facility that is owned or operated by a chiropractic physician licensed under Chapter 460, Florida Statutes, and does not contract or employ a physician licensed under Chapter 458 or Chapter 459, Florida Statutes, who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications for the treatment of chronic nonmalignant pain: or
8. A clinic that is associated with a not-for-profit hospice care provider.

Pain specialist (approved). A physician, or group of physicians licensed under either Chap. 458 or Chap. 459, Florida Statutes, and who comply with Rule 64B8-9.0131 (medical doctors), or Rule 64B15-14.005 and Rule 64B15-14.009 (osteopathic physicians), Florida Administrative Code, as each is amended from time to time.

Parking lots and garages. A public or private parking lot or parking structure operated as a principal use for the purpose of providing off-street parking or storage of operable motor vehicles, including trailers, but specifically excluding the parking or storage of construction equipment.

Perimeter enclosure. A perimeter enclosure is a requirement for screening crawl space created by the elevation of a dwelling built on a pier foundation. The perimeter enclosure must be on all four sides of the dwelling and meet the requirements in Section 3.68.2.A., Dwellings.

Pharmacy. The same as the definition in F.S. (2010) § 465.003, as may be amended from time to time, and includes community pharmacy, internet pharmacy, and special pharmacy, but does not include institutional pharmacy or nuclear pharmacy, as each of those terms are used in that section.

Place of worship. Any structure, used on a regular basis by a group of persons who assemble for religious worship, including, but not limited to, a church, synagogue, mosque, or temple.

Plant nurseries and landscape services. Establishments providing for the retail or wholesale sale of flowers, plants, shrubs and trees, products related to landscaping such as, but not limited to, soil, fertilizer, and potting materials, and landscape consultative services.

Porch. A roofed structure projecting from the wall of a building which is not enclosed with solid or opaque materials more than 30 inches above the floor thereof, except the necessary columns to support the roof.

Private stable. (See: Stable, private.)

Protective and emergency services. Fire, law enforcement, emergency medical and related uses planned and operated for the general welfare of the public.

Public library. (See: Library, public.)

Public parks and recreation areas, active. Public parks and recreation areas operated by a public or private not-for-profit entity where the primary goal is the provision of facilities for active public recreation, such as, but not limited to, tennis courts, ball fields, and picnic areas.

Public parks and recreation areas, passive. Public parks and recreation areas operated by a public or private not-for-profit entity where the primary goal is the preservation of land in its natural state for public enjoyment. Accessory uses and structures, such as parking, restrooms, and public viewing areas may be provided to facilitate public use of the preserved land but this use specifically excludes recreational facilities such as ball parks and tennis court that require large cleared areas, boat ramps for motorized vessels, or other uses which are incompatible with the preservation of native lands.

Public vehicle storage and maintenance. Use of land for the storage and maintenance of public vehicles.

Ranches. Raising, training and/or storage of livestock on improved or unimproved pasture land including, but not limited to, cattle, horses, sheep and goats.

Recreational vehicle. A vehicle or portable structure built on a chassis and designed for travel, recreation, or vacation and occupied for brief tenancies in recreational vehicle parks. A recreational vehicle shall not be considered a dwelling unit and does not qualify as a mobile home. Recreational vehicles shall include and shall be limited to:

1. The "travel trailer," which is a vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use. It has a body width of no more than 8½ feet and an overall body length of no more than 40 feet when factory-equipped for the road.
2. The "camping trailer," which is a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
3. The "truck camper," which is a truck equipped with a portable unit designed to be loaded onto, or affixed to, the bed or chassis of the truck and constructed to provide temporary living quarters for recreational, camping, or travel use.

4. The "motor home," which is a vehicular unit which does not exceed the length, height, and width limitations provided in F.S. § 316.515, is a self-propelled motor vehicle, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.
5. The "private motor coach," which is a vehicular unit which does not exceed the length, width, and height limitations provided in F.S. § 316.515(9), is built on a self-propelled bus type chassis having no fewer than three load-bearing axles, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.
6. The "van conversion," which is a vehicular unit which does not exceed the length and width limitations provided in F.S. § 316.515, is built on a self-propelled motor vehicle chassis, and is designed for recreation, camping, and travel use.
7. The "park trailer," which is 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, not including any bay window, 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.
8. The "fifth-wheel trailer," which is a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed 400 square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

Recreational vehicle park. The commercial use of land to provide individual spaces for two or more recreational vehicles on a daily fee or short-term rental basis for tenancies of less than six consecutive months. (See also: Campground).

Recycling drop-off center. A small collection facility where recyclable materials are purchased or accepted from the public. Typical uses include neighborhood recycling stations and thrift store collection trucks.

Recycling plant or transfer station. A facility for the receiving, sorting, storing, and initial processing of nonhazardous materials. This use does not involve the conversion of materials into new products (see: Industrial uses).

Residential care facility. A residential arrangement designed to house the aged or other persons with chronic or debilitating conditions where the residents require assistance with daily activities. The assistance provided may include housekeeping, centralized cooking or dining, personal care, nursing care, and counseling.

Residential storage facility. A building or series of buildings designed and used for the rental of space for the storage of household items but specifically excluding the rental of space for commercial or industrial warehousing.

Restaurant, general. An establishment where the principal business is the sale of food and beverages to the public in a ready-to-consume state.

Restaurant, convenience. An establishment where the principal business is the sale of food and beverages to the customer in a ready-to-consume state, generally in disposable wrapping or containers. Establishments that specialize in take-out food and offer seating for ten or fewer patrons, such as delicatessens and sandwich shops, shall be classified as limited retail sales and services.

Retail sales and services, general. Retail sale or rental from the premises of goods and/or services and highway-oriented sales and services that generally cater to a market area in excess of three miles,

excluding establishments with significant wholesaling, warehousing, or outside storage and distribution functions and excluding pain management clinics.

Retail sales and services, limited. Shops and stores limited to retail sales of convenience items or services typically needed on a frequently reoccurring basis, excluding pain management clinics. This definition includes shops with:

l. Limited inventory;

2. A household market area in the immediate vicinity;

3. A specialized market with customized service demand; or

4. A tourist-oriented market area in the immediate vicinity.

Right-of-way. A strip of land dedicated, deeded, used or intended to be used, for a street, alley, walkway, boulevard, railroad, drainage facility, access for ingress or egress, electric transmission line, oil and gas pipeline, sanitary and stormwater sewer line, or other purpose by the public, certain designated persons, or governing bodies. It is an appropriation of the land to some public use made by the owner and accepted for such use by the public.

Salvage yard. The use of a lot for the dismantling, reduction or other processing of used or discarded durable goods which are not intended to be sold in than their original forms. Typical salvage yard operations include automobile wrecking yards and recycling transfer stations.

Shooting range, indoor. A facility, entirely enclosed in a building, designed for the safe discharge of firearms at targets.

Shooting range, outdoor. An open-air facility designed for the safe discharge of firearms at targets (including rifle, skeet and trap ranges).

Single-family dwelling. (See: Dwelling, single-family detached.)

Silviculture. That process which follows accepted forest management principles whereby the forests are tended, harvested, and reforested.

Solid waste disposal facilities. The use of a lot for the long term placement of waste materials, such as, but not limited to, construction debris, vegetative waste, domestic waste and hazardous waste, for the primary purpose of abandoning such materials. Solid waste disposal facilities may sometimes be conducted in conjunction with salvage yards.

Stable, commercial. Facilities devoted to the feeding, housing and care of horses for which the operator of the premises receives compensation. Such use may involve related equestrian activities such as riding lessons and recreational horse riding.

Stable, private. An accessory structure on a lot where horses owned by the owners of the premises are kept for private use.

Story. That part of a building contained between any floor and the floor or roof next above.

Street. A public or private right-of-way which is designed to serve as the principal means of vehicular access to two or more lots.

Structure. Any material or combination of materials erected or otherwise installed on a lot, whether installed on, above, or below the surface of land or water.

Trades and skilled services. Shops providing services involving skilled labor or craftsmanship, such as, but not limited to, printing and binding, electronics repair, carpet cleaning, craft-making, decorating services and locksmithing. This shall not be construed to include shops primarily engaged in retail sales and services where the provision of skilled labor or craftsmanship is merely incidental to the retail activity.

Truck stop/travel center. An establishment engaged primarily in the fueling, servicing, repair, and short-term parking of tractor trucks, tractor-trailers, semi-trailers or similar heavy commercial vehicles,

including but not limited to the sale of accessories and equipment for such vehicles. It may also include overnight accommodations, showers, and restaurant facilities primarily for the use of truck crews. This use shall be considered an extensive impact industry.

Townhouse dwelling. (See: Dwelling, townhouse.)

Utilities. The use of land which is customary and necessary to the maintenance and operation of essential public services, such as electricity and gas transmission systems; water and waste water systems; communication; and similar services and facilities.

Utility. Any organization, either private or governmental, which owns and/or operates facilities for the rendering of services to the general public, such as electric, gas, communications, transportation, water supply, sewage disposal, water conservation and drainage and garbage or refuse disposal.

Vehicular sales and service. The retail or wholesale sale, storage or rental of motor vehicles, including boats, travel trailers and mobile homes, and related equipment, with incidental services and maintenance.

Vehicular service and maintenance. Establishments providing retail sale of motor fuels and other products and services related to the operation of motor vehicles, including cleaning, washing and waxing services and including repair services, such as, but not limited to, tire and oil changes, engine repair and mechanical inspections, provided that such repair services are limited to no more than three service bays. Vehicular maintenance activities involving more than three service bays or involving tire recapping or vulcanizing, rustproofing, painting or body repair shall be considered an industrial use (see definition of "industrial use").

Veterinary medical services. Establishments providing professional medical care for animals.

Wildlife rehabilitation facility. A public or private, nonprofit facility established for the primary purpose of providing care and shelter for wild animals and for providing public educational services related to the care and protection of wildlife. Accessory uses to such facilities may include veterinary medical services related to the care of animals within the facility, administrative offices, conference rooms, maintenance facilities and a caretaker's residence.

Wholesale trades and services. Establishments offering bulk goods to other firms for eventual resale.

Yard trash processing. The processing of vegetative matter resulting from landscaping maintenance or land clearing operations, such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps, into mulch, compost or other products suitable for use off-site and specifically excluding the on-site disposal of such material.

Zero lot line dwelling. (See: Dwelling, zero lot line.)

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 669, pt. 1, 6-28-2005; Ord. No. 833, pt. 1, 11-17-2009; Ord. No. 866, pt. 1, 6-22-2010; Ord. No. 891, pt. 1, 2-22-2011; Ord. No. 964, pt. 1, 10-21-2014; Ord. No. 970, pt. 1, 4-7-2015; Ord. No. 983, pt. 1, 9-1-2015; Ord. No. 1014, pt. 1, 12-6-2016)

Secs. 3.4—3.9. Reserved.

DIVISION 2. STANDARD ZONING DISTRICTS

Sec. 3.10. District purposes.

3.10.A. *Zoning district categories.* The zoning districts set forth in this Division are organized into categories in order to distinguish between those zoning districts which were in place prior to the adoption of the CGMP and those which were developed specifically to implement the CGMP. The Category "A" districts are specifically designed to implement the CGMP. The Category "B" and "C" districts were originally adopted by Resolution 05-09-67 and codified in Chapter 33 of the Martin County Code of Laws and Ordinances but have been incorporated into this Article to the extent possible considering the supremacy of the CGMP. Regardless of the origin, the zoning districts used in this Division are designed, or have been modified to be, consistent with the CGMP. Nevertheless, in the event of any conflict between the provisions of this Article and the CGMP, the CGMP shall prevail. The Category "B" and "C" districts shall only be applied to areas where a pattern of development had already been established prior to April 1, 1982 (the date of adoption of the first Comprehensive Plan). The provisions of the Category "C" districts are set forth in Division 7.

3.10.B. *District descriptions.* The Category "A" and Category "B" zoning districts are listed in the following table. For Category "A" districts, the District Purpose statements indicate the Future Land Use category that the zoning district is intended to implement and, where there is more than one zoning district to implement a particular Future Land Use category, may provide guidance as to which may be the most appropriate zoning district. All amendments to the Zoning Atlas involving Category "A" districts shall be consistent with these district purposes.

CAT.	ZONING DISTRICT	DISTRICT PURPOSE
A	AG-20A (General Agricultural District)	The AG-20A district is intended to implement the policies of the CGMP for lands designated Agricultural on the Future Land Use Map of the CGMP.
A	AR-5A (Agricultural Ranchette District)	The AR-5A district is intended to implement the policies of the CGMP for lands designated Agricultural Ranchette on the Future Land Use Map of the CGMP.

A	AR-10A (Agricultural Ranchette District)	The AR-10A district is intended to implement the policies of the CGMP for lands designated Agricultural Ranchette on the Future Land Use Map of the CGMP. This district is appropriate for areas where the land has not been subdivided into parcels smaller than ten acres.
A	RE-2A (Rural Estate District)	The RE-2A district is intended to implement the policies of the CGMP for lands designated Rural Density on the Future Land Use Map of the CGMP.
A	RE-1A (Residential Estate District)	The RE-1A district is intended to implement the policies of the CGMP for lands designated Estate Density - up to one unit per acre on the Future Land Use Map of the CGMP.
A	RE-½A (Residential Estate District)	The RE-½A district is intended to implement the policies of the CGMP for lands designated Estate Density - up to two units per acre on the Future Land Use Map of the CGMP.
A	RS-3 (Low Density Residential District)	The RS-3 district is intended to implement the policies of the CGMP for lands designated Low Density on the Future Land Use Map of the CGMP.
A	RS-BR3 (Beau Rivage Single-family Residential District)	The RS-BR3 district is intended to implement the policies of the CGMP for lands designated Low Density on the Future Land Use Map of the CGMP within the Beau Rivage community of the County.
A	RS-4 (Low Density Residential District)	The RS-4 district is intended to implement the policies of the CGMP for lands designated Low Density on the Future Land Use Map of the CGMP.
A	RS-5 (Low Density Residential District)	The RS-5 district is intended to implement the policies of the CGMP for lands designated Low Density on the Future Land Use Map of the CGMP.
A	RS-6 (Medium Density Residential District)	The RS-6 district is intended to implement the policies of the CGMP for lands designated Medium Density on the Future Land Use Map of the CGMP.
A	RS-8 (Medium Density	The RS-8 district is intended to implement the policies of the CGMP for lands designated Medium Density on the Future Land Use Map of the

	Residential District)	CGMP.
A	RS-10 (High Density Residential District)	The RS-10 district is intended to implement the policies of the CGMP for lands designated High Density on the Future Land Use Map of the CGMP.
A	RM-3 (Low Density Residential District)	The RM-3 district is intended to implement the policies of the CGMP for lands designated Low Density on the Future Land Use Map of the CGMP.
A	RM-4 (Low Density Residential District)	The RM-4 district is intended to implement the policies of the CGMP for lands designated Low Density on the Future Land Use Map of the CGMP.
A	RM-5 (Low Density Residential District)	The RM-5 district is intended to implement the policies of the CGMP for lands designated Low Density on the Future Land Use Map of the CGMP.
A	RM-6 (Medium Density Residential District)	The RM-6 district is intended to implement the policies of the CGMP for lands designated Medium Density on the Future Land Use Map of the CGMP.
A	RM-8 (Medium Density Residential District)	The RM-8 district is intended to implement the policies of the CGMP for lands designated Medium Density on the Future Land Use Map of the CGMP.
A	RM-10 (High Density Residential District)	The RM-10 district is intended to implement the policies of the CGMP for lands designated High Density on the Future Land Use Map of the CGMP.
A	MH-P (Mobile Home Park District)	The MH-P district is intended to implement the policies of the CGMP for lands designated Mobile Home Density on the Future Land Use Map of the CGMP. The MH-P district is generally intended for mobile home and other types of single-family dwellings where the land is under common ownership (i.e., operated as a rental park, cooperative or condominium). This district is primarily assigned to mobile home condominiums, cooperatives or rental parks existing prior to February 20, 1990. New mobile home subdivisions or expansions of existing mobile home parks are encouraged to develop pursuant to the provisions for Planned Unit

		Developments.
A	MH-S (Mobile Home Subdivision District)	The MH-S district is intended to implement the CGMP policies for lands designated Mobile Home Density on the Future Land Use Map of the CGMP. This district is primarily assigned to mobile home subdivisions existing prior to February 20, 1990. New mobile home subdivisions or expansions of existing mobile home developments are encouraged to develop pursuant to the provisions for Planned Unit Developments.
A	CO (Commercial Office District)	The CO district is intended to implement the CGMP policies for lands designated Commercial Office/Residential on the Future Land Use Map of the CGMP. This district is generally used as a transition zone between more intense commercial areas and residential areas where a determination has been made that residential uses within this district are not appropriate.
A	COR-1 (Commercial Office/Residential District)	The COR-1 district is intended to implement the CGMP policies for lands designated Commercial/Office Residential on the Future Land Use Map of the CGMP. This district is generally used as a transition zone between more intense commercial areas and residential areas, particularly in areas that were originally developed as residential but where a gradual conversion to transitional, nonresidential and mixed uses is warranted.
A	COR-2 (Commercial Office/Residential District)	The COR-2 district is intended to implement the CGMP policies for lands designated Commercial/Office Residential on the Future Land Use Map of the CGMP. This district is generally used as a transition zone between more intense commercial areas and residential areas.
A	LC (Limited Commercial District)	The LC district is intended to implement the CGMP policies for lands designated Commercial Limited on the Future Land Use Map of the CGMP.
A	CC (Community Commercial District)	The CC district is intended to implement the CGMP policies for lands designated Commercial General on the Future Land Use Map of the CGMP. This district is designed to minimize the potential for negative impacts on surrounding properties.
A	GC (General Commercial	The GC district is intended to implement the CGMP policies for lands designated Commercial General on the Future Land Use Map of the

	District)	CGMP.
A	WRC (Waterfront Resort Commercial District)	The WRC district is intended to implement CGMP policies for lands designated Commercial Waterfront on the Future Land Use Map of the CGMP.
A	WGC (Waterfront General Commercial District)	The WGC district is intended to implement CGMP policies for lands designated Commercial Waterfront on the Future Land Use Map of the CGMP. This district is similar to the WRC district but is intended to accommodate more intensive water dependent and water related uses.
A	LI-1 (Limited Industrial District)	The LI-1 district is intended to implement CGMP policies for lands designated Industrial on the Future Land Use Map of the CGMP. The site development standards of this district are designed to create a "campus-like" development pattern with substantial open space and landscaping.
A	LI (Limited Industrial District)	The LI district is intended to implement CGMP policies for lands designated Industrial on the Future Land Use Map of the CGMP. This district is designed to minimize the potential for negative impacts on surrounding properties.
A	GI (General Industrial District)	The GI district is intended to implement CGMP policies for lands designated Industrial on the Future Land Use Map of the CGMP.
A	HI (Heavy Industrial District)	The HI district is intended to implement CGMP policies for lands designated Industrial on the Future Land Use Map of the CGMP.
A	PR (Public Recreation District)	The PR district is intended to implement the CGMP policies for lands designated Institutional-Recreational on the Future Land Use Map of the CGMP.
A	PC (Public Conservation District)	The PC district is intended to implement the CGMP policies for lands designated for Institutional-Public Conservation Areas on the Future Land Use Map of the CGMP.
A	PS-1 (Public Service	The PS-1 district is intended to implement the CGMP policies for lands designated Institutional-General on the Future Land Use Map of the

	District)	CGMP. This district is designed to minimize the potential for negative impacts on surrounding properties.
A	PS-2 (Public Service District)	The PS-2 district is intended to implement the CGMP policies for lands designated Institutional-General on the Future Land Use Map of the CGMP.
A	PAF (Public Airport Facilities District)	The PAF district is intended to implement the CGMP policies for lands designated Institutional-General on the Future Land Use Map of the CGMP, specifically those policies of the CGMP related to the publicly owned airport facilities of Witham Field Airport.
B	HR-1 (Single-family Residential District)	Not Applicable.
B	HR-1A (Single-family Residential District)	Not Applicable.
B	R-1 (Single-family Residential District)	Not Applicable.
B	R-1A (Single-family Residential District)	Not Applicable.
B	R-1B (Single-family Residential District)	Not Applicable.
B	R-1C (Single-family Residential District)	Not Applicable.
B	R-2 (Single-family Residential District)	Not Applicable.

B	R-2B (Single-family Residential District)	Not Applicable.
B	R2-C (Single-family Residential District)	Not Applicable.
B	R-2T (Single-family Residential District)	Not Applicable.
B	RT (Mobile Home Subdivision District)	Not Applicable.
B	TP (Mobile Home Park District)	Not Applicable.
B	E (Estates and Suburban Homes District)	Not Applicable.
B	E-1 (Estates and Suburban Homes District)	Not Applicable.
B	WE-1 (Waterfront Estates District)	Not Applicable.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 866, pt. 2, 6-22-2010; Ord. No. 937, pt. 1, 8-6-2013)

Sec. 3.11. Permitted uses.

Lands zoned in accordance with this Division shall be limited to the uses indicated as permitted in Tables 3.11.1, 3.11.2 and 3.11.3. A "P" indicates that the use is permitted within that zoning district provided that the use can be developed in accordance with the requirements set forth in Divisions 3 and 4 and all other applicable requirements of this Article and the LDR.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002)

TABLE 3.11.1
PERMITTED USES - CATEGORY "A" AGRICULTURAL AND RESIDENTIAL DISTRICTS

USE CATEGORY	AG20A	AR5A	AR10A	RE2A	RE1A	RE½A	RS3	RSBR3	RS4	RS5	RS6	RS8	RS10	RM3	RM4	RM5	RM6	RM8	RM10	MHP	MHS
Residential Uses																					
Accessory dwelling units																					
Apartment hotels																					
Mobile homes	P																			P	P
Modular homes	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Multifamily dwellings														P	P	P	P	P	P		
Single-family detached dwellings	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P
Single-family detached dwellings, if established prior to the effective date of this ordinance																				P	P
Townhouse dwellings														P	P	P	P	P	P		
Duplex dwellings														P	P	P	P	P	P		
Zero lot line single-family dwellings													P	P	P	P	P	P	P		

Agricultural Uses																					
Agricultural processing, indoor	P																				
Agricultural processing, outdoor	P																				
Agricultural veterinary medical services	P	P	P	P																	
Aquaculture	P	P	P																		
Crop farms	P	P	P	P																	
Dairies	P																				
Exotic wildlife sanctuaries	P	P	P	P																	
Farmer's markets	P	P	P																		
Feed lots	P																				
Fishing and hunting camps	P	P																			
Orchards and groves	P	P	P	P																	
Plant nurseries and landscape services	P	P	P	P																	
Ranches	P	P	P																		
Silviculture	P	P	P	P																	
Stables, commercial	P	P	P	P																	
Storage of agricultural equipment, supplies and produce	P																				
Wildlife rehabilitation facilities	P	P	P																		
Public and Institutional Uses																					

Administrative services, not-for-profit	P	P	P																		
Cemeteries, crematory operations and columbaria	P	P	P																		
Community centers	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Correctional facilities																					
Cultural or civic uses																					
Dredge spoil facilities																					
Educational institutions					P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Electrical generating plants																					
Fairgrounds																					
Halfway houses																					
Halfway houses, on lots where such use was lawfully established prior to the effective date of this ordinance	P																				
Hospitals																					
Neighborhood assisted residences with six or fewer residents	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Neighborhood boat launches					P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Nonsecure residential drug and alcohol rehabilitation and treatment facilities																					
Nonsecure residential drug and alcohol rehabilitation and treatment facilities, on lots where such use was lawfully established prior to the effective date of	P	P	P																		

this ordinance																					
Places of worship	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Post offices																					
Protective and emergency services	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Public libraries						P	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Public parks and recreation areas, active	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Public parks and recreation areas, passive	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Public vehicle storage and maintenance																					
Recycling drop-off centers	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Residential care facilities														P	P	P	P	P	P		
Residential care facilities, where such use was lawfully established prior to the effective date of this ordinance	P	P	P																		
Solid waste disposal areas																					
Utilities	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Commercial and Business Uses																					
Adult business																					
Bed and breakfast inns	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P		
Business and professional offices																					
Campgrounds																					

Commercial amusements, indoor																					
Commercial amusements, outdoor																					
Commercial day care	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P
Construction industry trades																					
Construction sales and services																					
Family day care	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Financial institutions																					
Flea markets																					
Funeral homes																					
General retail sales and services																					
Golf courses	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	
Golf driving ranges																					
Hotels and motels																					
Kennels, commercial	P	P	P																		
Limited retail sales and services																					
Marinas, commercial																					
Marine education and research																					
Medical services																					
Parking lots and garages																					

Recreational vehicle parks																					
Recreational vehicle parks, limited to the number and configuration of units lawfully established prior to the effective date of this ordinance																				P	P
Residential storage facilities																					
Restaurants, convenience, with drive through facilities																					
Restaurants, convenience without drive through facilities																					
Restaurants, general																					
Shooting ranges, indoor																					
Shooting ranges, outdoor	P																				
Trades and skilled services																					
Vehicular sales and service																					
Vehicular service and maintenance																					
Veterinary medical services																					
Wholesale trades and services																					
Transportation, Communication and Utilities Uses																					
Airstrips	P	P	P	P																	
Airports, general aviation																					

Industrial Uses																					
Composting, where such use was approved or lawfully established prior to March 1, 2003																					
Extensive impact industries																					
Limited impact industries																					
Mining	P	P	P																		
Salvage yards																					
Yard trash processing	P																				
Yard trash processing on lots where such use was lawfully established prior to March 29, 2002																					

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 669, pt. 1, 6-28-2005; Ord. No. 809, pt. 1, 9-9-2008; Ord. No. 937, pt. 1, 8-6-2013; Ord. No. 1045, pt. 1, 1-9-2018)

TABLE 3.11.2
PERMITTED USES - CATEGORY "A" NONRESIDENTIAL DISTRICTS

USE CATEGORY	CO	COR1	COR2	LC	CC	GC	WRC	WGC	LI	GI	HI	PR	PC	PS1	PS2
Residential Uses															
Accessory dwelling units		P	P				P	P	P	P	P				
Apartment hotels			P	P	P	P	P	P							

Mobile homes															
Modular homes		P	P				P								
Multifamily dwellings		P	P				P								
Single-family detached dwellings		P	P				P								
Single-family detached dwellings, if established prior to the effective date of this ordinance															
Townhouse dwellings		P	P				P								
Duplex dwellings		P	P				P								
Zero lot line single-family dwellings		P	P				P								
Agricultural Uses															
Agricultural processing, indoor										P	P				
Agricultural processing, outdoor											P				
Agricultural veterinary medical services									P	P					
Aquaculture								P	P	P	P				
Crop farms															
Dairies															
Exotic wildlife sanctuaries															
Farmer's markets															
Feed lots															
Fishing and hunting camps															

Orchards and groves															
Plant nurseries and landscape services				P	P	P			P	P					
Ranches															
Silviculture															
Stables, commercial															
Storage of agricultural equipment, supplies and produce															
Wildlife rehabilitation facilities															
Public and Institutional Uses															
Administrative services, not-for-profit	P	P	P	P	P	P	P	P	P	P	P			P	P
Cemeteries, crematory operations and columbaria									P	P	P				P
Community centers	P	P	P	P	P	P	P	P				P		P	P
Correctional facilities										P	P				P
Cultural or civic uses	P	P	P	P	P	P	P	P						P	P
Dredge spoil facilities												P			P
Educational institutions	P	P	P	P	P	P	P	P	P	P	P	P		P	P
Electrical generating plants											P				
Fairgrounds												P		P	P
Halfway houses															P
Halfway houses, on lots where such use was lawfully established prior to the effective date of this ordinance															

Hospitals						P								P	P
Neighborhood assisted residences with six (6) or fewer residents		P	P				P							P	P
Neighborhood boat launches															
Nonsecure residential drug and alcohol rehabilitation and treatment facilities															P
Nonsecure residential drug and alcohol rehabilitation and treatment facilities, on lots where such use was lawfully established prior to the effective date of this ordinance															
Places of worship	P	P	P	P	P	P			P	P				P	P
Post offices	P	P	P	P	P	P			P					P	P
Protective and emergency services	P	P	P	P	P	P	P	P	P	P	P			P	P
Public libraries	P	P	P	P	P	P			P					P	P
Public parks and recreation areas, active	P	P	P	P	P	P	P	P	P	P	P	P		P	P
Public parks and recreation areas, passive	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public vehicle storage and maintenance	P													P	P
Recycling drop-off centers	P	P	P	P	P	P	P	P	P	P	P			P	P
Residential care facilities		P	P	P	P									P	P
Solid waste disposal areas											P				P
Utilities	P	P	P	P	P	P	P	P	P	P	P			P	P
Commercial and Business Uses															

Adult business									P	P	P				
Ancillary retail use	P	P	P												
Bed and breakfast inns	P	P	P	P	P		P	P							
Business and professional offices	P	P	P	P	P	P	P	P	P	P					
Campgrounds												P			
Commercial amusements, indoor				P	P	P	P	P	P						
Commercial amusements, outdoor						P	P	P	P						
Commercial day care				P	P	P	P	P	P	P				P	P
Construction industry trades				P	P	P			P	P	P				
Construction sales and services				P	P	P			P	P	P				
Family day care		P	P												
Financial institutions	P	P	P	P	P	P			P	P					
Flea markets						P			P	P					
Funeral homes				P	P	P								P	P
General retail sales and services					P	P			P						
Golf courses														P	P
Golf driving ranges						P			P					P	P
Hotels, motels, resorts and spas				P	P	P	P	P	P	P					
Kennels, commercial						P			P	P	P				P

Limited retail sales and services				P	P	P	P	P	P						
Marinas, commercial					P	P	P	P				P			
Marine education and research							P	P						P	P
Medical services	P	P	P	P	P	P			P						
Pain management clinics				P		P			P						
Parking lots and garages				P	P	P								P	P
Recreational vehicle parks				P	P	P	P	P				P			
Recreational vehicle parks, limited to the number and configuration of units lawfully established prior to the effective date of this ordinance		P	P												
Residential storage facilities	P	P	P	P	P	P			P	P					
Restaurants, convenience, with drive-through facilities						P			P						
Restaurants, convenience, without drive-through facilities				P	P	P	P	P							
Restaurants, general				P	P	P	P	P	P	P					
Shooting ranges															
Shooting ranges, indoor				P	P	P			P	P	P			P	P
Shooting ranges, outdoor															P
Trades and skilled services						P	P	P	P	P	P				
Vehicular sales and service						P			P	P					
Vehicular service and maintenance						P			P	P	P				

Veterinary medical services				P	P	P			P	P	P				
Wholesale trades and services						P		P	P	P	P				
Transportation, Communication and Utilities Uses															
Airstrips															
Airports, general aviation										P	P				
Truck stop/travel center											P				
Industrial Uses															
Biofuel facility										P	P				
Composting, where such use was approved or lawfully established prior to March 1, 2003															
Extensive impact industries								P		P	P				
Limited impact industries								P	P	P	P				
Mining											P				
Salvage yards										P	P				P
Yard trash processing											P				P
Yard trash processing on lots where such use was lawfully established prior to March 29, 2002									P	P					
Life Science, Technology and Research (LSTAR) Uses															
Biomedical research	P	P	P	P	P	P			P	P	P			P	P
Bioscience research	P	P	P	P	P	P			P	P	P			P	P

Computer and electronic components research and assembly	P	P	P	P	P	P			P	P	P			P	P
Computer and electronic products research and assembly	P	P	P	P	P	P			P	P	P			P	P
Computer programming/software research	P	P	P	P	P	P			P	P	P			P	P
Computer system design	P	P	P	P	P	P			P	P	P			P	P
Electromedical apparatus research and assembly	P	P	P	P	P	P			P	P	P			P	P
Electronic equipment research and assembly	P	P	P	P	P	P			P	P	P			P	P
Laser research and assembly	P	P	P	P	P	P			P	P	P			P	P
Lens research	P	P	P	P	P	P			P	P	P			P	P
Management, scientific and technical services	P	P	P	P	P	P			P	P	P			P	P
Marine Research	P	P	P	P	P	P		P	P	P	P			P	P
Medical and dental labs	P	P	P	P	P	P			P	P	P			P	P
Medical equipment assembly	P	P	P	P	P	P			P	P	P			P	P
Optical equipment assembly	P	P	P	P	P	P			P	P	P			P	P
Optical instruments assembly	P	P	P	P	P	P			P	P	P			P	P
Optoelectronics assembly	P	P	P	P	P	P			P	P	P			P	P
Pharmaceutical products research	P	P	P	P	P	P			P	P	P			P	P
Precision instrument assembly	P	P	P	P	P	P			P	P	P			P	P
Professional, scientific and technical services	P	P	P	P	P	P			P	P	P			P	P
Reproducing magnetic and optical media	P	P	P	P	P	P			P	P	P			P	P

Research and development laboratories and facilities, including alternative energy	P	P	P	P	P	P			P	P	P			P	P
Scientific and technical consulting services	P	P	P	P	P	P			P	P	P			P	P
Simulation training	P	P	P	P	P	P			P	P	P			P	P
Technology centers	P	P	P	P	P	P			P	P	P			P	P
Telecommunications research	P	P	P	P	P	P			P	P	P			P	P
Testing laboratories	P	P	P	P	P	P			P	P	P			P	P
Targeted Industries Business (TIB) Uses															
Aviation and aerospace manufacturing									P	P	P				
Business-to-business sales and marketing	P	P	P	P	P	P			P	P	P				
Chemical manufacturing									P	P	P				
Convention centers					P	P			P	P	P			P	P
Credit bureaus	P	P	P	P	P	P			P	P	P			P	P
Credit intermediation and related activities	P	P	P	P	P	P			P	P	P			P	P
Customer care centers	P	P	P	P	P	P			P	P	P			P	P
Customer support	P	P	P	P	P	P			P	P	P			P	P
Data processing services	P	P	P	P	P	P			P	P	P			P	P
Electrical equipment and appliance component manufacturing									P	P	P				
Electronic flight simulator manufacturing									P	P	P				

Fiber optic cable manufacturing									P	P	P				
Film, video, audio and electronic media production and postproduction	P	P	P	P	P	P			P	P	P			P	P
Food and beverage products manufacturing									P	P	P				
Funds, trusts and other financial vehicles	P	P	P	P	P	P			P	P	P			P	P
Furniture and related products manufacturing									P	P	P				
Health and beauty products manufacturing									P	P	P				
Information services and data processing	P	P	P	P	P	P			P	P	P			P	P
Insurance carriers	P	P	P	P	P	P			P	P	P			P	P
Internet service providers, web search portals	P	P	P	P	P	P			P	P	P			P	P
Irradiation apparatus manufacturing									P	P	P				
Lens manufacturing									P	P	P				
Machinery manufacturing									P	P	P				
Management services	P	P	P	P	P	P			P	P	P			P	P
Marine and marine related manufacturing								P	P	P	P				
Metal manufacturing									P	P	P				
National, international and regional headquarters	P	P	P	P	P	P			P	P	P			P	P
Nondepository credit institutions	P	P	P	P	P	P			P	P	P			P	P
Offices of bank holding companies	P	P	P	P	P	P			P	P	P			P	P
On-line information services	P	P	P	P	P	P			P	P	P			P	P

Performing arts centers				P	P	P			P	P	P			P	P
Plastics and rubber products manufacturing									P	P	P				
Printing and related support activities									P	P	P				
Railroad transportation									P	P	P				
Reproducing magnetic and optical media manufacturing									P	P	P				
Securities, commodity contracts	P	P	P	P	P	P			P	P	P			P	P
Semiconductor manufacturing									P	P	P				
Simulation training	P	P	P	P	P	P			P	P	P			P	P
Spectator sports					P	P			P	P	P			P	P
Surgical and medical instrument manufacturing									P	P	P				
Technical support	P	P	P	P	P	P			P	P	P			P	P
Telephonic and on-line business services	P	P	P	P	P	P			P	P	P			P	P
Textile mills and apparel manufacturing									P	P	P				
Transportation air									P	P	P				
Transportation equipment manufacturing									P	P	P				
Transportation services						P			P	P	P				
Transaction processing	P	P	P	P	P	P			P	P	P			P	P
Trucking and warehousing									P	P	P				
Wood and paper product manufacturing									P	P	P				

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 669, pt. 1, 6-28-2005; Ord. No. 866, pt. 2, 6-22-2010; Ord. No. 891, pt. 1, 2-22-2011; Ord. No. 970, pt. 1, 4-7-2015; Ord. No. 1014, pt. 2, 12-6-2016; Ord. No. 1045, pt. 1, 1-9-2018)

TABLE 3.11.3
PERMITTED USES - CATEGORY "B" DISTRICTS

USE CATEGORY	HR1	HR1A	R1	R1A	R1B	R1C	R2	R2B	R2C	R2T	RT	TP	E	E1	WE1
Residential Uses															
Accessory dwelling units															
Apartment hotels															
Mobile homes											P	P			
Modular homes	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Multifamily dwellings															
Single-family detached dwellings	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Single-family detached dwellings, if established prior to the effective date of this ordinance															
Townhouse dwellings															
Duplex dwellings															
Zero lot line single-family dwellings															
Agricultural Uses															
Agricultural processing, indoor															

Agricultural processing, outdoor															
Agricultural veterinary medical services															
Aquaculture															
Crop farms															
Dairies															
Exotic wildlife sanctuaries															
Farmer's markets															
Feed lots															
Fishing and hunting camps															
Orchards and groves															
Plant nurseries and landscape services															
Ranches															
Silviculture															
Stables, commercial															
Storage of agricultural equipment, supplies and produce															
Wildlife rehabilitation facilities															
Public and Institutional Uses															
Administrative services, not-for-profit															
Cemeteries, crematory operations and columbaria															

Community centers	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Correctional facilities															
Cultural or civic uses															
Dredge spoil facilities															
Educational institutions	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Electrical generating plants															
Fairgrounds															
Halfway houses															
Halfway houses, on lots where such use was lawfully established prior to the effective date of this ordinance															
Hospitals															
Neighborhood assisted residences with six or fewer residents	P	P	P	P	P	P	P	P	P		P	P	P	P	P
Neighborhood boat launches															
Nonsecure residential drug and alcohol rehabilitation and treatment facilities															
Nonsecure residential drug and alcohol rehabilitation and treatment facilities, on lots where such use was lawfully established prior to the effective date of this ordinance															
Places of worship	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Post offices															
Protective and emergency services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Public libraries	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public parks and recreation areas, active	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public parks and recreation areas, passive	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public vehicle storage and maintenance															
Recycling drop-off centers															
Residential care facilities															
Solid waste disposal areas															
Utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Commercial and Business Uses															
Adult business															
Bed and breakfast inns	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Business and professional offices															
Campgrounds															
Commercial amusements, indoor															
Commercial amusements, outdoor															
Commercial day care	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Construction industry trades															
Construction sales and services															
Family day care	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Financial institutions															
Flea markets															
Funeral homes															
General retail sales and services															
Golf courses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Golf driving ranges															
Hotels and motels															
Kennels, commercial															
Limited retail sales and services															
Marinas, commercial															
Marine education and research															
Medical services															
Parking lots and garages															
Recreational vehicle parks															
Recreational vehicle parks, limited to the number and configuration of units lawfully established prior to the effective date of this ordinance												P			
Residential storage facilities															
Restaurants, convenience, with drive through facilities															
Restaurants, convenience without drive through facilities															

Restaurants, general															
Shooting ranges, indoor															
Shooting ranges, outdoor															
Trades and skilled services															
Vehicular sales and service															
Vehicular service and maintenance															
Veterinary medical services															
Wholesale trades and services															
Transportation, Communication and Utilities Uses															
Airstrips															
Airports, general aviation															
Industrial Uses															
Composting, where such use was approved or lawfully established prior to March 1, 2003															
Extensive impact industries															
Limited impact industries															
Mining															
Salvage yards															
Yard trash processing															
Yard trash processing on lots where such use was lawfully															

established prior to March 29, 2002															

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 669, pt. 1, 6-28-2005; Ord. No. 809, pt. 1, 9-9-2008)

Sec. 3.12. Development standards.

The land development standards set forth in Tables 3.12.1 and 3.12.2 shall apply to all lands zoned in accordance with this Division.

TABLE 3.12.1
DEVELOPMENT STANDARDS

CAT	Zoning District	Min. Lot Area (sq. ft.)	Min. Lot Width (ft)	Max. Res. Density (upa)	Max. Hotel Density (upa)	Max. Building Coverage (%)	Max. Height (ft)/(stories)	Min. Open Space (%)	Other Req. (footnote)
A	AG-20A	20 ac.	300	0.05	—	—	30	50	—
A	AR-5A	5 ac.	300	0.20	—	—	30	50	—
A	AR-10A	10 ac.	300	0.10	—	—	30	50	—
A	RE-2A	2 ac.	175	0.50	—	—	30	50	—
A	RE-1A	1 ac.	150	1.00	—	—	30	50	—
A	RE-½A	21,780	100	2.00	—	—	30	50	—
A	RS-3	15,000	60	3.00	—	—	30	50	—
A	RS-BR3	10,000	75	3.00	—	30	35	50	—
A	RS-4	10,000	60	4.00	—	—	30	50	—
A	RS-5	7,500	60	5.00	—	—	30	50	—

A	RS-6	7,500	50	6.00	—	—	40	50	—
A	RS-8	5,500	50	8.00	—	—	40	50	—
A	RS-10	4,500	40	10.00	—	—	40	50	—
A	RM-3	15,000(h)	60(h)	3.00	—	—	40	50	—
A	RM-4	10,000(h)	60(h)	4.00	—	—	40	50	—
A	RM-5	8,500(h)	60(h)	5.00	—	—	40	50	—
A	RM-6	7,500(h)	50(h)	6.00	—	—	40	50	—
A	RM-8	5,500(h)	50(h)	8.00	—	—	40	50	—
A	RM-10	4,500(h)	40(h)	10.00(g)	—	—	40	50	—
A	MH-P	10 ac.(e)	—	8.00	—	—	20/1	50	—
A	MH-S	5,500	50	8.00	—	—	20/1	50	(i)
A	CO	10,000	80	—	—	40	30	40	—
A	COR-1	10,000	80	5.00	10.00	40	30	40	—
A	COR-2	10,000	80	10.00	20.00	40	30	40	—
A	LC	10,000	80	10.00	20.00	50	30	30	—
A	CC	10,000	80	—	20.00	50	30	30	—
A	GC	10,000	80	—	20.00	60	40	20	—
A	WRC	10,000	80	10.00	20.00	50	30	30	—
A	WGC	10,000	80	—	20.00	50	40	30	—

A	LI-1	—	—	—	—	—	—	—	—
A	LI	15,000	100	—	—	50	30	20	—
A	GI	30,000	125	—	—	50	40	20	—
A	HI	1 ac.	125	—	—	60	40	20	—
A	PR	—	—	—	—	45	40	40	—
A	PC	—	—	—	—	45	30	40	—
A	PS-1	10,000	80	—	—	45	40	40	—
A	PS-2	10,000	80	—	—	45	40	40	—
A	PAF	—	—	—	—	—	—	50	—
B	HR-1	10,000	100	(a)	—	—	35	30	—
B	HR-1A	12,000	100	(a)	—	—	35	30	—
B	R-1	15,000	100	(a)	—	25	30/3	50	—
B	R-1A	10,000	85	(a)	—	25	30/3	30	(d)
B	R-1B	8,200	75	(a)	—	—	35	30	—
B	R1-C	15,000	100	(a)		25	25/2	50	—
B	R-2	7,500	60	(a)	—	35	30/3	30	—
B	R-2B	7,500	60	(a)	—	35	30/3	30	—
B	R-2C	5,000	50	(a)	—	—	35	30	—
B	R-2T	7,500	60	(a)	—	35	30/3	30	—

B	RT	5,500(f)	50	(a)	—	—	20/1	30	(b), (i)
B	TP	10 ac.	—	(k)	—	—	20/1	—	(c), (j)
B	E	43,560	—	(a)	—	—	30/3	50	—
B	E-1	30,000	150	(a)	—	25	30/3	50	—
B	WE-1	30,000	100	(a)	—	25	25/2	50	—

NOTES:

(a) Maximum residential density shall be one single family residential dwelling unit per lawfully established lot.

(b) In the RT district:

(1) Mobile home subdivisions shall be surrounded by a landscaped buffer strip at least 25 feet in depth on all sides. Buffers shall be unoccupied, except for underground utilities, canals, ditches, landscaping and entrance ornamentation.

(2) A minimum of five percent of the gross land area shall be required for recreation area.

(3) Fences and walls located on or within five feet of lot lines shall not exceed a height of six feet, except such fences or walls shall not exceed three feet six inches when located in a required front yard.

(c) In the TP district:

(1) A minimum of five percent of the gross land area shall be required for recreation area.

(2) Fences and walls located on or within five feet of lot lines shall not exceed a height of six feet, except such fences or walls shall not exceed three feet six inches when located in a required front yard.

(d) In the R-1A district, waterfront lots shall have a minimum of width of 60 feet along the street frontage and 100 feet in width along the waterway.

(e) In the MH-P district, each mobile home shall have a site area of at least 5,500 square feet.

(f) Each mobile home subdivision shall have a site area of at least ten acres.

(g) The maximum density for the RM-10 district is 15 units per acre for sites meeting the affordable housing criteria set forth in Section 4.4.M.1.e.(5) of the Comprehensive Growth Management Plan.

(h) The minimum lot area and minimum lot width requirements shall not apply to zero lot line, townhouse or multifamily developments on lots created after March 29, 2002.

(i) In the RT and MH-S districts, single-family detached dwellings (site-built dwellings) shall also comply with the provisions of Section 3.98.

(j) In the TP zoning district, mobile homes, modular homes and single-family detached dwellings (site-built dwellings) shall be limited to a foot print approved by the owner of the property (e.g., president of a condominium association or cooperative). Verification of the location and foot print by the property owner shall be provided with the building permit application. Primary structures and attached accessory structures, regardless of construction type, shall maintain a ten foot separation from other primary structures and attached accessory structures. Also, single-family detached dwellings (site-built dwellings) shall comply with the provisions of Section 3.98.

(k) In the TP zoning district the maximum residential density shall not exceed that density established on the parcel on April 1, 1982. New mobile home park development, requiring final site plan approval, in the TP zoning district shall not exceed eight units per acre.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 809, pt. 1, 9-9-2008; Ord. No. 866, pt. 2, 6-22-2010; Ord. No. 937, pt. 1, 8-6-2013)

TABLE 3.12.2.
STRUCTURE SETBACKS

		Front/by story (ft.)				Rear/by story (ft.)				Side/by story (ft.)			
CAT	Zoning District	1	2	3	4	1	2	3	4	1	2	3	4
A	AG-20A	50	50	50	50	50	50	50	50	50	50	50	50
A	AR-5A	40	40	40	40	40	40	40	40	40	40	40	40
A	AR-10A	40	40	40	40	40	40	40	40	40	40	40	40
A	RE-2A	30	30	30	30	30	30	30	30	30	30	30	30
A	RE-1A	25	25	25	25	15	15	15	15	15	15	15	15
A	RE-½A	25	25	25	25	15	15	15	15	15	15	15	15
A	RS-3	25	25	25	25	10	10	10	10	10	10	10	10
A	RS-BR3	25(l)	25(l)	25(l)	25(l)	15(j)	15(j)	15(j)	15(j)	10(k)	10(k)	10(k)	10(k)
A	RS-4	25	25	25	25	10	10	10	10	10	10	10	10

A	RS-5	25	25	25	25	10	10	10	10	10	10	10	10
A	RS-6	25	25	25	25	10	20	30	40	10	10	20	30
A	RS-8	25	25	25	25	10	20	20	30	5	5	10	20
A	RS-10	25	25	25	25	10	20	20	30	5	5	10	10
A	RM-3	25	25	25	25	10	20	30	40	10	10	20	30
A	RM-4	25	25	25	25	10	20	30	40	10	10	20	30
A	RM-5	25	25	25	25	10	20	30	40	10	10	20	30
A	RM-6	25	25	25	25	10	20	30	40	10	10	20	30
A	RM-8	25	25	25	25	10	20	30	40	10	10	20	30
A	RM-10	25	25	25	25	10	20	30	40	10	10	20	30
A	MH-P	20	20	20	20	6	6	6	6	6	6	6	6
A	MH-S	20	20	20	20	6	6	6	6	6	6	6	6
A	CO	25	35	35	35	20	30	30	30	10	20	30	30
A	COR-1	25	25	25	25	20	20	30(h)	30(h)	10	10	30	30
A	COR-2	25	35	35	35	20	30	30	30	10	20	30	30
A	LC	25	25	25	25	20	20	30	40	10	10	20	
A	CC	25	25	25	25	20	20	30	40	10	10	20	30
A	GC	25	25	25	25	20	20	30	40	10	10	20	30
A	WRC	25	25	25	25	20	20	20	20	10	10	10	10

A	WGC	25	25	25	25	20	20	20	20	10	10	10	10
A	LI-1	—	—	—	—	—	—	—	—	—	—	—	—
A	LI	15(c)	15(c)	15(c)	15(c)	10(c)	10(c)	10(c)	10(c)	10(c)	10(c)	10(c)	10(c)
A	GI	15(c)	15(c)	15(c)	15(c)	10(c)	10(c)	10(c)	10(c)	10(c)	10(c)	10(c)	10(c)
A	HI	40	40	40	40	40	40	40	40	40	40	40	40
A	PR	25	25	25	25	20	20	30	40	10	10	20	30
A	PC	25	25	25	25	20	20	30	40	10	10	20	30
A	PS-1	25	25	25	25	20	20	30	40	10	10	20	30
A	PS-2	25	25	25	25	20	20	30	40	10	10	20	30
A	PAF	—	—	—	—	—	—	—	—	—	—	—	—
B	HR-1	35(d)	35(d)	35(d)	35(d)	25(d)	25(d)	25(d)	25(d)	15(a)	15(a)	15(a)	15(a)
B	HR-1A	35	35	35	35	25	25	25	25	15(a)	15(a)	15(a)	15(a)
B	R-1	20(e)	20(e)	20(e)	20(e)	6(e)	8(e)	10(e)	10(e)	6	8	10	10
B	R-1A	20	20	20	20	6	8	10	10	6	8	10	10
B	R-1B	30(f)	30(f)	30(f)	30(f)	6(f)	6(f)	6(f)	6(f)	10(d)	10(d)	10(d)	10(d)
B	R1-C	30	30	—	—	20	20	—	—	10	10	—	—
B	R-2	20	20	20	—	6	8	10	—	6	8	10	—
B	R-2B	20	20	20	—	6	8	10	—	6	8	10	—
B	R-2C	20	20	20	20	6	8	10	10	6	8	10	10

B	R-2T	20	20	20	20	6	8	10	10	6	8	10	10
B	RT	20	—	—	—	6	—	—	—	6	—	—	—
B	TP	15(i)	—	—	—	5(i)	—	—	—	5(i)	—	—	—
B	E	35	35	35	35	6	8	8	8	6	8	8	8
B	E-1	40	40	40	—	20	25	30	—	20	25	30	—
B	WE-1	50(g)	50(g)	—	—	25(g)	25(g)	—	—	15	15	—	—

NOTES:

Additional setback specifications are contained in division 3 (standards for specific uses) and division 4 (miscellaneous development standards) of this article 3.

(a) Side setback for nonconforming lots is 7.5 feet.

(b) Side setback for nonconforming lots is 6.5 feet.

(c) Where the real property boundary abuts an RE, RS, MH, RM, HR-1, HR-1A, R-1, R-1A, R-1B, R-1C, R-2, R-2B, R-2C, R-2T, RT, TP, E, E-1, WE-1 zoning district, a residential use in a PUD, or the real property boundary of a public school, these increased setbacks shall apply:

Front/by story (ft.)				Rear/by story (ft.)				Side/by story (ft.)				
1	2	3	4	1	2	3	4	1	2	3	4	Corner
25	25	25	25	20	20	30	40	15	20	20	30	25

(d) In the HR-1 district, wherever the lot abuts the Atlantic Ocean, the river or a man-made waterway, there shall be a minimum 35-foot setback from the mean high water line and the front setback shall be governed by the street centerline setbacks as set forth in subsection 3.16.C.

(e) In the R-1 district, wherever the lot abuts the Atlantic Ocean, the river or a man-made waterway, there shall be a minimum 20-foot setback from the mean high water line and the front setback shall be governed by the street centerline setbacks as set forth in subsection 3.16.C.

(f) In the R-1B district, wherever the lot abuts the Atlantic Ocean, the river or a man-made waterway, there shall be a minimum 30-foot setback from the mean high water line and the front setback shall be governed by the street centerline setbacks as set forth in subsection 3.16.C.

(g) In the WE-1 district, wherever the lot abuts the Atlantic Ocean, the river or a man-made waterway, there shall be a minimum 50-foot setback from the mean high water line and the front setback shall be governed by the street centerline setbacks as set forth in subsection 3.16.C. Where existing principal residences on adjacent lots are set back more than 50 feet from the mean high water line, the minimum setback from the mean high water line shall be the mean setback of the nearest principal residences on adjacent lots, or, where there is no principal residence within 1,000 feet, the minimum setback from the mean high water line shall be 50 feet. Accessory structures which are not roofed or enclosed by walls or screening shall only be subject to the minimum 50-foot setback from the mean high water line.

(h) The minimum rear setback for single-family detached residences and duplex dwellings shall be 20 feet.

(i) Setbacks shown for the TP zoning district are from property lines, i.e. the mobile home park boundary. The setbacks are not applicable between structures.

(j) For enclosed storage structures, greenhouses, child's playhouse and gazebos, this dimension may be reduced to five feet.

(k) The side/corner minimum setback shall be 20 feet.

(l) For lots that have frontage on ingress/egress or access easements and not on platted road rights-of-way the front setbacks shall be measured from the easement line.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 727, pt. 1, 10-24-2006; Ord. No. 809, pt. 1, 9-9-2008; Ord. No. 866, pt. 2, 6-22-2010; Ord. No. 937, pt. 1, 8-6-2013; Ord. No. 1014, pt. 2, 12-6-2016)

Sec. 3.13. Calculation of residential density.

As set forth in Table 3.12.1, maximum residential density means the maximum number of residential dwelling units that may be developed per acre of gross land area on a parcel of land. The gross land area of a parcel shall include all contiguous land areas under common ownership, including land to be dedicated for public or private rights-of-way, with the following provisions and exceptions:

3.13.A. *Waterbodies.* In cases where land abuts the waters of the Atlantic Ocean, St. Lucie River, Indian River, Loxahatchee River, Intracoastal Waterway, Lake Okeechobee and all tributaries and manmade canals thereof, the boundary of land shall be delineated as established by state statutes (Chapter 177, Part II, Coastal Mapping, as may be amended).

3.13.B. *Submerged land areas.* No submerged land areas waterward of the boundary described above shall be included in the calculation of gross site area.

3.13.C. *Areas allocated to nonresidential uses.* No land areas proposed to be allocated to nonresidential uses shall be included in the calculation of gross residential site area except for contiguous land areas to be used for:

1. Utilities under common ownership and principally supporting the residential use;
2. Recreational facilities for the primary use of on-site residents; and
3. Dedication to the County or other County-approved agencies or not-for-profit corporations.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.14. Height standards.

3.14.A. The maximum height of habitable buildings and structures shall be four stories or as specifically set forth in each zoning district in Table 3.12.1 or elsewhere in the LDR, whichever is lower. For purposes of this section, building height means the vertical distance between (1) the lowest permissible elevation above the existing grade which complies with finished floor elevation requirements as established by flood maps, the Health Department, or building code, along the front of a building and (2) either the highest point of the coping of a flat roof, the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip and gambrel roofs. For buildings placed along the oceanfront, the oceanside of the building may be considered the front for height measurement purposes.

3.14.B. The following are exceptions to the maximum height standards set forth in Table 3.12.1:

1. Steeples, spires and belfries on places of worship provided such structures do not exceed 60 feet in height, are part of a principal building, and are not used for human occupancy.
2. Roof structures including chimneys, parapet walls not over four feet high, tanks and supports, elevator machinery or shafts, penthouses used solely to enclose stairways and air conditioning equipment, provided that such structures do not exceed ten percent of the roof structure measured on a horizontal plane, are not used for human occupancy, and provided that the use of such structure does not exceed the district height requirements by more than eight feet.
3. Utility poles and support structures.
4. Lighting structures for public park facilities provided a lighting plan which utilizes the latest technology to minimize any stray light impacts has been approved by the Board of County Commissioners.
5. Nonhabitable structures used exclusively for agricultural or industrial processes or for protective and emergency service uses may exceed the height limitation set forth in Table 3.12.1 by up to 50 percent, subject to approval of the Growth Management Director, provided that the resulting height is no higher than 60 feet. Such nonhabitable structures constructed after January 1, 2005, may be allowed to exceed 60 feet at the discretion of the Board of County Commissioners, provided that such development is approved by way of a major development pursuant to article 10 of the Land Development Regulations. On parcels developed prior to January 1, 2005, where one or more such nonhabitable structures already exist at heights greater than 60 feet, modifications to these structures or the construction of similar structures on the same parcel may be approved by way of an administrative amendment pursuant to section 10.14 of the Land Development Regulations despite any provision to the contrary in section 10.14.C.
6. Wireless telecommunication facilities are exempt from the height standards set forth in this Article provided that they are approved in accordance with article 4, division 18, Wireless Telecommunication Facilities.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 670, pt. 1, 7-12-2005)

Sec. 3.15. Lot width and area requirements.

3.15.A. *[Minimum lot width.]* The minimum lot width and area shall be as set forth in Table 3.12.1.

3.15.B. *Measurement of lot width.* Lot width shall be measured along the straight line which connects the two points located on the side lot lines at a distance equal to the minimum front setback required for the proposed use from the street. (See Figure 3.15.1 which is included for illustrative purposes.)

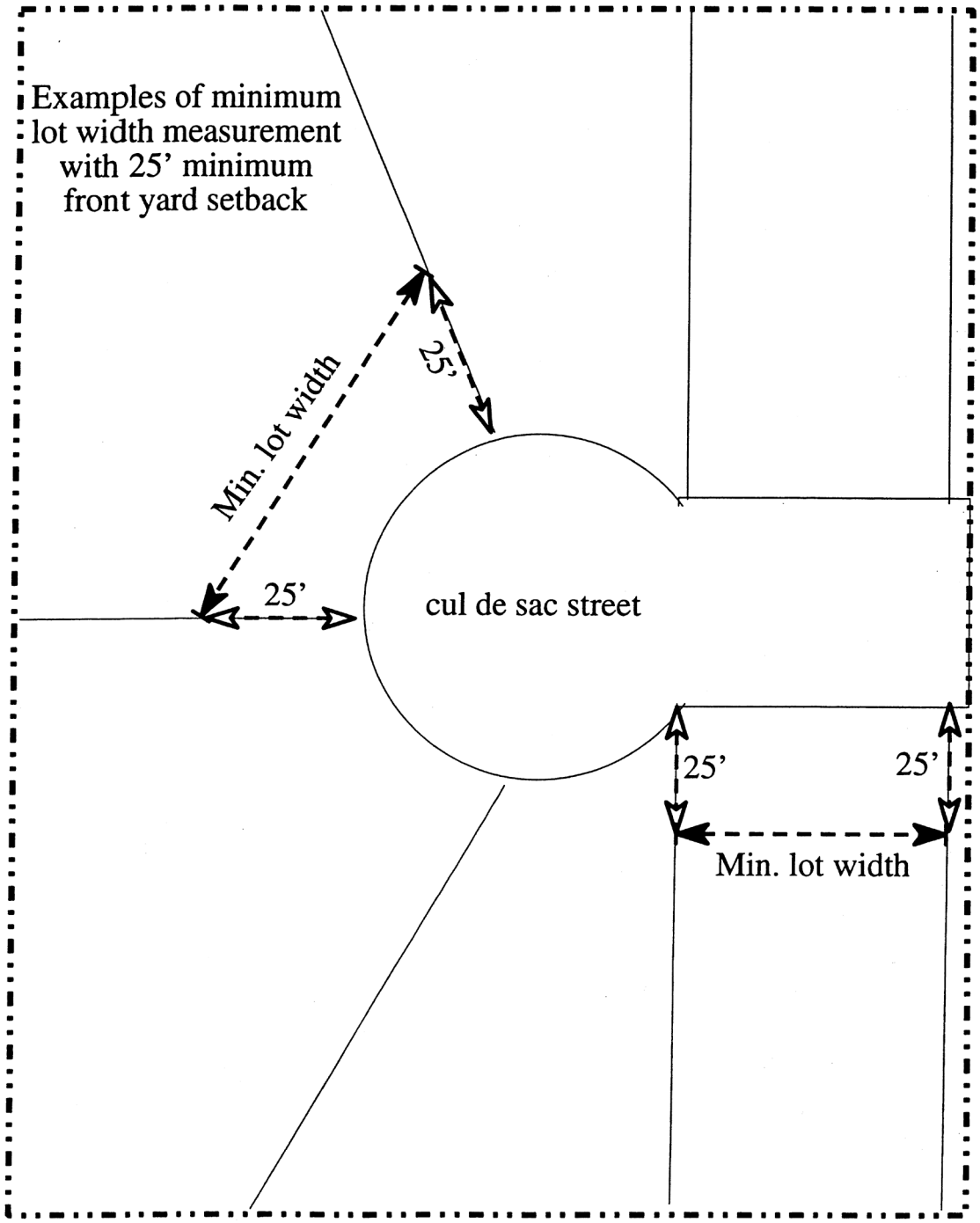
3.15.C. *[Exceptions to requirements for development permit.]* No development permit shall be issued for any lot that does not meet the minimum requirements for lot area or lot width established for each zoning district except under the following circumstances:

1. *Nonconforming lot exceptions.* The lot is governed by the Section 8.4, Exceptions, in Article 8, Nonconformities.

2. *Lot reduced for public purpose.* When an existing legally created lot is reduced as a result of dedication and/or conveyance to a federal, state or local government for a public purpose and the remaining lot area is at least 90 percent of the required minimum for the district in which it is located, then that remaining lot shall be deemed to be in compliance with district lot dimension requirements.

3. *Utility facilities.* Equipment associated with the provision of utility services, including buildings designed to house such equipment if they are normally unoccupied, shall be exempt from minimum lot size and width requirements in all districts.

Figure 3.15.1



Measurement of Lot Width

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.15.1. Open space.

3.15.1.A. The open space requirement referred to in Section 3.12, Table 3.12.1 shall apply on a lot-by-lot basis unless the lot has been approved as part of a final site plan which demonstrates compliance on a project-wide basis, for example, by way of setting aside common areas such as upland and wetland preserve areas and other eligible open spaces.

3.15.1.B. For residential developments within any RE, RS, RM or MH district, at least 40 percent of the required open space shall be comprised of uplands, provided that this requirement shall not apply to any residential lot of record, so existing as of April 1, 1982.

(Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.16. Setbacks.

3.16.A. *General requirements.*

1. Structures shall be set back from lot lines at least as far as the distance indicated in Table 3.12.2.
2. The front setback as shown in Table 3.12.2 shall apply to all sides of a lot which are adjacent to a street. However, where the lot was lawfully established prior to May 9, 1967, and is 75 feet or less in width, as measured along the front lot line, or which is otherwise 7,500 square feet or less in total area, the front setback shall only apply to the sides of the lot providing vehicular access.
3. Except as set forth in subsection 3.16.B below, every part of every required front, side and rear setback shall be comprised of open space.
4. Where any building site consists of an unplatted parcel of less than a platted lot or where it takes in more than one platted lot, the setbacks required herein shall apply to the building as a whole.

3.16.B. *Exceptions to standards set by district regulations.*

1. The following may be located within setback areas unless otherwise provided for elsewhere in this Article:
   a. Trees, shrubbery or other objects of natural growth.
   b. Fences or walls which meet the height and other requirements set forth in this Article.
   c. Driveways, sidewalks and parking areas which meet the requirements set forth elsewhere in the LDR.
   d. Docks.
   e. Wells and associated pump, water treatment and water conditioning equipment, provided that the water pump is concealed by a fence or housing that is at least 50 percent opaque.
   f. Signs, which meet the requirements set forth elsewhere in the LDR.
   g. Utility transmission lines of all types, including, but not limited to, electric, telephone, cable television and data, including all associated aboveground utility cabinets.
   h. The following types of equipment may extend into the required setback area by up to 50 percent, but in no case less than three feet from a property line:
      (1) Heating, ventilation and air-conditioning equipment, whether ground-mounted, wall-mounted, window-mounted or cantilevered from a building.

(2) Emergency electric power generators, if enclosed by an insulated cabinet.

i. The following nonhabitable architectural features of a building may extend into the required setback area by up to three feet: roof overhangs, gutters, cantilevered balconies and bay windows, staircases, awnings over windows and doors, and chimneys.

j. Drainage swales and water control structures.

k. Structures installed entirely below grade which are not visible from the surface.

l. Pumps and other mechanical equipment associated with pools and spas may extend into the required setback area by up to 50 percent, provided that such equipment is screened from view of abutting residential lots by a fence, hedge or wall or by enclosing the equipment with material (such as lattice) which is at least 50 percent opaque.

2. Preexisting structures. Despite any provision to the contrary in article 8, Nonconformities, of the Land Development Regulations, structures of the type described in subsection 3.16.B.1 which received a building permit or were otherwise lawfully approved prior to January 1, 2007, shall not be considered in conflict with any subsequently adopted restrictions set forth in subsection 3.16.B.1. For example, in the side yard of a single-family lot with a minimum six-foot side yard setback requirement, if a building permit had been issued in 1995 for an air conditioning unit with an actual setback of just two feet from the property line, such setback would not be considered in conflict with the provision of subsection 3.16.B.1.h., and thus could be continually maintained at that location or even be replaced without regard to the current requirement to be set back at least three feet.

3. Side yard setbacks may be reduced by the Growth Management Director for nonresidential structures, provided that:

a. Abutting uses are zoned and designated on the Future Land Use Map of the Comprehensive Growth Management Plan for nonresidential usage.

b. Emergency vehicle access will not be impeded.

c. Adjacent property owners consent in writing.

3.16.C. *Centerline setbacks.*

1. *Generally.* All structures, except those listed as exempt pursuant to subsection 3.16.B., above, shall be set back from the centerlines of public and private streets as follows:

a. *Local streets:* 50 feet.

b. *Collector or arterial street:* 65 feet.

c. *U.S. Highway 1:* 100 feet.

2. *Exceptions.* The following shall not be subject to the above-described centerline setbacks:

a. Structures associated with a public utility.

b. Structures on lots within the RT and TP districts abutting local streets.

c. Structures on lots abutting private streets platted prior to April 29, 1986.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 743, pt. 1, 3-6-2007)

Secs. 3.17—3.30. Reserved.

Sec. 3.31. LI-1 district.

3.31.A. *Permitted uses.* Uses in the LI-1 district shall be limited to the following:

1. *Principal uses:*

Administrative	services,	not	for	profit
Business	and	professional		offices
Community				centers
Cultural	or	civic		use
Educational				institution
Electronic	equipment			manufacturing
Medical	and	dental		labs
Medical	equipment			manufacturing
Optical	equipment			manufacturing
Pharmaceutical	products			manufacturing
Precision	instrument			manufacturing
Printing,	publishing	and		bookbinding
Protective	and	emergency		services
Public				library
Public	park	and	recreation,	active
Public	park	and	recreation,	passive
Radio	and	television	broadcasting	studios
Research	and	development	laboratories and	facilities
Utilities				

2. *Ancillary uses:*

Commercial		day		care
Convenience	restaurants,	without	drive-through	facilities
Copy	services	and	duplicating	services
Financial				institutions
General				restaurants
Helipads				
Hotels		and		motels
Mail	services	and	parcel	exchange
Newsstands				
Physical		fitness		centers
Post offices				

3.31.B. *Standards for ancillary uses.*

1. Ancillary uses shall be designed and operated so as to primarily support the principal uses allowed in the LI-1 district; however, for purposes of applying all other requirements of this Article, such as, but not limited to, parking, landscaping and lighting standards, the ancillary uses listed in this section shall be considered in the same manner as principal uses.
2. Ancillary uses shall not be located on lots located on the outer boundaries of the industrial park and access shall be from roadways in the interior of the park.
3. Signage for ancillary uses shall not be readily visible from any arterial or collector street.
4. Ancillary uses shall comprise no more than 15 percent of the maximum gross leasable floor space of any LI-1 area.

5. Helipads shall meet the following standards:

   a. Helipads shall be designed and operated solely for the use of the principal uses within the LI-1 district.

   b. Helipads shall not be located within 1,000 feet of any RE, RS, RM or MH district or any residential PUD.

   c. The development application shall include a plan, sealed by a registered engineer, indicating the landing and take-off corridors and demonstrating compliance with all FAA and/or FDOT requirements.

3.31.C. *Site development standards.*

1. *Minimum lot area:* Three acres for principal uses, one acre for ancillary uses.
2. *Minimum lot width:* 100 feet.
3. *Maximum hotel density:* 20 units per acre.
4. *Maximum building coverage:* 50 percent.
5. *Minimum building setbacks:*

Front:	25	feet.
Rear:	20	feet.
Side:	15	feet.

Corner: 25 feet.

6. *Maximum height:* 40 feet, or 30 feet when located within 100 feet of a residential zoning district boundary.
7. *Minimum open space:* 30 percent.

3.31.D. *Architectural design.*

1. All buildings within an LI-1 area, both for principal and ancillary uses, shall be of masonry construction, or have the appearance of masonry construction, and shall conform to a common architectural plan. A uniform architectural plan shall be incorporated into the declaration of covenants.
2. Outside storage of materials is prohibited.
3. Loading docks shall not be visible from public rights-of-way.

3.31.E. *Landscaping.*

1. At least 30 percent of the developed area shall be landscaped.
2. Seventy-five percent of all required landscaping shall be native species.
3. A type 4 landscaped buffer shall be required wherever LI-1 zoning abuts a residential zoning district.

3.31.F. *Vehicular access.* Vehicular access to all principal and ancillary uses shall be via local streets created within the LI-1 area. Principal and ancillary uses shall not take vehicular access from existing arterial or collector streets.

3.31.G. *Parking.* No more than ten percent of the off-street parking provided for any given principal or ancillary use shall be placed in front of the main building.

3.31.H. *Utilities.* All electrical, water and sewer, communication, and utility lines shall be placed underground. Any utility equipment which cannot be reasonably located underground shall be screened from view from any street or adjacent property.

3.31.I. *Signage.* All signage, both for principal and ancillary uses, including internal directory signage, shall be uniform in design. A uniform signage plan shall be incorporated into the declaration of covenants and shall, at a minimum, address the shape, size, material, color, location, and graphics of all permitted signs.

3.31.J. *Control of common elements.*

1. As part of any development application for land within the LI-1 zoning district, the applicant shall provide for and establish a property owners association, organization or other legal entity for the ownership and maintenance of any common areas, such as open spaces or utility areas, including improvements within such areas. The power and authority of such organization shall be ensured and protected by covenants running with the land, and such covenants shall be included as part of the development application and subject to approval by the County Attorney. Transfer of ownership of the common areas from the developer to the property owners association may be phased in over the development of the park but must be completed prior to the sale of 75 percent of the total acreage for principal and ancillary uses contained in the industrial park. The established organization shall not be dissolved and shall not dispose of any common areas, by sale or otherwise, without first receiving approval from the Board of County Commissioners. The Board, as a condition precedent to such dissolution or the disposal of common areas, may require dedication of common open areas or utility areas, including improvements within such areas, to the public, as deemed necessary. In addition to maintenance of common areas, the property owners association will be responsible for ensuring that property owners and tenants in the park comply with the requirements of this Article and with the covenants.

2. Management and care of common areas.

    a. Covenants shall provide that if the organization established to own and maintain common areas (or any successor organization) fails at any time to maintain the common areas in reasonable order and condition in accordance with the approved final site plan, the Board of County Commissioners may utilize enforcement mechanisms provided for, pursuant to state law or local ordinances. In the alternative, the specified obligations may be enforced through standard code enforcement measures, as provided by F.S. ch. 162 and the Code.

    b. The covenants running with the land shall further specify that the Board may, upon public hearing with notice given and published in the same manner as above, return possession and maintenance of such common areas to the organization, or successor organization, abandon such possession and maintenance, or continue such possession and maintenance for additional one-year periods.

    c. The covenants creating such organization shall further provide that all costs associated with common element maintenance by the County shall be assessed proportionately against the properties within the development that have a right to enjoyment of the common areas, and shall become a charge or lien on such properties, and the applicable charge shall be paid by the owners of such properties within 30 days after receipt of a statement therefor.

3.31.K. *Time limits.* Wherever LI-1 zoning is the result of a petition by the landowner, the landowner shall be required to:

1. Submit an application for final site plan within two years of BCC approval of the rezoning; and

2. Commence development of the site within three years of BCC approval of the rezoning.

Upon failure to comply with either of the above requirements, the Board of County Commissioners may, after notifying the landowner and conducting a public meeting, determine that the land should be redesignated on the Future Land Use and Zoning Atlas and initiate proceedings to make such changes.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.32. PAF public airport facility district.

3.32.A. *Definitions.* In addition to any other definitions elsewhere in the LDR which may apply, for purposes of this section (3.32), the following words, terms and phrases shall have meanings as set forth below:

Aeronautical school means a commercial or educational establishment providing instruction in the flying, manufacturing or repairing of airplanes.

Air traffic control tower means a structure designed and constructed for the express purpose of providing for the safe operation and control of aircraft as denoted by Federal Aviation Administration (FAA) regulations and which is staffed by federally certified and licensed air traffic control personnel.

Air freight operations means the transportation of cargo or freight by air on a nonscheduled basis.

Aircraft assembly and service means an establishment providing assembly and/or mechanical repair for airplanes and other types of aircraft, excluding aircraft manufacturing.

Aircraft manufacturing means a use that manufactures aircraft or aircraft components.

Aircraft sales and rentals means the sale, storage or rental of aircraft including airplanes, jets and gliders, and related equipment with incidental services and maintenance.

Aircraft storage hangars means a facility used to store aircraft when not in service.

Aviation-related business and professional offices means a use which extends services by providing advice, information or consultation of a professional nature, including, but not limited to, executive management and administrative services, but excluding medical office and excluding as a principal use commercial storage of goods for the purpose of sale.

FAA means Federal Aviation Administration.

Fixed base operator (FBO) means an entity authorized and required by agreement with the County to provide aeronautical services, including the sale of aviation fuel and lubricants, tie downs, hanger space, parking of aircraft, maintenance of aircraft, and ancillary aircraft ground support services.

Flying clubs, large means nonprofit entities that own and operate aircraft larger than a twin-engine piston type aircraft and are organized for the express purpose of fostering and promoting flying for pleasure, developing aeronautical skills, and awareness of aviation techniques and requirements. Such clubs must conform to all provisions of FAA Order 5190.6A, Appendix 8.

Flying clubs, small means nonprofit entities of less than 20 members that own and operate aircraft no larger than a twin-engine piston type aircraft (example: Baron or Seneca) and are organized for the express purpose of fostering and promoting flying for pleasure, developing aeronautical skills and awareness of aviation techniques and requirements. Such clubs must conform to all provisions of FAA Order 5190.6A, Appendix 8.

Nonscheduled charter airline service means an entity that transports people or cargo by aircraft on a nonscheduled basis, specifically excluding air carriers holding a certificate of public convenience and necessity from the Federal Aviation Administration, large aircraft commercial operators or regularly scheduled commercial operators.

Personal service means establishments primarily engaged in providing services involving the care of a person or his or her apparel such as cleaning and pressing services, beauty shops, barber shops and shoe repair.

Public ground transportation means any public or private entity providing nonaeronautical transportation services, such as, but not limited to, automobile rental, bus, train or taxi service.

Research center means an establishment or other facility for carrying on investigation in the natural, physical or social sciences, and may include engineering and product development.

Runway dependent uses means aviation-related uses which are immediately and necessarily dependent upon the existence of a runway and use of airplanes, such as parachute training, air show operators, and aircraft sign towing operations.

3.32.B. *Permitted uses.*

1. *In general.* In order to allow development which is consistent with the CGMP and the FAA approved Master Plan for Witham Field, the following development zones are hereby created: Airport Operation; General Aviation 1., General Aviation 2., Commercial Aviation, Industrial/Commercial, and Preservation Zone/Post Planning Period Development (see Figure 3.32.1). The area designated Airport Operations is restricted to the landing, takeoff and movement of aircraft. This area also includes the safety and runway protection areas required by the FAA. The area designated as Preservation Zone/Post Planning Period Development is set aside. No aeronautical or nonaeronautical need for this area has been identified within the current planning period of the Airport Master Plan. No uses are permitted in this zone until the Airport Master Plan is revised. The permitted uses allowed in each of the other zones are as follows as indicated by an "X".

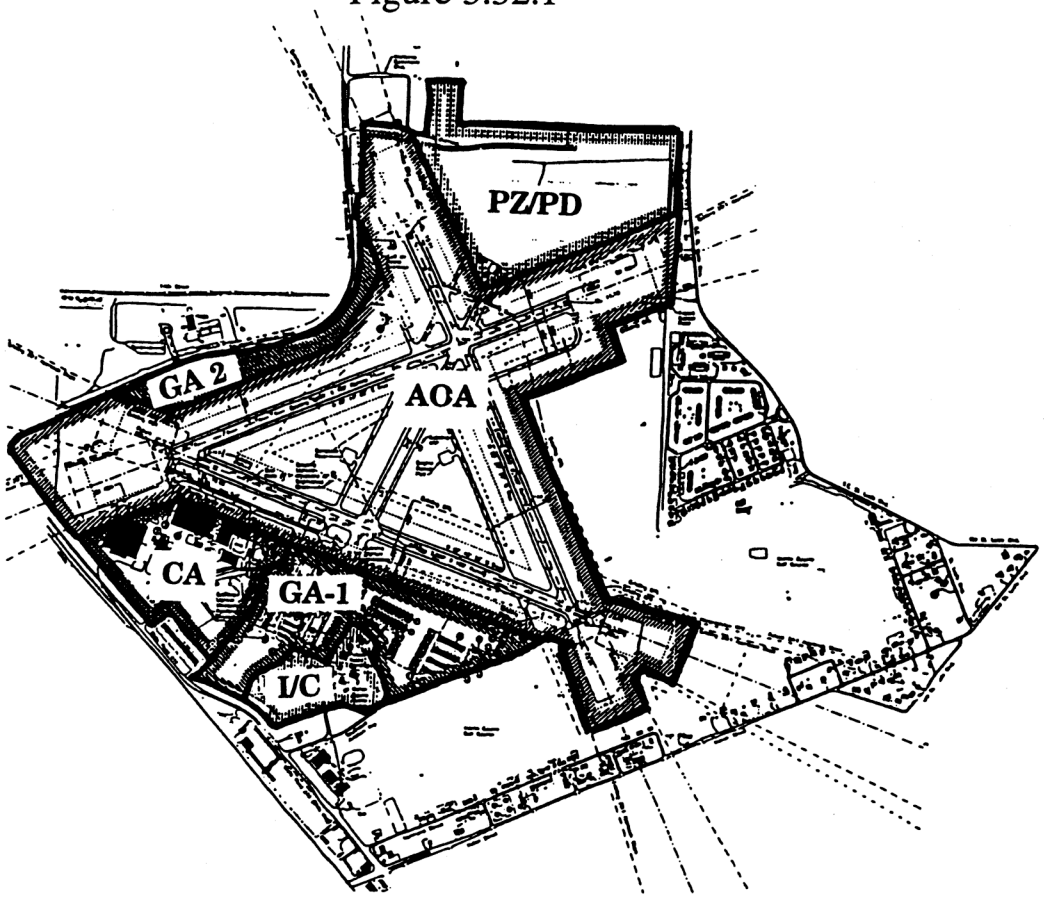
	Zone			
Use	General Aviation 1 Zone	General Aviation 2 Zone	Industrial/ Commercial Zone	Commercial Aviation Zone
Administrative services, not-for-profit	X	X	X	X
Aeronautical Schools	X		X	X
Aircraft assembly and service	X		X	X
Aircraft manufacturing			X	X
Aircraft sales and rentals	X		X	X
Aircraft storage hangars	X	X	X	X
Aviation-related business and professional office	X	X	X	X
Club, fraternity, lodge	X		X	
Educational facilities	X	X	X	X

Fixed base operators	X		X	X
Flying clubs, small	X	X	X	X
Flying clubs, large	X		X	
Golf courses	X		X	
Hotels and motels	X		X	
Runway dependent uses	X		X	X
Air freight operations on an unscheduled basis	X		X	X
Limited impact industry	X		X	X
Nonscheduled charter airline service	X		X	X
Personal services	X		X	
Professional offices and business	X	X	X	X
Public ground transportation services	X	X	X	X
Recreational facility	X		X	X
Research center			X	
Restaurant general	X	X	X	X

2. *Special development approval procedures.* Federal Aviation Administration regulations, particularly Advisory Circular 150/5070-6A, requires land use plans for all airports subject to FAA regulation. Development plan approval shall be required for all development within the PAF district. The application shall be submitted in accordance with the procedures outlined in Article 10. The Board of County Commissioners (BCC) shall review any master or final development plans within the public airport facilities districts. The BCC shall review each development application and determine its consistency with the FAA approved Master Plan for Witham Field, as it may be amended from time to time. In addition to any other materials that may be required pursuant to Article 10, applications for development in the PAF district shall include a map

showing the area within 500 feet of the site, including the location of all existing or proposed runways, taxiways and aprons.

Figure 3.32.1



Development Zones

3.32.C. *Size and dimension criteria.*

1. *Minimum lot size:* 10,000 square feet.
2. *Minimum lot width:* 80 feet.
3. *Maximum building height:*
   a. Buildings shall be the lower of 40 feet or as per the height restrictions of the Federal Aviation Regulations, Part 77.
   b. Air traffic control towers may exceed the limit for the express purpose of providing for the safe operation and control of aircraft into, out of, and within the control area of Martin County Airport/Witham Field as denoted by the Federal Aviation Administration regulations, provided that such towers are staffed by federally certified and licenses air traffic control personnel.
4. *Setbacks:*

a. Front: 30 feet.

b. Side (interior/corner): 25 feet/25 feet.

c. Rear: 25 feet.

d. There shall be no setback required adjacent to railroad right-of-way.

e. From residential zoning districts: 100 feet.

5. *Maximum building coverage:* 40 percent.

6. *Minimum open space:* 40 percent (based on overall airport property acreage).

7. *Minimum internal separation of buildings:* 20 feet.

3.32.D. *Specific use criteria.* When located in the PAF district, the following specific use restrictions shall apply:

1. *Restaurant general.*

a. The minimum landscape buffer adjacent to residential districts shall be 50 feet wide, Type 4.

b. Eating establishments shall not have access on a local residential street.

c. Signs shall not exceed 20 square feet and shall be nonilluminated.

2. *Limited and extensive impact industry.*

a. When located in a PAF District, no building shall be located closer than 100 feet to any lot line which abuts a residential district.

3. *Business and professional offices.*

a. The minimum landscape buffer adjacent to residential districts shall be 50 feet wide, Type 4.

b. Signs shall not exceed 20 square feet and shall be nonilluminated.

4. *Personal services.*

a. The minimum landscape buffer adjacent to residential districts shall be 50 feet wide, Type 4.

b. Signs shall not exceed 20 square feet and shall be nonilluminated.

5. *Research center.*

a. No building shall be located closer than 100 feet to any lot line which abuts a residential district.

b. No off-street parking or loading space shall be located closer than 50 feet to any lot line abutting a residential district.

6. *Recreational facility.*

a. No off-street parking area, loading area, building or structure shall be located within 50 feet of any lot line abutting a residential district.

b. Areas which abut residential districts and accommodate active recreation, buildings, recreational apparatus or related facilities which attract large user groups shall provide a Type 4 landscape buffer.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.33. Noise compatibility overlay.

3.33.A. *Noise compatibility overlay boundary.*

1. In order to allow uses which are consistent with the 2002 "Airport Noise Compatibility Planning Study" completed under Federal Aviation Regulation Part 150, and updated in 2010, a Noise Compatibility Overlay boundary is hereby created.

   The Noise Compatibility Overlay boundary shall be mapped in accordance with Day-Night Average Sound Level (DNL) noise contour lines. DNL lines are measured in decibels and are shown on Figure 5-1 and 5-2 of the Martin County Airport/Witham Field Noise Exposure Map Update, dated September 2010. These lines shall be the basis for locating Zone "A" and Zone "B" of the Noise Compatibility Overlay on the Zoning Atlas.

2. The Noise Compatibility Overlay shall be applicable within unincorporated Martin County but, shall not be applicable to parcels located within the Martin County Airport and the Martin County Golf and Country Club zoned PS and the PAF.

3. Parcels located completely inside the geographic area bounded by the 65 DNL line (between the 65 and 70 DNL lines) shall be considered Zone A in the Noise Compatibility Overlay. Zone A shall be represented by a hatching pattern on the Zoning Atlas if it extends beyond the PS and PAF zoning districts.

4. Parcels located completely inside the geographic area bounded by 60 and 65 DNL lines shall be considered Zone B in the Noise Compatibility Overlay. Zone B shall be represented by a hatching pattern if it extends beyond the PS and PAF zoning districts.

5. The two zones shall be identified by two different hatching patterns on the Zoning Atlas where both extend south of the PS and PAF zoning districts.

6. The Zoning Atlas shall be amended within six months of Federal Aviation Administration approval of the most recent update to the Noise Exposure Map adopted by the Board of County Commissioners.

7. Where both Zones A and B appear on a parcel, the following shall apply:

   a. If more than 50 percent of the parcel is located inside Zone A the entire parcel shall be subject to the requirements of Zone A.

   b. If more than 50 percent of the parcel is located outside Zone A the entire parcel shall be subject to the requirements of Zone B.

8. Where only Zone B appears on a parcel, the following shall apply:

   a. If more than 50 percent of the parcel is located inside Zone B the entire parcel shall be subject to the requirements of Zone B.

   b. If more than 50 percent of a parcel is located outside Zone B none of the parcel shall be subject to the requirements of Zone B.

9. The requirements of the Noise Compatibility Overlay shall not be applicable to Lot W-36 of the Port Sewall Plat.

3.33.B. *Permitted uses.*

1. Nothing in section 3.33 shall prohibit the continued use or enjoyment of a use legally established prior to adoption of the Noise Compatibility Overlay on September 11, 2012. Likewise, uses legally established pursuant to the Noise Compatibility Overlay shall be permitted to continue regardless of future changes to the Noise Compatibility Overlay.

2. Notwithstanding the permitted uses shown in Tables 3.11.1. thru 3.11.3., uses established after the effective date of this section within Zone B shall be limited solely to single-family detached

dwellings, accessory structures associated with single-family residential dwellings and modular homes constructed or modified to meet the sound insulation requirements described in section 3.33.C., LDR.

3.33.C. *Sound insulation.*

1. New construction and substantial improvements to existing habitable residential structures in Zone A shall use design and construction methods sufficient to reduce the noise level 30 decibels between the inside and the outside of the structure.
2. New construction and substantial improvements to existing habitable residential structures in Zone B shall use design and construction methods sufficient to reduce the noise level 25 decibels between the inside and the outside of the structure.
3. Compliance with the aircraft sound isolation performance standards shall be established by certification from a registered professional architect or engineer that, when constructed in accordance with the approved plans the building shall achieve the specified interior noise levels. The design and construction methods shall be consistent with Advisory Circular No: 150/5000-9A prepared by the U.S. Department of Transportation, Federal Aviation Administration, July 2, 1993.
4. For the purposes of the Noise Compatibility Overlay, "substantial improvement" means any repair, reconstruction, extension or other improvement to a building or structure, including such work conducted over a period of time, the cost of which equals or exceeds 90 percent of the assessed value of such building or structure either before the improvement is commenced or, if the property has been damaged and is being restored, before the damage occurred. For purposes of this definition, "assessed value" shall mean the assessed value of a structure for the current year as determined by the Martin County Property Appraiser.

(Ord. No. 919, pt. 1, 9-11-2012)

Sec. 3.34. School construction zones.

3.34.A. Pursuant to F.S. § 333.03(3), the construction of a new private or public educational facility, as defined in F.S. ch. 1013, shall be prohibited at either end of a runway of a publicly owned, public-use airport within an area which extends five miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. Exceptions approving construction of a new educational facility within the delineated area shall only be granted when the Board of County Commissioners makes specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location. A School Construction Zone Map depicting the area described above is on file with the Growth Management Department and with the Martin County Airport Manager.

(Ord. No. 919, pt. 1, 9-11-2012)

Secs. 3.35—3.50. Reserved.

DIVISION 3. STANDARDS FOR SPECIFIC USES

Secs. 3.111—3.200. Reserved.

Sec. 3.51. Accessory dwelling units.

3.51.A. Accessory dwelling units shall be established only as part of a nonresidential development such as, but not limited to, a marina, residential storage facility, or manufacturing use.

3.51.B. Accessory dwelling units shall be counted as dwelling units pursuant to the density calculation requirements set forth in Division 2 but in no case shall more than three accessory dwelling units be established on a single lot.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.52. Administrative services, not-for-profit.

3.52.A. When located in an AG or AR district, the administrative services provided shall be designed and operated to serve the agricultural community in which the use is located.

3.52.B. When located in a WRC or WGC district, the administrative services provided shall be limited to those which are water related or water dependent.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.53. Adult businesses.

3.53.A. *Definitions.* For the purposes of this Section (3.53) the following definitions shall apply:

Adult business means individually or in combination an adult arcade, adult bookstore, adult dancing establishment, or adult motion picture theater as the terms are defined herein, and any other establishment whose employees display or expose specified anatomical areas as defined herein.

Adult arcade means an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult bookstore means an establishment including a video store which sells or rents adult materials in any form to the public, the revenues of which represent more than ten percent of the gross revenues of the establishment over the same period, or that comprise more than 25 percent of the individual materials displayed within the establishment as its stock-in-trade.

Adult business premises means an enclosed building or a portion of an enclosed building which is physically occupied by an adult business.

Adult dancing establishment means an establishment whose employees display or expose specified anatomical areas while dancing.

Adult materials means books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations or recordings which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas, or instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

Adult motion picture theater means an establishment designed to permit the viewing of motion pictures and other film material which has as its primary or dominant theme matters depicting, illustrating or relating to specified sexual activities for observation by the patrons thereof.

Adult business employee means a person who works or performs in an adult business regardless of compensation or the manner of compensation, specifically including an independent contractor.

School means any public or private institution of learning including a day care facility, nursery school, preschool, kindergarten, elementary school, middle school, junior high school, senior high school, junior college, college, any special institution of learning under the jurisdiction of the state department of education, and those institutions offering instruction in dance and gymnastics to minors.

Specified anatomical areas means the human genitals, pubic region, anus, anal cleft, buttocks, and that portion of the female breast below the top of the areola.

Specified sexual activities means any sexual act which is prohibited by law, and acts of sexual intercourse, oral copulation, anal copulation, masturbation, flagellation, and the touching, caressing or fondling of breasts, buttocks, anus or genitals, or the simulation of any of the foregoing.

3.53.B. *Adult business premises regulations.*

1. All adult materials shall be located and the activities of employees, which include the exposure of specified anatomical areas, shall take place within the adult business premises.
2. No adult materials or activities of employees, which include the exposure of specified anatomical areas, shall be visible from the exterior of the adult business premises in any way including, but not limited to, exterior apertures such as opened doors and unobscured windows.
3. No merchandise, advertising or depictions of the activities of an adult business shall be displayed on the exterior of the adult business premises or in any location where they are visible from a street.
4. No adult business shall display a sign:
    a. Depicting specified anatomical areas or specified sexual activities (as defined herein) or advertising the presentation of any activity prohibited by law; or
    b. Capable of leading a reasonable person to believe that the establishment engages in activity prohibited by law.
5. Additional landscaping shall be provided adjacent to street and adjacent to private property:
    a. A landscaped strip at least five feet wide shall be provided along the boundary of an adjacent street between the right-of-way and all onsite parking areas and other vehicular use areas to consist of one tree for every 50 feet or portion thereof and a fence, wall or hedge not less than four feet in height at planting; and
    b. An opaque fence, wall or hedge shall be provided along the boundary of adjacent private property of a height of not less than four feet nor more than eight feet at planting.

3.53.C. *Distance requirements.* The following distances shall be measured by straight line measurement without regard to intervening buildings from the nearest point of the building or unit within a building in which the proposed adult business is to be located to the nearest point of the lot, use, street or district from which the proposed adult business is to be separated.

1. No adult business shall commence operation within one thousand (1,000) feet of any RE, RS, RM, MH, COR or Category "B" zoning district, as shown on the Zoning Atlas, or any Rural Density, Estate Density, Low Density, Medium Density, High Density, Mobile Home Density or Commercial Office/Residential Future Land Use designation boundary, as shown on the Future Land Use Map of the CGMP.
2. No adult business shall commence operation within 1,000 feet of any other adult business.

3. No adult business shall commence operation within 1,000 feet of a church or school. This distance requirement shall not apply in cases where a church or school has been established at a particular location for less than six months.

3.53.D. *Prohibited activities.*

1. It shall be unlawful for an employee or any patron of an adult business to engage in specified sexual activities (as defined herein) within or adjacent to adult business premises.
2. It shall be unlawful for an employee of an adult business to physically touch a patron or spectator of an adult business while simultaneously revealing specified anatomical areas (as defined herein).

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.54. Agricultural processing.

Any structure or activity associated with agricultural processing shall be set back at least 100 feet from any adjacent property line or street. Sawmills shall be located not less than 300 feet from any adjacent residential property line or street.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.55. Agricultural veterinary medical services.

See Section 3.107, veterinary medical services.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.56. Airports and airstrips.

3.56.A. All airports, including general aviation airports, private use airports, airstrips, heliports and helipads shall comply with the provisions of this section. This section does not apply to Witham Field lands zoned PAF.

1. A plan sealed by a registered engineer shall be submitted which indicates landing and take-off corridors and satisfies all FAA requirements, including conformance with appropriate flight hazard criteria which may hereinafter be imposed. The plan shall also include all existing land uses within 5,000 feet of the proposed facility.
2. An airspace analysis conducted by the Federal Aviation Administration (FAA), and a preliminary airport license report prepared by the FDOT shall be required. Any alteration in ground facilities or the addition of navigation aids designed to facilitate an instrument approach capability shall require a new application if the original approval was granted for visual flying rules (VFR).
3. Safety fences up to a height of six feet shall be required. Additionally, screening of at least 75 percent opacity shall be required if determined necessary to protect neighboring property from potential loss of use or diminishment of land value.
4. No area used by an aircraft under its own power shall be located within 100 feet of any property line.
5. No runway primary surface, as defined by the FDOT Chapter 14-60, F.A.C., shall be located within 300 feet of any property line or within 100 feet of any residential structure.

6. No structure or navigation aid shall be located within 50 feet of any property line.

7. In the AG and AR districts, airstrips, helipads and heliports shall be limited to those facilities and operations necessary to support bona fide agricultural use.

8. In the AG, AR, and RE-2A districts:

   a. Operations are limited to aircraft of 12,500 pounds maximum gross take-off weight.

   b. Runway length shall not exceed 4,200 feet.

   c. Aircraft operations are limited to daylight hours. Runway and taxiway landing lights are prohibited.

3.56.B. General aviation airports and aviation terminals shall be subject to the following specific use conditions:

1. General aviation airports and aviation terminals must comply with the Martin County Comprehensive Growth Management Plan.

2. General aviation airports and aviation terminals and aircraft approach and departure patterns shall not be permitted in areas which would create noise levels greater than 70 Ldn on the breeding, nesting or feeding grounds of endangered or threatened fauna identified by the Florida Fish and Wildlife Conservation Commission or the U.S. Fish and Wildlife Service.

3. General aviation airports and aviation terminals shall be located in areas where the proposed facility will not adversely impact significant recreational areas, archaeological sites or historical resources. This shall include, but not be limited to, the prohibition of noise levels of 70 Ldn or greater in such areas.

4. General aviation airport runways shall be located at least three statute miles from any land use that produces significant smoke, glare or other visual hazards.

5. General aviation airport runways shall be located at least three statute miles from existing or proposed lighting or illumination which is arranged or operated in a manner that is misleading or dangerous to aircraft.

6. Airport runways shall not be located in an area where the proposed facility or aircraft flight patterns will create noise levels above 64 Ldn on property designated for residential uses in the Comprehensive Growth Management Plan.

7. Airports shall be located in an area where the airport operator will maintain land within designated airport clear zones under the controlling ownership of the operating entity. The lease of any such land within designated airport clear zones shall be restricted exclusively to agricultural and other uses permitted by the FAA.

8. Airport sites shall be consistent with state airport plans.

9. Airport sites shall comply with Federal Aviation Authority (FAA) site selection criteria.

10. Airports shall not be permitted in areas which would adversely impact airspace at any existing public, private or military airport.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.56.1. Ancillary retail.

Ancillary retail uses may be permitted in any COR zoning district as follows:

3.56.1.A. Ancillary retail uses are limited to general restaurants, convenience restaurants, commercial day care, limited retail sales and services, which are conducted in conjunction with a residential development, office development or mix of residential and office uses.

3.56.1.B. The accessory retail use shall be located within the same building as a principal use permitted within the zoning district.

3.56.1.C. The building containing the principal use shall have a minimum of 10,000 square feet of gross floor area devoted to the principal use.

3.56.1.D. The accessory retail use shall occupy no more than ten percent of the gross floor area of the overall project.

3.56.1.E. Signs advertising an ancillary retail use shall not exceed 20 square feet in total area per business and shall not be illuminated.

3.56.1.F. Proposed ancillary retail uses shall be reviewed at a public meeting by the Local Planning Agency. The Local Planning Agency shall make a recommendation to the Board of County Commissioners as to the appropriateness of the proposed use at the proposed location. At a minimum, the Local Planning Agency shall determine whether the principal use meets the bufferyard requirements of Article 4, Division 15, of the Land Development Regulations.

3.56.1.G. Proposed ancillary retail uses shall be reviewed at a public meeting by the Board of County Commissioners. The Board of County Commissioners shall review the recommendation of the Local Planning Agency and approve, approve with modifications or deny the request for the proposed ancillary retail use. Where the proposed ancillary retail use is part of a Standard Development, Minor Development or other application that does not require final action by the Board of County Commissioners, no final site plan shall be approved until the Board of County Commissioners has made a determination as to the proposed ancillary retail use in accordance with this subsection.

(Ord. No. 623, pt. 1, 11-5-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.57. Apartment hotel.

See section 3.76, hotels, motels, and apartment hotels.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.58. Bed and breakfast inn.

3.58.A. When located in an AG or AR district, the inn shall be associated with an agricultural use, such as a commercial stable, and shall offer no more than six guest rooms.

3.58.B. When located in a RE, RS or any Category "B" district not more than two guest rooms may be rented unless the inn is located on a lot that is at least one acre in size. If the lot is at least one acre, then the maximum number of guest rooms which may be rented shall be six.

3.58.C. When located in a district allowing multiple-family use, not more than ten guest rooms may be rented.

3.58.D. The owner or manager of the residence must live in and manage the bed and breakfast inn.

3.58.E. The outside appearance of the inn shall be consistent with its use as a residence.

3.58.F. Individual guest rooms shall not contain any cooking facilities other than small convenience appliances such as a coffee maker.

3.58.G. Meals shall be served only to guests taking lodging in the inn.

3.58.H. Only daily rates shall be offered, a current guest register shall be maintained, and the length of stay for any guest shall not exceed 14 consecutive days.

3.58.I. Unless located within an area where on-street parking is allowed, there must be one off-street parking space provided for each guest room plus two spaces for the primary residential unit. Parking areas must be located to the side or rear of the inn and screened by opaque fence or plantings at a minimum height of five feet when parking is within 25 feet of residential property.

3.58.J. If located in an area where on-street parking is allowed, the number and location of parking spaces for inn guests and the permanent residents shall be specified in the development order.

3.58.K. Signs shall comply with the following criteria:

1. In the AG and AR districts one free-standing or fence mounted roadside sign shall be allowed on the property subject to compliance with the following:
   a. The sign shall not exceed six square feet;
   b. The sign shall not be positioned with its top higher than six feet above street level;
   c. Positioning of the sign shall not block the view of any street intersection or driveway;
   d. Wording shall be limited to the name and type of the establishment;
   e. Lighting shall be limited to one downward directed light, positioned to illuminate only the sign.

3.58.L. In all other districts, signs shall be allowed on the property subject to compliance with the following:

1. Wording shall be limited to the name and type of the establishment;
2. Signs shall not be illuminated;
3. Signs shall not exceed four square feet;
4. No freestanding roadside signs are allowed, roadside signs must be attached to a fence or mailbox with a top no more than six feet from ground level.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.58.1 Biofuel facility.

A. Biofuel facilities shall comply with the following setbacks:

1. The minimum rear and side setbacks shall be 50 feet, unless a greater setback is required by the Florida Building Code or the Florida Fire Prevention Code.
2. The real property boundary of a biofuel facility shall not be located within 150 feet of the boundary of an RE, RS, RM, MH, HR-1, HR-1A, R-1, R-1A, R-1B, R-1C, R-2, R-2B, R-2C, R-2T, RT, TP, E, E-1, WE-1, HR-2, HR-2A, R-2A, R-3, R-3B, R-4 or R-5 zoning district, the real property boundary of a residential use within a PUD zoning district, or the real property boundary of a public school.

B. Biofuel facilities shall be located within an area specifically designated for such a facility on a site plan approved pursuant to article 10.

C. Biofuel facilities shall meet the performance standards set forth in this subsection.

1. Any process or storage conducted outside of a building shall be fully screened from view from adjoining streets or any adjacent non-industrial property.
2. No smoke with opacity exceeding ten percent opacity shall be emitted.
3. No odor which substantially and unreasonably interferes with the use or enjoyment of property by persons of ordinary sensibilities shall be permitted beyond the real property boundary.
4. The emission or escape of gases or fumes in quantities, concentration, temperature or duration which creates a risk of injury to human health or welfare or plant or animal life or damage to property shall be prohibited.
5. All terms and conditions of any permit required or issued by the U.S. Environmental Protection Agency or the Florida Department of Environmental Protection shall be met.
6. Fuel storage or delivery systems shall meet all state and federal requirements in effect at the time of installation.

D. Development review. In addition to all requirements generally applicable to the review and approval of a final site plan, a final site plan for a proposed biofuel facility shall also meet the requirements set forth in this subsection.

1. The application for site plan approval shall include:
   a. Copies of all permits issued by federal and state agencies authorizing the construction or operation of the facility or copies of the applications for all required permits pursuant to federal and state law, including but not limited to the Federal Water Pollution Control Act (Clean Water Act), 33.U.S.C. §1251 et seq., the Clean Air Act, 42 U.S.C. §7401 et seq., and the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6901 et seq. A claim that no permit is required pursuant to these laws must be substantiated to the satisfaction of the County Attorney.
   b. Any process hazard analysis or fire prevention, fire control or emergency action plan required by the Occupational Safety and Health Administration (OSHA), 29 CFR Part 1910. The County shall require a process hazard analysis and a fire prevention, fire control and emergency action plan even if one is not required by OSHA.
   c. A stormwater pollution prevention plan consistent with the requirements of federal and state law for such plans.
   d. Proof of registration with the United Stated Environmental Protection Agency (US EPA) as a biodiesel producer (Form 3520-12) and/or proof of registration with EPA as a biodiesel refiner (Form 3520-20A), or such other form as may be promulgated by US EPA.
   e. Proof of liability insurance naming Martin County as an insured party, to indemnify the County against risk of financial harm incurred in providing emergency response at the site. The amount of coverage of such liability insurance policy shall be in an amount to be determined by the County Administrator after consultation with the Fire Chief and the County's risk management consultant, but in no case shall be less than $1,000,000.00.
2. The County's authority to retain independent professional or technical advice and to charge the cost of such consultation to the applicant, pursuant to section 10.2.D.2, shall be extended to fire prevention inspections related to issuance of a business tax receipt. Such independent technical consultants may include, but are not limited to, fire protection engineers, chemical process engineers, environmental engineers and testing laboratories.
3. At its expense, an applicant shall be required to provide specialized fire suppression equipment or materials if, in the opinion of the County Administrator, in consultation with the Fire Chief, such is necessary to protect the public health, safety and welfare from risks posed by the facility, processes or materials the applicant will use.

4. At its expense, an applicant shall be required to provide specialized training for Martin County staff if, in the opinion of the County Administrator, in consultation with the Fire Chief, such is necessary to protect the public health, safety and welfare from risks posed by the facility, processes or materials the applicant will use.
5. An odor prevention, monitoring and control plan shall be required as part of the site plan application.

(Ord. No. 1014, pt. 3, 12-6-2016)

Sec. 3.58.2. Business and professional offices.

When located in the WRC or WGC district, such use shall be water dependent or water related.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 1014, pt. 3, 12-6-2016)

Sec. 3.59. Commercial amusements.

3.59.A. All commercial amusements within the LC and CC districts shall be fully contained within a building.

3.59.B. In districts other than LC and CC, all structures, buildings, mechanical devices, show or exhibit areas associated with an activity conducted in the open air as, for example, mini-golf, shall be set back at least 50 feet from any residential zoning district.

3.59.C. Outdoor theaters are restricted as follows:

1. No outdoor theater shall abut a residential district.
2. No building, structure or mechanical equipment shall be located within 200 feet from the centerline of a state highway or less than 100 feet from any other street or abutting property line.

3.59.D. Drive-in theaters are restricted as follows:

1. No building, structure, or mechanical equipment shall be located within 200 feet from the center line of a state highway and less than 100 feet from any other street or abutting property line.
2. The screen shall be oriented in such a manner that the picture is not visible from any street or residential area.
3. Access and egress shall be from a minor or major arterial street, and sufficient traffic queuing lanes to the point of entrance shall be provided on the site.
4. Off-street parking or storage lanes for waiting patrons shall be available to accommodate not less than 30 percent of the vehicular capacity of the theatre. Storage lanes to accommodate not less than ten percent of the theater capacity shall be provided between the highway and the ticket booths. However, if at least four entrance lanes with ticket dispensers are provided, then the amount may be reduced to 15 percent of the vehicular capacity. In all cases, sufficient storage space shall be provided so that vehicles will not back up on the traveled way of the access street. Storage area shall be calculated on the basis of one space per 25 lineal feet of storage lane. All access and queuing plans shall be approved by the director of public works to assure the adequacy and location of entrances, exits, acceleration or deceleration lanes, queuing space for patrons awaiting admission, or any other feature of vehicular circulation which may affect the flow of traffic upon adjacent streets.

5. Speakers and snack bar sound systems shall not be audible beyond the boundaries of the theater property lines. Central loudspeakers shall not be permitted and individual speakers shall be provided to each vehicle, sufficient cord shall be provided to permit the speaker to be placed inside the vehicle.

3.59.E. When located within a WRC or WGC district, such use shall be water dependent or water related.

3.59.F. Gambling. F.S. Ch. 849 prohibits the keeping of a place for gambling.

1. Commercial amusements offering electrical, mechanical or electromechanical machines that may be defined in F.S. Ch. 849 as slot machines shall be prohibited.

2. Amusement games or machines offered at arcade amusement centers and truck stops may be operated pursuant to F.S. Ch. 849 and shall not conduct casino-style games in which the outcome is determined by factors unpredictable by the player or games in which the player may not control the outcome of the game through skill.

3. Applicants seeking or renewing business tax receipts for arcades, internet cafes, truck stops or commercial amusements in unincorporated Martin County shall be reviewed by the Martin County Sheriffs Department for compliance with F.S. Ch. 849.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 970, pt. 1, 4-7-2015)

Sec. 3.60. Commercial kennels.

3.60.A. If located in a commercial district, then outside runs shall be prohibited.

3.60.B. Pens and other structures for the confinement of animals shall:

1. Not be located within 100 feet of any property line, unless completely enclosed and soundproofed.

2. Be designed and maintained for secure, humane confinement.

3.60.C. Animal wastes shall be managed in such a manner as to prevent odors from being carried beyond the property boundaries.

3.60.D. When located in an AG or AR district, the sale of animals shall be prohibited.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.61. Community center.

3.61.A. When located on sites facing a minor or major collector or minor or major arterial street, the principal building may exceed 5,000 square feet.

3.61.B. No building shall be located closer than 30 feet to any lot line which abuts a residential district or residential lot.

3.6l.C. When located in a WRC or WGC district, community centers shall be water dependent or water related.

3.61.D. Any existing community center site may redevelop and shall comply with paragraphs A thru D to the extent practicable.

3.61.E. When located in a Community Redevelopment Area, redevelopment of an existing community center site shall be eligible to apply for alternative compliance pursuant to Section 3.260.D. For such

community centers, the alternative compliance process shall be applicable to all development standards found in Article 3.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 1045, pt. 1, 1-9-2018)

Sec. 3.61.1. Composting.

Compost material piles and any associated mechanical processing equipment shall be set back at least 300 feet from any property line. However, where the abutting lot is designated Industrial or Major Power Generation Facility, the minimum setback for compost material piles and any associated mechanical processing equipment shall be the same as indicated for structures within the particular zoning district as set forth in section 3.12, Table 3.12.2.

(Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.62. Construction industry trades.

3.62.A. When located in LC or CC districts, outdoor storage or display of materials or products shall be prohibited.

3.62.B. When located in LC or CC districts, the gross floor area shall be limited to 5,000 square feet.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002)

Sec. 3.63. Construction sales and services.

3.63.A. When located in LC or CC districts, outdoor storage or display of materials or products shall be prohibited.

3.63.B. When located in LC or CC districts, the gross floor area shall be limited to 5,000 square feet.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002)

Sec. 3.64. Correctional facilities.

3.64.A. Such facilities shall require a minimum three (3) acre site and shall not abut a residential district.

3.64.B. The facilities shall comply with all applicable regulations of the Florida Department of Corrections, as cited in chapter 33, Florida Administrative Code, and any other relevant requirements.

3.64.C. No main or accessory building shall be located within 100 feet of any property line.

3.64.D. The applicant shall submit a site development plan which demonstrates the adequacy of the site to accommodate anticipated facilities, occupants, recreation areas, off-street parking and pedestrian and vehicular circulation on site, including loading, unloading and queuing of occupants as well as any safety and security features of the facility.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.65. Cultural and civic uses.

When located in a WRC or WGC district, cultural and civic uses shall be limited to those which are water dependent or water related.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.66. Day care, commercial.

3.66.A. Whether designed to serve adults or children, a commercial day care facility shall:

1. Be located on an arterial or collector street.
2. Have a minimum lot area of 15,000 square feet.
3. Provide special passenger loading and unloading facilities on the same lot for vehicles to pick up or deliver clientele including driveways that do not require back-up movements to enter or exit the premises.
4. Shall satisfy all state regulations that pertain to such use.

3.66.C. When located in an LI or GI district and designed primarily to serve the needs of the employees of businesses and industries located within such districts, the locational requirement set forth in subsection A.1, above, shall not apply.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002)

Sec. 3.67. Day care, family.

3.67.A. Family day care operations shall comply with all licensing and other requirements of the state of Florida.

3.67.B. The maximum number of children under care at one time shall be eight, including those of related to the caregiver.

3.67.C. Family day care shall only be conducted in a single family detached dwelling, not in other single family dwelling unit types such as zero lot line or townhouse.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.68. Dredge spoil facilities.

3.68.A. *General requirements.* The following requirements shall apply to dredge spoil management sites:

1. As part of the application for the development of a dredge spoil management site, the developer shall provide evidence of compliance with the site selection criteria for such sites as set forth in section 4.4.N of the CGMP.
2. Dredge spoil areas shall be enclosed by a berm of at least 15 feet in height or as necessary to ensure that all stormwater runoff is retained on the upland area of the site.
3. The outer slope of the berm shall be landscaped with suitable ground cover or other landscaping to control erosion.

4. The initial preparation of the site and all activities associated with the transport of spoil materials on and off the site shall be governed by Article 4, Division 8, Excavation, Filling and Mining.

3.68.B. In the PR district, activities shall be limited to the temporary storage of dredged spoil material resulting from the construction, reconstruction or maintenance of recreational facilities.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.68.1. Duplex dwellings.

Any duplex structure otherwise conforming to regulations in existence at the time of construction shall not be thereafter considered nonconforming solely because one of the dwelling units, together with its underlying land has been conveyed to a separate owner. Additions or improvements that are otherwise permitted to a residential dwelling shall not be subject to side setback restrictions from the common wall lot line. Maintenance and repair of any shared facilities, such as common walls, septic tanks, wells, etc., shall be the joint responsibility of both unit owners unless an agreement between the owners provides otherwise. In the event a duplex structure that has been conveyed in accordance with this section is destroyed, such structure may be rebuilt only in its original location and configuration.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.68.2. Dwellings.

Regardless of the method of housing construction architectural and aesthetic compatibility are important to the long term value and viability of neighborhood communities.

3.68.2.A. Dwelling units constructed with a crawl space must be enclosed on all sides of the dwelling by a perimeter enclosure that complies with the following:

1. The crawl space shall be enclosed by a bearing or non-bearing perimeter enclosure that is architecturally compatible with the community.
2. The perimeter enclosure shall be securely anchored to a load bearing poured concrete footer of sufficient size to provide support to the perimeter enclosure. The load bearing concrete footer may also be used as a foundation for attachment to the dwelling.
3. The perimeter enclosure may be constructed of poured concrete, lathe and stucco, masonry, brick or a concrete siding material. Aluminum or vinyl skirting is not allowed except in zoning districts implementing the mobile home future land use or where an existing mobile home is being replaced.
4. The perimeter enclosure must extend from the base of the dwelling to the footer and be securely fastened to the footer. When the perimeter enclosure is constructed of poured concrete, lathe and stucco, masonry or brick, the concrete siding material need not extend below the top of the perimeter enclosure.
5. Dwellings with a crawl space of seven feet or greater in height may not be required to enclose the crawl space.
6. Dwellings on Hutchinson Island or in a "V flood zone" may not be required to enclose the crawl space.
7. Existing subdivisions with deed restrictions or planned unit development agreements that control the foundation design may not be required to enclose the crawl space.

(Ord. No. 983, pt. 1, 9-1-2015)

Sec. 3.69. Educational institution.

3.69.A. The applicant for the institution shall submit a description of anticipated service areas and projected enrollment and relate same to a development plan explaining:

1. Area to be developed by construction phase.
2. Adequacy of site to accommodate anticipated enrollment, recreation areas, off-street parking and pedestrian and vehicular circulation on site including loading and queuing of school bus traffic.
3. Safety features of the development plan.

3.69.B. The institution shall be located on an arterial or major collector street.

3.69.C. Vocational schools that produce noise, truck traffic, heavy machinery or require loading or storage areas similar to those uses permitted in a LI, LI-1, GI, or HI district, shall only be allowed in such districts.

3.69.D. When located within a WRC or WGC district, such use shall be water dependent or water related (e.g., the curriculum shall be related to marine studies).

3.69.E. Areas which abut residential districts and accommodate active recreation, shall provide a Type 2 bufferyard pursuant to Article 4, Division 15, Landscaping, Buffering and Tree Protection.

3.69.F. The educational institution shall have a structure designed to meet state requirements to serve as an emergency evacuation shelter.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.70. Exotic wildlife sanctuary.

3.70.A. The sanctuary must be designed and operated by a nonprofit entity in accordance with all state and federal guidelines applicable to captive care of exotic wild Class I, Class II or Class III animals. The property owner shall be responsible for providing copies of all applicable permits, including any related inspection reports, to the Growth Management Director prior to final site plan approval for the facility. After the initial site plan approval, such permits and related inspection reports shall be submitted within ten days of the issuance of such documents.

3.70.B. All captive wild animals shall be secured in wildlife enclosures that promote the animal's health and well-being and provides protection to the general public and the caretakers on the site. No wild animals shall be allowed to roam free on-site.

3.70.C. A minimum 300-foot wide perimeter buffer within the sanctuary property shall be provided to separate structures where animals are kept from adjacent properties. The perimeter buffer may consist of preserved native upland or wetland habitat.

3.70.D. No breeding of animals shall be allowed.

3.70.E. The sanctuary shall not be open to the general public; however, to promote environmental awareness, the sanctuary, at its discretion, may conduct guided tours by special request from school, church, civic, community or government organizations.

3.70.F. The minimum lot size for the sanctuary property shall be 40 acres.

3.70.G. The sanctuary must be accessed by an open, paved street or an open street which is regularly maintained and stabilized, and have paved parking facilities sufficient for daily use activities. Stabilized parking may be used for special events and guided tours.

3.70.H. Residences for caretaker and research scientists/students shall be permitted but shall not exceed the allowable gross residential density within the applicable land use designation.

3.70.I. Except for sale of promotional items related to the sanctuary, no retail sales or services shall be permitted.

3.70.J. No portion of the exotic wildlife sanctuary property shall be located within 1,000 feet of any areas used, zoned or designated for residential use.

3.70.K. The facility must have a structure designed to meet state requirements to provide emergency shelter in the event of a hurricane or provide a Hurricane Evacuation Plan, approved by the Emergency Management Director, for the evacuation and sheltering of the animals.

3.70.L. Prior to the issuance of final site plan approval, a performance bond, acceptable to the Board of County Commissioners, shall be required to ensure that, in the event of abandonment of the facility by the operating entity, that the facility may be properly operated for a period of one year and/or to ensure the proper disposition of the facility and the animals housed in the facility.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.70.1. Extensive impact industries.

3.70.1.A. When located in a WGC district, such use shall be water dependent or water related. All forms of watercraft manufacturing shall be considered water dependent or water related.

3.70.1.B. Except where the use was lawfully established prior to the effective date of this ordinance, no building or activity associated with an extensive impact industry shall be located closer than 150 feet to any RE, RS, MH, RM or Category "B" district.

3.70.1.C. See also section 3.207 (industrial performance standards).

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 1014, pt. 3, 12-6-2016)

Sec. 3.71. Flea market.

3.71.A. Shall have a minimum site area of three acres.

3.71.B. Shall be located adjacent to a minor or major arterial street.

3.71.C. The site plan shall provide for off-street parking, efficient vehicular circulation and controlled ingress and egress to and from the site.

3.71.D. No building, structure, or loading area shall be located within 75 feet of a street frontage.

3.71.E. Signs may be mounted flush with an individual booth or stall. Such sign shall not exceed two square feet in total sign area per booth or stall.

3.71.F. Shall not abut a residential or COR district.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.71.1. Farmer's markets.

3.71.1.A. The primary nature of this use shall be the retail sale of fresh agricultural produce; however, the retail sale of other products, such as, but not limited to, packaged foods, crafts, drinks, snacks and other convenience items, is allowed provided that such products are sold only within a

permanent building and provided that the area devoted to the display of such products is no more than 50 percent of the total enclosed retail sales area provided on the site. This use may also include the outdoor sale of agricultural products, including ornamental plants, except plants which are listed as prohibited species pursuant to section 4.664.A.3 of the Land Development Regulations. This use may also include "U-pick" operations, in which customers are invited to pick their own vegetables.

3.71.1.B. The maximum gross floor area of retail buildings shall be 5,000 square feet.

3.71.1.C. Primary vehicular access to the site shall be by way of an arterial road.

3.71.1.D. Prior to commencement of the use, the landowner shall submit a traffic study to the County Engineer in the manner provided in Article 5, Division 3, Traffic Impact Analysis, of the Land Development Regulations, Martin County Code. Based on the Traffic Impact analysis and the standards of Article 4, Division 19, Roadway Design, of the Land Development Regulations, Martin County Code, the County Engineer shall determine whether turning lanes are warranted, and if so, the appropriate configuration. Turning lanes shall then be provided at the expense of the landowner prior to the commencement of the use. The County Engineer shall be authorized to waive the traffic study requirement upon a determination that the proposed use is unlikely to generate sufficient traffic to warrant the installation of turning lanes.

3.71.1.E. No farmer's market shall be located within two miles of another farmer's market, as measured from the point at which the driveway connects to the arterial road.

3.71.1.F. Despite any provision to the contrary in Article 4, Division 14, Parking and Loading, of the Land Development Regulations, the parking and loading requirements for this use shall be limited to the provision of sufficient space for the required number of on-site parking spaces as indicated for the proposed gross floor area. For example, if the proposed development is required to provide 20 parking spaces, the site plan need only provide an area of at least 4,800 square feet for parking (20 times the minimum parking space size of 10' × 24'). Such parking areas need not be paved or meet other standards normally applicable to commercial parking areas. However, if parking areas other than handicap accessible spaces are to be paved, drainage facilities must be provided.

3.71.1.G. For purposes of Article 4, Division 15, Landscaping, Buffering and Tree Protection, of the Land Development Regulations, this use shall be considered an agricultural use and shall thus be exempt from the requirements of Division 15, provided that a proposed farmer's market shall provide a minimum Type 2 bufferyard along any property boundary abutting an existing residential development.

3.71.1.H. For purposes of Article 4, Division 16, Signs, of the Land Development Regulations, this use shall be considered a commercial use for purposes of approving any point of purchase signs, provided that freestanding signs shall be no larger than 64 square feet in sign area per face.

3.71.1.I. For purposes of section 10.1.E of the Land Development Regulations, this use shall be considered a bona fide agricultural use and thus shall not require site plan approval.

(Ord. No. 669, pt. 1, 6-28-2005)

Sec. 3.72. Funeral home.

3.72.A. Traffic control for funeral processions shall be provided by the operator in a manner that is reviewed and approved by the Sheriff.

3.72.B. A minimum lot of one buildable acre is required to accommodate the funeral home and accessory uses.

3.72.C. Such use shall be located on an arterial or major collector street.

3.72.D. The site plan submitted at the time of application shall show the location of the vehicle procession staging areas. No street shall be used for vehicle procession staging.

3.72.E. No building shall be located within 50 feet of a residential district or within 130 feet of any existing residential structure.

3.72.F. The internal traffic circulation system and parking areas shall provide for the safe and efficient ingress and egress and onsite maneuvering of all vehicles in order to ensure that traffic circulation will not adversely affect nearby residential neighborhoods.

3.72.G. Parking in excess of the required minimum may be provided by stabilized grassed area.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.73. Golf course.

3.73.A. No cart barn, maintenance facility club house or clubhouse parking shall be located closer than 300 feet from any lot line where the adjoining lot is designated for residential use. This provision shall not apply to any golf course which was lawfully established prior to April 29, 1986, and shall not affect the expansion of any cart barn, maintenance facility, club house or clubhouse parking which may have been lawfully established prior to April 29, 1986.

3.73.B. Accessory uses may include, but are not limited to, pro shops, administrative offices, food and beverage service, maintenance/utility facilities, storage areas restrooms, and driving ranges.

3.73.C. Shall provide and use an agrochemical handling facility in accordance with any state regulations and the U.S. Department of Agriculture and Natural Resources Conservation Service conservation practice standards for all storage, mixing and loading of chemicals used in maintaining the golf course.

3.73.D. Shall be required to utilize irrigation quality water, if available, from the utility serving the development.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002)

Sec. 3.74. Golf driving range.

3.74.A. Shall provide and use an agrochemical handling facility in accordance with any state regulations and the U.S. Department of Agriculture and Natural Resources Conservation Service conservation practice standards for all storage, mixing and loading of chemicals used in maintaining the driving range.

3.74.B. If such use is not accessory to a golf course, then the structures, parking and tee-off areas must be located in a commercial or industrial district, while the landing area may extend into a an RM, LC or GC zoning district.

3.74.C. Shall be effectively fenced and screened to prevent balls from landing outside the confines of the driving range.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.75. Halfway house.

A halfway house shall:

3.75.A. Have a minimum lot size of three acres.

3.75.B. Not be located on a lot adjacent to any residential, COR, or WRC district; nor shall said parcel be separated only by a street from said districts.

3.75.C. Be limited to a maximum of 50 occupants (not including staff).

3.75.D. Not be located within ten miles of another such facility.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.76. Hotels, motels, and apartment hotels.

3.76.A. When designed as a suite concept, each suite may have only one exterior door from the common hallway.

3.76.B. Shall comply with applicable state regulations.

3.76.C. Hotels and motels shall be located on a minor or major arterial street.

3.76.D. Shall be designed to be compatible with the community character of surrounding neighborhoods.

3.76.E. When located within a WRC or WGC district, such use shall either be located on the same lot as a commercial marina, or other water dependent or water related use or be located within 500 feet of such uses.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.76.1. Hunting camps.

3.76.1.A. The minimum lot size shall be 20 acres.

3.76.1.B. Kennels for hunting dogs kept at the hunting camp shall not be located within 200 feet of any property line unless completely enclosed and soundproofed and shall be designed and maintained for secure, humane confinement. Animal wastes from the kennels shall be managed in such a manner as to prevent odors from being carried beyond the property boundary.

3.76.1.C. Overnight accommodations shall be limited to no more than six guest rooms. The length of stay for any guest shall not exceed 14 consecutive nights.

3.76.1.D. Meals may be served only to customers of the hunting camp. Freestanding restaurants open to the general public are not permitted.

3.76.1.E. Overnight camping of a duration not to exceed five nights is permitted. No permanent structures shall be constructed for the purpose of overnight camping.

3.76.1.F. Shooting ranges are not permitted within the hunting camp.

3.76.1.G. The sale and/or rental of hunting accessories to customers of the hunting camp are permitted. Retail sales of hunting accessories to the general public are not permitted.

(Ord. No. 833, pt. 2, 11-17-2009)

Sec. 3.77. Library.

3.77.A. Shall be located on sites facing a minor or major collector or minor or major arterial street.

3.77.B. No building shall be located closer than 30 feet to any lot line which abuts a residential district or residential lot.

3.77.C. When located in any residential or COR district, the gross floor area of the principal building shall not exceed 5,000 square feet.

3.77.D. Reserved.

3.77.E. Reserved.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 1045, pt. 1, 1-9-2018)

Sec. 3.77.1. Limited retail sales and services.

When located in the WRC or WGC district, such use shall be water dependent or water related.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.78. Limited impact industries.

When located in a WGC district, such use shall be water dependent or water related. All forms of watercraft manufacturing shall be considered water dependent or water related.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.79. Marina, commercial.

3.79.A. For marina activities requiring permits from state or federal agencies, copies of such permits shall be submitted to the County prior to the issuance of any development permit. Any conditions contained within such state or federal permits shall be considered conditions of any Martin County development order.

3.79.B. Marinas shall provide sanitary pump out facilities if such are not available within one mile of the site.

3.79.C. No building or mechanical device associated with a commercial or industrial use, other than a fence, shall be located within 100 feet of any residential district. This provision shall not apply to any marina which was lawfully established prior to the effective date of this ordinance.

3.79.D. Fuel dispensers shall be located at least 250 feet from any RE, RS, RM, MH, residential PUD or CATEGORY "B zoning district. This provision shall not apply to any marina which was lawfully established prior to the effective date of this ordinance.

3.79.E. In the WRC district:

1. No repair other than emergency repairs of watercraft or marine accessories shall be permitted.
2. The off-loading or processing of commercial seafood products shall be prohibited.

3.79.F. In the WGC districts:

1. Major maintenance and repair activities, such as, but not limited to, the pressure washing, sanding, scraping and painting of boat hulls and major boat engine repair, shall be conducted only within an area enclosed by an opaque fence or wall at least six feet in height.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 970, pt. 1, 4-7-2015)

Editor's note— Ord. No. 970, pt. 1, adopted April 7, 2015, renumbered the former §§ 3.80—3.82 as §§ 3.79—3.81 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Sec. 3.80. Mining.

Mining shall be permitted pursuant to the provisions of Article 4, Division 8, Excavation, Filling and Mining. The Board of County Commissioners may establish additional buffer requirements for mining uses based on the impacts to surrounding land uses where the mining activity is adjacent to a different land use.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 970, pt. 1, 4-7-2015)

Note— See the editor's note to § 3.79.

Sec. 3.81. Mobile home.

3.81.A. Within an AG-20A district, the following shall apply:

1. The mobile home shall not be located within 100 feet of any property line.
2. The mobile home shall be permitted to remain only so long as the principal use of the property is agricultural.
3. A mobile home shall only be used as a residence.
4. The mobile home shall be screened from view of abutting lots and public streets to a height of six feet, for example, by means of an opaque fence or landscape buffer.

3.81.B. Within the AG and AR districts, a mobile home shall be permitted as a temporary residence while a permanent residence is under construction. The temporary mobile home shall be removed prior to receipt of the certificate of occupancy for the permanent residence or within one year of the date of issuance of the mobile home permit, whichever is sooner.

3.81.C. In all other districts, mobile homes shall not be parked, stored or used for any purpose, either on a temporary or permanent basis, outside officially approved parks or subdivisions overnight or for a period greater than eight hours. Camping, boat and foldup-type trailers, travel trailers, motor homes in storage and small utility trailers are excluded from this provision.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 970, pt. 1, 4-7-2015)

Note— See the editor's note to § 3.79.

Sec. 3.82. Reserved.

Sec. 3.83. Life science, technology and research (LSTAR) and targeted industries business (TIB).

Applicability: The purpose of the Life Science, Technology and Research (LSTAR) and Targeted Industries Business (TIB) categories in the permitted uses table are to establish life science, technology, and research areas compatible with adjacent uses, in accordance with the planning and development objectives of the County. LSTAR and TIB shall also include bioscience uses, as well as other intellectual knowledge-based industry sectors. "Bioscience uses" means those uses that support scientific and biotechnological research, including theoretical and applied research in all the sciences, as well as product development and testing. Bioscience uses shall include engineering, legal, manufacturing, and marketing uses which support such uses. Bioscience research shall also include laboratories, educational facilities, and clinical research hospitals. Office uses, limited support uses and retail uses accessory to scientific research and development shall be considered bioscience uses.

This section shall apply to areas designated Commercial Office/Residential, Commercial General, Commercial Limited, Industrial and General Institutional on the Future Land Use Map of the Comprehensive Growth Management Plan and shall be implemented as follows:

1. *Site development standards.* The election of an LSTAR or TIB use is effected through approval of a final site plan, pursuant to article 10 of the Land Development Regulations. Regardless of the underlying zoning district, property on which an LSTAR or TIB use is proposed may at the election of the landowner, be developed pursuant to the site development standards set forth in either option 1 or option 2 below:

OPTION 1

Development Standard	FUTURE LAND USE				
	Commercial Office/ Residential	Commercial General	Commercial Limited	Industrial	General Institutional
Min. lot area (sq. ft.)	10,000	10,000	10,000	15,000	10,000
Min. lot width (ft.)	80	80	80	100	80
Min. building setback (ft.)					
Front	25	25	25	25	25
Rear	10	10	10	10	10
Side	10	10	10	10	10

Max. height (ft.)	30	40	30	30	40
Min. open space (%)	40	20	30	20	40
Max. building coverage (%)	40	60	50	40	45

OPTION 2

Development Standard	FUTURE LAND USE				
	Commercial Office/ Residential	Commercial General	Commercial Limited	Industrial	General Institutional
Min. lot area (sq. ft.)	10,000	10,000	10,000	15,000	10,000
Min. lot width (ft.)	80	80	80	100	80
Min. building setback (ft.)					
Front	(a)	(a)	(a)	(a)	(a)
Rear	(b)	(b)	(b)	(b)	(b)
Side	(b)	(b)	(b)	(b)	(b)
Max. height (ft.)	30	40	30	30	40
Min. open space (%)	40	20	30	20	40
Max. building coverage (%)	40	60	50	40	45

a. The front of primary buildings may be constructed to the zero setback front property line. Should the building be set back greater than zero feet, this setback area shall be permanently established as a pedestrian environment on the approved final site plan.

b. To reduce potential incompatible relationships between adjacent land uses, landscaped bufferyards shall be required between differing land uses and along certain transportation corridors pursuant to section 4.663.

2. *[Limitations.]* Any LSTAR or TIB use proposed on property designated Institutional General on the Future Land Use Map of the Comprehensive Growth Management Plan shall be limited to public or not-for-profit facilities.

3. *[Accessory use limits.]* Accessory uses incidental to the LSTAR or TIB use shall be limited to the following:

   a. Uses shall be conducted primarily for the convenience of the employees of the principal use.

   b. Uses shall not occupy more than ten percent of the gross floor area of a building unless the building, the designated location and the uses are part of an approved final site plan for more than one building. Where there are more than one building, the amount of space for those uses shall not exceed ten percent of the combined floor area of all constructed buildings.

   c. Uses under this category may include, but are not limited to, business and professional offices, banks, recreation and fitness facilities, restaurants and day care centers.

4. *Outdoor storage.* Within 300 feet of any residential district, screening of outdoor storage and service areas shall be as follows:

   a. All outdoor storage or service areas shall be screened pursuant to the required landscape buffer.

   b. A wall or fence which is part of the required landscape buffer must be kept in good repair and sanitary conditions must be maintained within the storage area. The products or items stored must be compatible with allowable principal uses in the zoning district and shall not exceed the height of the wall or fence.

   c. Openings in fences and walls. There shall be not more than one opening in the fence or wall facing any street for each 300 feet of length. The opening shall not exceed 20 feet in width and shall be provided with a solid gate or door which must be kept closed except for passage of vehicles.

   d. All storage facilities except those for passenger vehicles shall be in completely enclosed buildings.

5. *Alternative compliance.* The decision-maker may approve an alternative compliance request that varies from the standards set forth in this section for properties with legally established uses existing prior to the effective date of this section, provided that the decision-maker finds that the alternative plan complies to the maximum extent practicable.

6. *[Expedited staff review; exemption from requirements.]* Development applications proposing an LSTAR or TIB use shall qualify for expedited staff review of a final site plan pursuant to article 10, Land Development Regulations and shall be exempt from the requirements for zoning changes set forth in section 3.2.E.1 and section 3.402 where such development would otherwise be consistent with the Comprehensive Growth Management Plan.

(Ord. No. 866, pt. 3, 6-22-2010)

Sec. 3.83.1. Multifamily dwellings.

Where a multifamily project is proposed adjacent to an existing single-family subdivision a transition zone shall be established between the two use types. The transition zone shall comply with the

requirements set forth in Section 4.5.A.2.b. and any other applicable policies of the Comprehensive Growth Management Plan.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.84. Neighborhood assisted residence with six or fewer residents.

Neighborhood assisted residences conducted within a building designed as a single-family detached residence and having an occupancy of six or fewer residents (excluding other residents or caregivers) shall be considered single-family dwelling units and shall be permitted in all districts which permit single-family dwellings, subject to the following:

3.84.A. The County has been properly notified of the issuance of a state license to operate such facility pursuant to F.S. § 419.001(2).

3.84.B. Such use shall not be located within 1,000 feet, measured lot line to lot line, of another neighborhood assisted residence.

3.84.C. The outward appearance of the home shall be that of a single-family residence.

3.84.D. Care services, such as, but not limited to, meals, nursing, or counseling services, shall not be provided to persons not residing in the neighborhood assisted residence.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.85. Neighborhood boat launch.

3.85.A. If located in either a residential or mixed nonresidential with residential community, then the launch shall be centrally located along a community's riparian lines.

3.85.B. The launch shall not be located on the dead end of a canal.

3.85.C. Launches lawfully established prior to the effective date of this ordinance shall be exempt from the above two provisions.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.86. Nonsecure residential drug and alcohol rehabilitation and treatment facilities.

3.86.A. The facility shall have a minimum lot size of 15,000 square feet.

3.86.B. Such facility shall at no time exceed 75 persons receiving inpatient treatment.

3.86.C. Such facility shall be constructed and operated in compliance with F.S. (1993) chapter 397, and chapter 10E-16, Florida Administrative Code, as may be amended. Martin County shall receive copies of all licenses for the facility.

3.86.D. Such facility shall not be located within one-half mile of another such facility.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.86.1. Pain management clinics.

3.86.1.A. *General requirements.*

1. Pain management clinics shall at all times, be in compliance with each and every provision of this section, as well as all applicable federal laws, state laws, administrative rules, and County regulations; and
2. Pain management clinics, as defined in section 3.3, article 3, Zoning Districts, Land Development Regulations (LDR), Martin County Code (MCC), shall be permitted only in the zoning districts so specified in section 3.11, LDR, MCC and must be operated by an approved pain specialist, or as a Florida Agency for Health Care Administration (ACHA) licensed operation, under F.S. ch. 400, pt. X, and as otherwise required by Florida law; and
3. In the event the owner or operator of a state licensed or designated pain management clinic has such license or designation revoked by the Florida Board of Medicine, the Florida Board of Osteopathic Medicine or by ACHA, any permission granted by the County to operate the pain management clinic shall simultaneously be revoked, and shall thereafter be null and void.
4. Copies of all required state licenses and permits must be provided to the County prior to the issuance of any occupation authorizations, licenses or permits or any renewal of occupation authorizations, licenses or permits by the County.

3.86.1.B. *Location.*

1. On or after January 1, 2011, any new pain management clinic shall only be located in the zoning districts where such uses are permitted pursuant to section 3.11, Permitted uses, article 3, LDR, MCC and shall be established pursuant to the requirements of this section, subject to the other requirements of this section.
2. Pain management clinics, regardless of location, which exist on December 31, 2010, shall be deemed a lawful use, and not subject to the requirements of this section.

3.86.1.C. *Distance requirements.*

1. Distances shall be measured by straight line measurement without regard to intervening buildings from the nearest point of the building or unit within a building in which the proposed clinic is to be located to the nearest point of the lot, use, right-of-way line or district from which the proposed clinic is to be separated.
2. No pain management clinic shall commence operation within 1,000 feet of any other pain management clinic.
3. No pain management clinic shall be co-located in the same office or building with a pharmacy.
4. No pain management clinic shall commence operation within 500 feet of a pharmacy.
5. Regardless of the other provisions of subsection 3.86.1.C., above, no pain management clinic shall commence operation within 5,000 feet from the nearest Interstate 1-95 or Florida Turnpike exit ramp or access ramp right-of-way line.

3.86.1.D. *Other regulations.*

1. It shall be unlawful for any pain management clinic to be open for operation between the hours of 6:00 p.m. and 7:00 a.m.
2. It shall be unlawful for a pain management clinic owner or operator to direct or encourage any patient or business invitee to stand, sit, or gather outside of the building in which the clinic operates, on the adjoining sidewalk or in the area(s) designated for parking, in such manner as to restrict or interfere with the lawful entry into or out of such clinic or other uses co-located within a building. This prohibition includes sitting in or on a vehicle. The clinic owner(s) and

operator(s) shall be responsible to actively monitor and apply this regulation. Clinics shall provide sufficient inside seating to insure and provide adequate seating for all patients or business invitees, and those who accompany such persons.

3. The number of parking spaces required for pain management clinics shall be the same as for those required of medical offices.

3.86.1.E. *Signage.*

1. Approved signage for a pain management clinic shall not include any word(s) or phrase(s) which offers or suggests goods, drugs, prescriptions or services in violation of any applicable state law or which otherwise violates state law, including without limitation, the provisions of F.S. §§ 456.037 (active license required), 456.057 (patient records requirements), 458.3265 (pain management clinic registration - MD), 458.327 (medical practice violations and penalties), 458.331 (medical disciplinary actions), 459.0137 (pain management clinic registration - DO), 459.013 (osteopathic practice violations and penalties), 459.015 (osteopath disciplinary actions), 465.0276 (dispensing practitioners) or 893.055 (drug monitoring program), as currently written or amended.

2. Signage for a pain management clinic shall not contain any word or phrase that uses the word "pain" or "detox", unless the clinic is operated by an approved pain specialist or as an AHCA licensed operation (F.S. ch. 400, pt. X). No off-premises signage, including billboards wherever located, shall be permitted for the advertisement of pain management clinics.

3. Signage for a pain management clinic must contain the correct name of the physician or physicians designated by the clinic pursuant to F.S. § 458.3265(1), as amended from time to time, and such signage shall be kept current at all times with the correct name of the practice, the correct name of the physician(s) designated, and other relevant information.

4. Nothing contained in this section shall be interpreted to restrict the use of the word "pain" in advertising by Florida licensed chiropractors, physical therapists, nurse practitioners, naturapaths, acupuncturists, massage therapists, dentists, oral surgeons, hospice care providers or similar treating or dispensing professionals not licensed under F.S. ch. 458 or 459.

3.86.1.F. *Landlord responsibilities.* Owners or landlords who lease space to a pain management clinic must expressly incorporate the provisions of this section 3.86.1. into their lease(s) with the clinic. Any such lease, whether oral or written, must provide that a violation of any federal or state law or County ordinance regulating or affecting pain management clinics shall be a material breach of the lease and shall constitute grounds for termination and eviction by the owner or landlord.

(Ord. No. 891, pt. 1, 2-22-2011)

Sec. 3.87. Places of worship.

3.87.A. When located in a residential district, places of worship shall be located on an arterial or collector street.

3.87.B. Places of worship lawfully established prior to the effective date of this ordinance which are not located on an arterial or collector street shall not be considered nonconforming with respect to subsection A., above, and may be enlarged vertically or horizontally, reconstructed or redeveloped provided that the lot is not enlarged.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.88. Plant nurseries and landscape services.

3.88.A. All storage, mixing and loading of chemicals used in the horticultural operation shall take place in an agrochemical handling facility designed and used in accordance with U.S. Department of Agriculture and Natural Resources Conservation Service conservation practice standards.

3.88.B. Within the AG and AR districts and the RE-2A district, retail sales shall be limited to those flowers, plants, shrubs and trees raised on-site and consultative services shall be prohibited.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.89. Protective and emergency services.

3.89.A. Vehicular access shall not be via a local street.

3.89.B. Helipads used as an accessory to a protective and emergency service use shall comply with the requirements of set forth in section 3.56.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.90. Public parks and recreation areas, active and passive.

Active recreation facilities (such as tennis courts and sports fields) shall provide a Type 4 landscaped buffer along the border of any RE, RS, RM, MH, residential PUD or Category "B" district.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.91. Recreational vehicle park.

3.91.A. Each recreational vehicle site shall be a minimum of 2,000 square feet.

3.91.B. At least one wastewater pump-out station shall be provided within the facility.

3.91.C. Such use shall provide recreational amenities such as, but not limited to, swimming pools, tennis, and all-purpose fields sized to serve the recreational vehicle population of the park.

3.91.D. The maximum density shall not exceed ten recreational vehicle sites per acre.

3.91.E. Recreational vehicles shall be limited to a short-term rental basis for tenancies of less than six consecutive months or a total of six months in any calendar year.

3.91.F. A recreational vehicle park shall be considered commercial development and shall be developed with a unified site plan. Individual sites within a park shall not be subdivided, platted and sold or sold as units in a condominium or co-operative for residential occupancy.

3.91.G. No recreational vehicle site within a recreational vehicle park shall receive a parcel control number or an address.

3.91.H. A manager or caretaker must be identified as the facility representative.

3.91.I. An accessory dwelling unit for a park manager or caretaker may receive a separate address from the park office. The accessory dwelling unit shall not be a recreational vehicle or a mobile home.

3.91.J. All recreational vehicles in recreational vehicle parks established after December 2014 must begin preparation to evacuate Martin County within 12 hours of a Hurricane Watch being issued. All vehicles and occupants must be evacuated at the time a Hurricane Warning is issued.

3.91.K. Recreational vehicle parks shall accommodate the emergency placement of recreational vehicles for a maximum period of one year from the date a disaster declaration is made on lands within Martin County. Compensation shall be provided by the agency placing recreational vehicles within the recreational vehicle park. The six-month maximum tenancies shall not apply to the installation of recreational vehicles by local, state or federal agencies for the temporary housing of displaced residents following a disaster declaration.

3.91.L. Park trailers shall not be a permitted use in recreational vehicle parks.

3.91.M. Mobile homes shall not be permitted uses in recreational vehicle parks.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 970, pt. 1, 4-7-2015)

Sec. 3.92. Recycling drop-off center.

3.92.A. Unmanned centers shall occupy no more than 250 square feet.

3.92.B. Such use shall employ no mechanical sorting or processing equipment other than reverse vending machines.

3.92.C. Such use shall be maintained free of litter, debris and residue.

3.92.D. Containers shall be durable and covered.

3.92.E. In residential districts, such use shall be enclosed, except for required openings for access, by building walls or a six-foot privacy fence or hedge.

3.92.F. Thrift store collection trailers shall be limited to the LC, GC, LI, and GI districts.

3.92.G. The name and phone number of the landowner and the party responsible for maintaining the facility shall be clearly posted on site.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.93. Residential care facility.

3.93.A. No building or structure shall be located closer than 50 feet to any side or rear lot line abutting an RM or COR district used for residential purposes, or closer than 75 feet to any RE, RS, MH, residential PUD or Category "B" district.

3.93.B. Residential care facilities shall establish a managed transportation system as follows:

1. As part of the application for final site plan approval, the developer shall provide an operations manual designed to demonstrate how residents of the facility will be provided with access to the services listed below. That portion of the project operations manual containing mandatory managed transportation provisions shall be made part of the conditions of approval for the final site plan. Access to these services shall be available on-site, through easily accessible public transportation, or by transportation provided by the operator of the residential care facility. Those off-site services marked by an asterisk (*) are deemed mandatory services, and transportation to such services must be provided as regular routes in the project operations manual. The timing and location of the services and facilities provided by common transportation shall be determined by management in a manner which addresses the reasonable needs of the residents. In making this determination, when multiple facilities and

services are available within the community, provision of transportation to facilities within seven miles of the project site shall be presumed to be reasonable.

a. Grocery store*

b. Bank*

c. Medical emergency service

d. Residential care or nursing home

e. Nonemergency hospital visits*

f. Doctor and dentist offices*

g. Pharmacy*

h. Retail shopping*

i. Barber/beauty shop

j. Post office*

k. Recreational/civic center

l. Churches*

m. Library*

n. Park*

o. Cinema/theater

p. Restaurant or snack shops

q. Adult education facility

2. The operations manual shall include an emergency evacuation plan for the facility and be approved by the Martin County Emergency Management Department.

3.93.C. When located in an RM or COR district, a residential care facility shall not be located within a radius of 600 feet from another existing residential care facility.

3.93.D. Residential care facilities shall have primary access to a major or minor arterial or a collector street, or access to a local street may be allowed under the following conditions:

1. Traffic volumes on the local street are at least 750 vehicles per day on a typical weekday before the traffic from the residential care facility is added; and

2. The local street is currently deemed an open road and has a direct connection to a minor or major arterial street; and

3. The local street currently provides or has the potential to provide access for two or more developments; and

4. The residential care facility has a driveway within 2,000 feet of the connecting arterial street; and

5. The P.M. peak hour traffic projected on the local street by the residential care facility is, as determined by the latest edition of the ITE Trip Generation Report, equal to or less than the P.M. peak hour traffic that is projected by the residential use of the property according to its underlying future land use, as determined by the latest edition of the ITE Trip Generation Report; and

6. An application for residential care facilities with primary access to a local street must be submitted and processed as a Planned Unit Development on a parcel of land a minimum of ten acres in size.

With the exception of access drives designed exclusively for emergency vehicle access, a residential care facility shall not take vehicular access via a local street unless the aforementioned conditions are met.

3.93.E. A residential care facility shall be located within five miles of a Martin County or municipal emergency services or fire station that is available to provide service to the facility.

3.93.F. Where a residential care facility is part of a larger development along with conventional residential uses, the architectural character of the residential care facility shall be consistent with the community character of the surrounding neighborhood.

3.93.G. The residential care facility shall provide a covered drop-off point at each major building entrance to provide for a van transportation.

3.93.H. The accessory nonresidential uses associated with the residential care facility may include a common dining room, central kitchen, nursing supervision station, medical examination room(s), a chapel, a library, recreation facilities or exercise rooms, multipurpose rooms, TV rooms, central laundry facilities for housekeeping services and other nonresidential uses.

3.93.I. On-site resident services may be provided for the exclusive use of residents. Such ancillary uses may include barber/beauty shops and other personal services, banking services, immediate need retail space and other similar services not to occupy more than ten percent of the total gross floor area.

3.93.J. The minimum living area for individual dwelling units within a residential care facility are as follows:

1. Efficiency: Three hundred and sixty square feet
2. One Bedroom: Four hundred seventy-five square feet
3. Two Bedrooms: Seven hundred twenty square feet.

3.93.K. Due to the unconventional arrangement of residential care facilities, the maximum residential densities established in each zoning district shall not apply; rather, the overall occupancy of such use, including any resident care providers, shall be limited to 2.28 persons times the number of dwelling units allowed in the zoning district in which the neighborhood assisted residence is proposed. For example, in the RM-8 district, where the maximum number of dwelling units allowed is 8 units per acre, the maximum occupancy of a neighborhood assisted residence on a one acre parcel shall be 18. The maximum occupancy approved for the development shall be stated in the development order and any increase in occupancy shall require development approval.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 920, pt. 1, 10-23-2012)

Sec. 3.94. Residential storage facility.

3.94.A. A residential storage facility shall not be used for any commercial or industrial warehousing, or as a basis for any manufacturing or retail sales or service activity.

3.94.B. Buildings located in a COR, LC or CC district shall be designed in appearance to blend harmoniously with residential structures.

3.94.C. Storage of explosives shall be prohibited.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.95. Restaurant, convenience.

3.95.A. Convenience restaurants with drive-through facilities shall be located on a major arterial street.

3.95.B. When adjacent to a RE, RS, RM, MH, residential PUD or Category "B" district, convenience restaurants with drive-through facilities shall provide a Type 4 landscaped buffer in accordance with the standards set forth in Article 4, Division 15.

3.95.C. Convenience restaurants without drive-in facilities shall be located on a minor or major arterial street.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.96. Reserved.

Sec. 3.97. Salvage yards.

3.97.A. *Automobile, junk and mechanical equipment salvage.*

1. The minimum lot size shall be ten acres.
2. Inoperative vehicles or any other junk or scrap shall not be located within 100 feet of any residential district, within 50 feet of the front lot line or within 30 feet of any side or rear lot line.
3. The storage of inoperative vehicles or any other junk or scrap or mechanical equipment shall not exceed a height of 12 feet.
4. Such use shall be visually screened with an opaque fence or wall of not less than eight feet in height, provided that, where inoperative vehicles, junk or scrap is piled more than eight feet high, the fence shall be of similar height, up to a maximum of 12 feet. All gates shall be at least six feet in height and shall be opaque.
5. Dismantling of vehicle parts containing fuel, oil, radiator, transmission or brake fluids shall take place only in an approved containment area.

3.97.B. *Recycling plants or recycling transfer stations.*

1. *Minimum lot size.* Unless the activity is conducted primarily within an enclosed building, the minimum lot size for a recycling plant or recycling transfer station shall be five acres.
2. *Setbacks.* Except for freestanding administrative buildings, no part of a recycling plant or transfer station, including accessory ramps, onsite circulation system or storage areas, shall be located within 50 feet of any property line. However, if the facility is in an industrial zone and is contiguous to land zoned industrial or designated as industrial by the comprehensive plan, the standard setback shall apply. No part of a recycling plant, its accessory ramps, onsite circulation system or storage areas shall be located within 100 feet of a school, park, church, library or residential lot. No additional setback beyond zoning district setbacks shall apply to recycling plants that operate completely in enclosed buildings.
3. *Screening and fencing.* All storage areas shall be effectively screened from view by walls, fences or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from streets or adjacent lots. In no case shall the height of recyclable or recovered materials, or nonrecyclable residue stored in outdoor areas exceed 12 feet. Said piles shall be managed in a way which prevents stored materials from being disturbed by the elements and becoming airborne.

4. *Access.* Access shall not be provided via a local residential street. Access shall be restricted to approved drives with gates which can be locked and which carry official notice that only authorized persons are allowed on the site.

5. *Storage areas.* All outdoor storage of recyclable materials shall be in leak-proof containers or located on a paved area that is designed to capture all potential run-off associated with the stored material and which meets the setbacks for the district. Run-off shall be handled in a manner that is in conformance with state and federal regulations.

6. *[Approved containment areas.]* Any process involving the removal of hazardous materials such as, but not limited to, petroleum products, acids, or anti-freeze, shall be conducted only in an approved containment area.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.98. Single-family detached dwellings in mobile home zoning districts.

3.98.A. Within the RT, MH-S and TP zoning districts, in addition to all other requirements of such districts, single-family detached dwellings (site-built dwellings) shall:

1. Be allowed to replace units where the property owner has established, in the manner prescribed by law, a homestead exemption under Article VII, Section (6) (a), Florida Constitution. Verification of the homestead exemption must be included with the building permit application. Removal of the mobile home unit must occur prior to approval of the certificate of occupancy for the site-built unit.

2. Only be allowed on lots subdivided for single-family use prior to January 1, 2007. For purposes of this section (3.98), lots situated for single-family use prior to January 1, 2007, which are organized as a condominium, pursuant to F.S. ch. 718, or as a cooperative, pursuant to F.S. ch. 719, shall be considered "subdivided for single-family use."

3. Be limited to one-story in height, except where a building permit for a two-story dwelling was issued prior to May 22, 2007. Roof pitch shall not exceed five inches of vertical rise for every 12 inches horizontal run and the roof shall not overhang more than 16 inches from the vertical wall surface.

4. Be limited to 1,200 square feet in gross floor area, including attached accessory structures, when located on a TP zoning district. If the square footage of the existing mobile home, including attached accessory structures, exceeds this limitation the site-built unit, including attached accessory structures, may be less than or equal to the square footage of the existing mobile home, including attached accessory structures, provided all other zoning district requirements are met.

3.98.B. Within the RT and MH-S zoning districts, in addition to all other requirements of such districts, single-family detached dwellings (site-built dwellings) shall:

1. Be limited to 1200 square feet in gross floor area, including attached accessory structures, when located on a lot of 5,500 square feet or smaller.

2. Be limited to 1,500 square feet in gross floor area, including attached accessory structures, when located on a lot of less than 7,500 square feet.

3. Be limited to 2,500 square feet, including attached accessory structures, when located on a lot of 7,500 square feet or larger.

However, Section 3.98.B. shall not apply to those lots within St. Lucie Falls, as described in Plat Book 12P, Page 48 and lying east of Pennsylvania Avenue. If the square footage of the existing mobile home, including attached accessory structures, exceeds the limitations in Section 3.98.B., the site-built unit,

including attached accessory structures, may be less than or equal to the square footage of the existing mobile home, including attached accessory structures, provided all other zoning district requirements are met.

(Ord. No. 809, pt. 1, 9-9-2008)

Sec. 3.99. Shooting range, indoor.

3.99.A. All firing shall take place within a completely enclosed building.

3.99.B. No shooting range shall be located within 50 feet of a residential district.

3.99.C. Applications for the development of an indoor shooting range shall include a plan by a Florida registered engineer demonstrating that the building is soundproof and appropriately designed for such use.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 809, pt. 1, 9-9-2008)

Sec. 3.99.1. Shooting range, outdoor.

3.99.1.A. The discharge of firearms shall be conducted only within areas specifically designated for such use on an approved site plan.

3.99.1.B. Firing positions shall be separated a minimum of 2,500 feet from the boundary of the subject property with any adjacent parcel in separate ownership. However, for an outdoor shooting range designed and used specifically and solely for shooting clay targets with a shotgun the following shall apply: Firing positions shall be separated a minimum of 900 feet from the boundary of the subject property with any adjacent parcel in separate ownership and in addition, firing positions shall be separated a minimum of 2,500 feet from any permitted residence existing at the time of site plan approval for the proposed shooting range.

3.99.1.C. An impenetrable berm or barrier, 20 feet or more in height, shall be constructed along the three sides lying in the direction of fire of any authorized firearm discharge area. An outdoor shooting range designed specifically and solely for shooting clay targets with a shotgun is exempt from Section 3.99.1.C.

3.99.1.D. The perimeter of the shooting range activity, including the firearm discharge area and surrounding berms, shall be enclosed by a fence or wall, a minimum of six feet in height. Warning signs of at least one square foot each shall be attached to the perimeter fence at the rate of at least one for every 100 lineal feet plus one at each entry gate.

3.99.1.E. The applicant shall submit a hazardous waste management plan, prepared by an independent environmental consultant, to assure the protection of groundwater from lead and other contaminants associated with the discharge of firearms.

3.99.1.F. The applicant shall demonstrate compliance with all applicable state regulations and how safety and noise factors have been addressed through the site plan and other special features of the proposed development.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 810, pt. 1(3.99), 9-16-2008)

Editor's note— Ord. No. 809, adopted Sept. 9, 2008, renumbered § 3.98 as § 3.99 to allow for inclusion of a new § 3.98. Inasmuch as there already exists a § 3.99, to avoid duplication of numbers, said section has also been renumbered to read as herein set out.

Sec. 3.100. Solid waste disposal facilities.

3.100.A. Solid waste disposal facilities shall comply with the requirements of F.S. § 403.061 and section 151.171, General Ordinances, Martin County Code.

3.100.B. If the solid waste disposal facility also acts as a recycling plant or transfer station, such activities shall comply with the standards set forth for such use in this division as provided under the general heading of "salvage yards".

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.101. Stable, commercial.

3.101.A. Commercial stables shall have a minimum lot size of five acres.

3.101.B. Any building or structure designed or intended to provide temporary or permanent shelter for horses shall be set back a minimum of 50 feet from any property line.

3.101.C. When a separate, freestanding administrative office building is constructed in conjunction with a stable, the administrative office site shall provide paved parking.

3.101.D. Animal wastes shall be managed in such a manner as to prevent odors from being carried beyond the property boundaries.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.102. Townhouses.

Townhouses shall have a maximum grouping of eight dwelling units and a minimum separation of 15 feet between buildings.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.103. Trades and skilled services.

3.103.A. When located within a GC, WRC or WGC district, outside storage of equipment or materials shall be limited to an area no larger than 20 percent of the gross floor area of the principal building and shall be screened from view of adjacent lots and streets by an opaque fence of at least six feet in height.

3.103.B. When located within a WRC or WGC district, such use shall be water dependent or water related.

3.103.C. When located within an LC district, outdoor storage of equipment or materials shall not be permitted.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.103.1. Truck stop/travel center.

3.103.1.A. As an extensive impact, truck stops must be located in a Category "A" zoning district implementing the Industrial future land use designation. The following standards shall be minimum requirements for all zoning districts permitting truck stops.

3.103.1.B. Access management plan.

1. Roadways classified as major arterial roadways shall, at a minimum, link a truck stop with parkways and limited access highways.
2. Truck stop driveways shall directly access a major arterial roadway. Access may not be provided through private driveways or private roads within commercial or industrial subdivisions.
3. Both passenger vehicles and trucks must directly access a major arterial roadway.
4. Ingress and egress for passenger vehicles shall be separate from truck ingress and egress.
5. All road construction for truck ingress and egress shall include turning lanes and turning radiuses in the right-of-way sized to accommodate the special requirements of tractor-trailers.

3.103.1.C. The master/final site plan shall be a unified development plan for all accessory uses that may include but not be limited to: fuel sales, restaurants, retail sales, parking, truck scales, truck wash areas, hotels, laundry room, fitness room, drivers lounge, recreational vehicle dump station, heavy equipment and motor vehicle repair and service.

1. Parking for truck stops with 50 or fewer tractor-trailer parking spaces, and all accessory uses, shall be located on not less than ten developable acres.
2. Parking for truck stops with 51 to 75 tractor-trailer parking spaces, and all accessory uses, shall be located on not less than 20 developable acres.
3. Parking for truck stops with 76 to 100 tractor-trailer parking spaces, and all accessory uses, shall be located on not less than 30 developable acres.
4. Parking for truck stops with more than 100 tractor-trailer parking spaces, and all accessory uses, shall be located on not less than 50 developable acres.

3.103.1.D. Truck tractor engines and refrigeration trailer engines shall not be allowed to idle for more than five minutes, unless being serviced. Truck engines and refrigeration trailer engines must be turned off when parked. Each parking space provided for tractor-trailer parking shall include electrical power, heating, ventilation and air conditioning while the tractor-trailer is parked.

1. Following development approval, the property owner shall be responsible for ensuring the electrical power, heating, ventilation and air conditioning equipment is maintained in good working order and shall require parked trucks to use the equipment.
2. Refrigeration units installed on trailers shall be prohibited from operating while the trailer is parked. Electrical power shall be provided at the truck stop parking space to power each refrigerated trailer.
3. Excluding repairs, all recreational vehicle, passenger vehicle and tractor-trailer parking shall be limited to 48 consecutive hours. There shall be no over-flow parking outside the approved site plan or parking in the right-of-way.

3.103.1.E. A storm water pollution prevention plan (SWPP) shall be a requirement and shall include the following:

1. Description of potential pollutant sources, such as vehicle storage areas, and identification of the containment methods in the construction drawings.

2. The plan must describe measures that prevent or minimize contamination of the storm water runoff from fueling areas.

3. If product storage, as defined in F.S. § 3.77.19(1) exceeds 50,000 gallons the product shall be stored in double wall, above ground tanks pursuant to Chapter 62-762, Florida Administrative Code.

4. A concrete vault shall surround the above ground storage tanks to provide a third method of containment. At a minimum roof structures shall cover the tanks and concrete vaults to prevent the collection of rainwater in the concrete vault.

5. Storage of all materials used in the service and repair of vehicles (e.g., used oil, used oil filters, spent solvent, paint wastes, radiator fluids, transmission fluids, hydraulic fluids) must be maintained indoors in good condition, so as to prevent contamination of storm water.

6. New and used tires shall be stored indoors to prevent the collection or rainwater in the tires and the breeding of mosquitoes.

7. Service and repair shall be conducted indoors. Drip pans and dry cleanup methods shall be used. Hosing down the shop floor shall be prohibited and physical barriers such as curbs shall be used where ever possible to prevent discharge of pollutants to the storm water management system.

8. Vehicle wash facilities and tanker cleaning facilities shall be constructed to catch and recycle the wash water and prevent commingling of wash water with storm water runoff. Disposal of vehicle wash water shall be detailed in the storm water pollution prevention plan. Vehicle wash water shall not be discharged to a sanitary sewer system operated by Martin County. A National Pollutant Discharge Elimination System permit shall be required for vehicle wash facilities.

9. Following approval of a final site plan and certificate of occupancy for all structures the SWPP requirements listed above shall be enforceable under Chapter 67, Environmental Control, Martin County Code of Laws and Ordinances.

3.103.1.F. A truck stop shall be constructed with back-up generator power for dispensing fuel following a disruption of normal electrical power.

3.103.1.G. The fuel dispensing areas, parking, cueing and service areas shall include containment for any spillage of fuel or other substances that may contaminate ground water. Truck stops shall not be located in a wellfield protection zone.

3.103.1.H. All hydraulic hoists, repair, and service not of an emergency nature, shall be conducted entirely within a building.

3.103.1.I. All structures and truck parking areas shall be setback a minimum of 50 feet from all property lines.

3.103.1.J. Truck stops shall comply with the requirements of Chapter 67, Article 10. Noise, Martin County Code of Laws and Ordinances (Code). To ensure protection for residential development, truck stops with:

1. Parking for 50 or fewer trucks shall have a minimum 1,600-foot setback between the truck stop property boundary and land with a residential land use designation on the future land use map.

2. Parking for 51 to 75 trucks shall have a minimum 3,200-foot setback between the truck stop property boundary and land with a residential land use designation on the future land use map.

3. Parking for 76 to 100 trucks shall have a minimum 6,400-foot setback between the truck stop property boundary and land with a residential land use designation on the future land use map.

4. Parking for more than 100 trucks shall have a minimum 12,800-foot setback between the truck stop property boundary and land with a residential future land use designation on the future land

use map. The applicant shall also conduct a noise analysis by a licensed professional engineer to certify the noise levels will comply with Chapter 67, Article 10, Noise, Code.

3.103.1.K. Surrounding the perimeter of the entire site, a Type 5 landscape buffer shall be required in accordance with the standards set forth in Article 4, Division 15, Landscape, Buffering and Tree Protection.

3.103.1.L. For purposes of determining the landscaping requirements of Article 4, Division 15, all outdoor areas designed or used for storing vehicles shall be considered off-street parking.

3.103.1.M. A truck stop shall evacuate all trucks at the time a Hurricane Warning is issued. A truck stop shall be available for staging of emergency equipment following a disaster declaration. Compensation shall be provided by the agency using a truck stop following a disaster.

3.103.1.N. A truck stop shall include a dump station for sanitary disposal of waste from recreational vehicles and the dump station shall be adaptable to serve during the staging of emergency equipment following a disaster declaration. A truck stop must receive potable water and sanitary sewer service from a regional utility.

3.103.1.O. Truck stop design and construction shall have water, sewer, and electrical power infrastructure sized to accommodate the use of a truck stop as an emergency staging area. The power supply at truck stop parking spaces shall be adaptable to serve recreational vehicles during the staging of emergency equipment.

(Ord. No. 970, pt. 1, 4-7-2015)

Sec. 3.104. Utilities.

3.104.A. *Definitions.* In addition to any other definitions in this Article that may apply, for the purposes of this section (3.104), the following words, terms, and phrases shall have the meanings as set forth below:

1. *Distribution line:* An electrical facility used for the transport of electric power from neighborhood substations to the customer. Distribution lines operate at voltages below 69 kV.
2. *Electric utility substation:* An electrical facility used for the transformation of electric power from one voltage to another so that it can be transported via transmission or distribution lines.
3. *Terminating structures:* Also known as "pull-off structures," terminating structures are structures similar to utility poles, located within an electric utility substation, whose purpose it is to: 1) support the conductor (the wire that carries the electric current) where it makes the connection from the transmission line to the substation equipment and 2) protect the electrical facilities within the substation from damage due to lightning strikes. The height of the terminating structures is determined in accordance with minimum conductor clearance requirements of the National Electrical Safety Code.
4. *Transmission line:* An electrical facility used for the transport of electrical power in bulk quantities from a generating plant to a substation or from substation to substation. Transmission lines operate at voltages of 69 kV and above.

3.104.B. *Setbacks.* Electric utility substations, excluding any associated distribution or transmission lines, shall be set back at least:

1. One hundred feet from any lot line where the adjoining lot is zoned for residential use.
2. Fifty feet from any lot line where the adjoining lot is zoned for any nonresidential use other than another public utility use.
3. Five hundred feet any PC zoning district or any designated public conservation area.

3.104.C. *Bufferyards.*

1. In addition to any other bufferyard requirements set forth in Article 4, electrical utility substations shall provide a bufferyard along any street. The bufferyard type shall be determined based on the use or zoning of the property on the opposite side of the right-of-way as if there were no intervening right-of-way.
2. Exception for landscaping in transmission line and distribution line access corridors. An exception to the bufferyard requirements shall be allowed underneath the transmission lines where the lines cross the buffer so that the vegetation does not exceed 14 feet at maturity. An exception to the bufferyard requirements shall be allowed underneath the distribution lines where they cross the buffer so that the vegetation does not exceed ten feet at maturity. The buffer landscaping exception area shall be the area lying underneath the transmission and distribution lines plus ten feet beyond each of the outside conductors. In addition, the applicant shall be allowed to cut timber that could interfere with safe, reliable operation of the transmission or distribution line.

3.104.D. *Exceptions.* It is intended that the standards and criteria of this section (3.104) be strictly followed. The Martin County Board of County Commissioners, by an affirmative vote of four of its members, may grant exceptions to strict application of the standards of this section (3.104) only after holding a public hearing, noticed in accordance with the requirements set forth in section 10.6 of Article 10, provided that:

1. All reasonable efforts have been made to secure a site which would meet the strict requirements of this section (3.104); and
2. There is no reasonable alternative to the proposed location of the substation; and
3. Only the minimum exception necessary to allow use of the site as a substation is being sought; and
4. The full intent of this section (3.104) to ensure compatibility with surrounding uses and to provide appropriate buffers will be met.
5. The board may require increased buffers, landscaping or other appropriate mitigation of impacts to adjacent properties in conjunction with its decision to grant an exception.

3.104.E. *Height of structures.* Terminating structures and utility poles located on the substation site shall be no higher than necessary to accommodate prudent engineering design and meet safety standards or clearance requirements of the National Electrical Safety Code, Florida Power and Light Company, and federal, state or local government agencies.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.105. Vehicle sales and service.

No storage or display of merchandise or vehicles shall be permitted outside of approved storage or parking areas as designated for such use on the approved site plan.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.106. Vehicular service and maintenance.

3.106.A. No building or structure, including, but not limited to, fuel dispensers, aboveground tanks, vent pipes, or pump island canopies, shall be located within 50 feet of any residential district.

3.106.B. Where a retail sales establishment, such as a neighborhood convenience store, is located on the same lot as a vehicular service and maintenance use, the building housing the retail establishment shall be a minimum distance of ten feet from the fuel pumps and service areas.

3.106.C. Fuel storage systems shall be installed and maintained in accordance with F.S. § 403.061.

3.106.D. Where such use abuts an RE, RS, RM, MH, residential PUD or Category "B" district or is separated only by a local street, a Type 4 landscape buffer shall be required in accordance with the standards set forth in Article 4, Division 15, Landscape, Buffering and Tree Protection.

3.106.E. When located in a GC district:

1. A minimum lot area of 10,000 square feet with a minimum lot width of 100 feet on a minor or major arterial street shall be required.
2. For purposes of determining the landscaping requirements of Article 4, Division 15, all outdoor areas designed or used for storing vehicles shall be interpreted as off-street parking.
3. The internal circulation system and parking areas shall provide for safe and efficient on-site maneuvering of all vehicles using the site.
4. All hydraulic hoists, pits, lubrication, washing, repair, and service not of an emergency nature or short term diagnostic or minor repair work shall be conducted entirely within a building. All merchandise and material for sale shall be displayed within an enclosed building except that oil for use in motor vehicles may be displayed on an appropriate rack or compartment.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.107. Veterinary medical services.

3.107.A. Within COR, LC, CC and GC districts:

1. Shall be within a completely enclosed building which shall be soundproofed and constructed and utilized so that emission of odor or noise shall not detrimentally impact property in the immediate vicinity.
2. There shall be no storage or boarding of animals outside of the fully enclosed and soundproofed building.
3. Pens and other structures for the confinement of animals shall be designed and maintained for secure, humane confinement.

3.107.B. Within the AG, AR, and RE-2A districts:

1. Pens and other structures for the confinement of animals shall be designed and maintained for secure, humane confinement.
2. Structures for the confinement of animals shall be located not less than 100 feet from any property line, unless such structure is completely enclosed and soundproofed.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.108. Wholesale trades and services.

3.108.A. Within the GC district any outside storage shall be screened from view of adjacent streets and lots by an opaque fence or wall at least six feet in height.

3.108.B. When located in the WGC district, such use shall be water dependent or water related.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.108.1. Wildlife rehabilitation facilities.

3.108.1.A. This use shall be conducted in accordance with all applicable state and federal requirements.

3.108.1.B. All animals shall be secured in enclosures that promote the animal's health and well being and which provide protection to the general public. No animals shall be allowed to roam free on-site.

3.108.1.C. No animal enclosure shall be located within 500 feet of any residential building, excluding such residential buildings as may be located on the same lot as the wildlife rehabilitation facility and excluding situations in which the owner of the residential lot provides a written statement agreeing to a lesser setback distance. However, the aforementioned setback shall only apply to residential buildings lawfully established prior to the date that the final site plan application for a particular wildlife rehabilitation facility is deemed sufficient for review pursuant to Article 10, Development Review Procedures. For example, after a particular wildlife rehabilitation facility has been approved, the location of a new residential building closer than 500 feet to the wildlife rehabilitation facility shall not be considered a violation of the 500-foot setback provision.

3.108.1.D. Animal wastes shall be managed in such a manner as to prevent odors from being carried beyond the property boundaries.

3.108.1.E. All goods and services provided by the wildlife rehabilitation facility, including veterinary services, educational services and promotional events, shall be primarily related to the care and protection of such wildlife as is typically within the care of the particular facility.

(Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.109. Wireless telecommunication facilities.

Wireless telecommunication facilities, which includes towers, antennas, structure-mounted facilities, pole-mounted facilities, and any associated accessory structures shall be permitted pursuant to the provisions of Article 4, Division 18, Wireless Telecommunication Facilities, of the Land Development Regulations.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.109.1. Yard trash processing.

3.109.1.A. *Development review.* Notwithstanding anything to the contrary in Article 10 of the Land Development Regulations, yard trash processing shall be considered a major development.

3.109.1.B. *Site access.*

1. When located on lands designated Agricultural on the Future Land Use Map, vehicular access shall be directly from an arterial street.
2. The access route for traffic accessing the site shall be as approved by the County Engineer as part of the development order.

3.109.1.C. *Stormwater management.*

1. A stormwater management plan consistent with the Land Development Regulations and General Ordinances shall be required for any site plan approval.

2. For operations involving composting, prior to site plan approval, the applicant shall be required to demonstrate that the use will have no negative impact on wetlands or other waterbodies.

3.109.1.D. *Minimum lot size.* Within any AG district, the minimum lot size shall be 60 gross acres.

3.109.1.E. *Setbacks.*

1. Yard trash material piles (including mulch and compost piles) and any associated mechanical processing equipment shall be set back at least 300 feet from any property line.

2. Yard trash material piles (including mulch and compost piles) and any associated mechanical processing equipment shall be set back at least 1,000 feet from any residential dwelling and 500 feet from any commercial building, specifically excepting such buildings as may be located on the same lot as the yard trash processing facility.

3. The setback requirements set forth in paragraph 2., above, shall only apply to such residential and commercial buildings as are lawfully established on the date that the final site plan application for a particular yard trash processing facility is deemed sufficient for review pursuant to Article 10, Development Review Procedures. For example, after a particular yard trash processing facility has been approved, the location of a new commercial building closer than 500 feet to the yard trash material piles shall not be considered a violation of the provisions of paragraph 2., above.

3.109.1.F. *Material height.* The maximum pile height of yard trash materials shall be 15 feet, including both processed and unprocessed materials.

3.109.1.G. *Buffers.* Notwithstanding anything to the contrary in Article 4, Division 15, of the Land Development Regulations, yard trash processing facilities abutting developed lots shall provide bufferyards as follows:

Within the AG-20A district: Type 1 bufferyard.

Within the HI district: Type 2 bufferyard.

Such bufferyards shall only be required along sides abutting lots that are developed at the time of application for site plan approval for a new yard trash processing facility. For purposes of this section (3.109.1), an abutting lot shall be considered developed if buildings are located on the lot, or where the lot is vacant but is part of an approved site plan. For purposes of this section (3.109.1), a lot used for agricultural purposes and having only nonhabitable structures, such as pole barns or greenhouses, shall not be considered developed.

3.109.1.H. *Internal traffic circulation.*

1. Stacking areas for incoming trucks shall be provided as follows:

   a. Fifty feet between the front of the closed entrance gate and the nearest public right-of-way.

   b. One hundred fifty feet between the front gate and any weigh station (if provided).

2. Any driveway providing vehicular access for trucks and heavy equipment entering or leaving the site shall be paved from the property line to the point at which it crosses the 300-foot setback line as described in subsection 3.109.1.E.1.

3.109.1.I. *Security.*

1. All vehicular entrances shall be gated and capable of being locked during hours when the site is not in operation. Fencing of the entire site is strongly encouraged.

2. Pick-up or delivery of materials shall be prohibited outside of the permitted operating hours.

3.109.1.J. *Operating hours.* When any portion of the yard trash processing operation is located within 1,000 feet of an any land designated Agricultural Ranchette, Rural Density, Estate Density, Low

Density, Medium Density, High Density or Mobile Home Density on the Future Land Use Map, the hours of operation shall be limited to Monday through Friday, 8:00 a.m. to 6:00 p.m., and Saturday, 8:00 a.m. to 2:00 p.m. Chipping and grinding shall not be conducted on Saturday or Sunday.

(Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.110. Zero lot line dwellings.

Notwithstanding any provisions to the contrary in section 3.12, zero lot line dwellings shall not be required to have a side setback between other zero lot line dwellings in the same development but shall have:

3.110.A. A minimum overall project site area of two acres.

3.110.B. A minimum lot size of 5,000 square feet and a minimum lot width of 40 feet.

3.110.C. A minimum structure setback of 15 feet in the front, ten feet in the rear, and 15 feet for any side yard adjacent to a street.

3.110.D. A minimum spacing of ten feet between buildings on adjacent lots within the zero lot line development.

3.110.E. A maximum building height of 30 feet.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Secs. 3.111—3.200. Reserved.

DIVISION 4. MISCELLANEOUS DEVELOPMENT STANDARDS

Sec. 3.201. Accessory uses and structures.

3.201.A. *Authorization.* Accessory uses and structures are permitted in any zoning district when such uses or structures:

1. Are ancillary, in connection with, and incidental to, the principal use or structure allowed within the district in question;
2. Contribute to the comfort, convenience or necessity of occupants within the principal use or structure served; and
3. Are located on the same lot, or on a contiguous lot that is either under the same ownership as the lot on which the principal use occurs or is under the ownership of a homeowner's association, and are in the same zoning district as the principal use or structure.

3.201.B. *Standards applicable to all accessory uses and structures.*

1. With the exception of fences, walls and boat docks on lots zoned for single family use, accessory uses and structures shall not be established on a lot prior to the issuance of all permits required for the development of the principal use to which it is accessory.
2. All accessory uses and structures shall comply with the standards of this article that are applicable to the principal use unless specifically exempted.

3.201.C. *Accessory uses by zoning district.* The following uses and structures shall only be permitted in the zoning district(s) as herein enumerated:

1. *In all zoning districts:*
   a. One utility storage structure, incidental to a permitted use, provided no such structure shall exceed 250 square feet in floor area.
   b. Television, radio, etc., receiving dishes provided that such structures comply with the applicable district regulations for setbacks from adjacent properties.
   c. Private garages.
   d. Docks incidental to a permitted use, provided no boat shelter associated with a docking facility is greater than 500 square feet in area and no greater than 20 feet in height above the adjacent pier or platform and not less than 50 percent of the shoreline shall be unobstructed open space.
2. *In all AG, AR, RE, RS, RM, MH districts, all Category "B" districts and the HR-2, HR-2A, R-2A, R-3, R-3B, R-4, and R-5 districts:*
   a. Antenna structures for television and radio, but not microwave relay or transmission structures provided that such structures shall not exceed 60 feet in height.
   b. Children's playhouse not to exceed 100 square feet of gross floor area.
   c. Disaster shelters.
   d. Gazebos and similar structures.
   e. Private swimming pools and cabanas, tennis, basketball or volleyball court and other similar private outdoor recreational uses.
   f. Boat and vehicle storage areas subject to the following limitations:

(1) Such areas must be a part of an approved residential project or subdivision,

(2) Such areas must be created for the exclusive use of the residents in the affected project or subdivision,

(3) Such areas shall not exceed five percent of the overall affected project or subdivision,

g. Doghouses, pens and other similar structures for the keeping of commonly accepted household pets.

h. Storage or parking of recreational vehicles, including, but not limited to, boat trailers, camping trailers, travel trailers, motorized dwellings, tent trailers, and horse vans, provided that such equipment shall not be used for living, sleeping, or other occupancy when parked and provided that such equipment over 25 feet in length shall not be parked or stored within any side or rear setback area.

i. Storage or parking of one commercial vehicle or commercial trailer, not to exceed one-ton cargo capacity, is allowed, provided:

(1) That such vehicle or trailer is owned or operated by the resident of the property; and

(2) That such vehicle or trailer is garaged or otherwise screened from view of adjoining properties and any adjoining street.

(3) The restrictions in subparagraph (2) shall not apply to public service agency vehicles such as law enforcement and those providing emergency response services.

j. Noncommercial greenhouses.

k. Home occupation, provided such use shall comply with the following:

(1) With the exception of outdoor instructional services, the home occupation shall be conducted entirely within a dwelling unit. Instructional services which, by their nature, must be conducted outside of the principal structure, such as swimming or riding lessons, shall not be conducted within a front setback area.

(2) With the exception of outdoor instructional services, the home occupation shall not occupy more than 20 percent of the first floor area of the residence, exclusive of the area of any open porch or attached garage or similar space not suited or intended for occupancy as living quarters. Outdoor instructional services shall be limited to the area reasonably necessary to conduct the services.

(3) The home occupation shall not involve retail sales or services that require patrons to visit the residence.

(4) The home occupation shall involve no more than one employee on site at any one time, not including members of the family residing in the dwelling unit who may be engaged in the home occupation.

(5) The home occupation shall not change the outdoor appearance of the building or premises. On lots of 2.5 acres or less, the area for outdoor instructional services (such as the swimming pool and surrounding deck area for swimming lessons) shall be screened from view from adjoining property lines with fencing or vegetation.

(6) The home occupation shall have no more than one nonilluminated sign with a maximum area of one square foot. The permitted sign shall be mounted flat against the wall of the principal building at a position not more than two feet distant from the main entrance to the residence.

(7) The home occupation shall generate no more traffic than would be expected from a single-family dwelling in a residential neighborhood.

(8) The home occupation shall not employ mechanical or electrical equipment other than machinery or equipment customarily found in a residence.

(9) In the case of individual instruction of students, such as art, music, swimming, or dance classes, the home occupation shall be limited to four students at any one time for instructional services within the dwelling unit and one student at any one time for outdoor instructional services. Outdoor instruction shall occur only between the hours of 8:00 a.m. and 8:00 p.m.

(10) The home occupation shall not employ any equipment or process which creates noise, vibration, glare, fumes, odors or electrical interference detectable off the premises. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers located off the premises.

l. Guest houses, provided that:

(1) The following shall apply to Category "A" districts:

(a) The gross floor area of a guest house shall not exceed 50 percent of the gross floor area of the principal dwelling unit.

(b) A guest house cannot be rented.

(c) Guest houses shall only be allowed on lots in conjunction with a single-family dwelling.

(2) The following shall apply to Category "B" districts:

(a) Guest houses shall only be allowed in the following Category "B" districts: HR-1, R-1, R-1A, R-1C, R-2, R-2A, R-2B, HR-2, E, E-1 and WE-1.

(b) When not attached to the principal dwelling, no more than one guest house shall be allowed on a single lot.

(c) The total gross floor area of all guest houses on a lot shall be no more than 50 percent of the gross floor area of the principal dwelling.

3. *In the AG and AR districts and in the A-1A, A-1, and A-2 districts:*

a. The storage or parking of one owner-operator commercial vehicle or tractor-trailer exceeding one-ton rated capacity, provided that:

(1) The commercial vehicle or tractor-trailer is owned by the owner of the lot and is used for farm related purposes.

(2) The commercial vehicle or tractor-trailer is not used for the operation of a trucking business.

(3) The commercial vehicle or tractor-trailer is stored or parked in compliance with the setback requirements of the applicable district.

4. *In all AG, AR, and RE-2A districts and in the A-1A, A-1 and A-2 districts:*

a. Barns and other similar structures.

b. Roadside stands subject to the following limitations:

(1) Shall not exceed 200 square feet in gross floor area.

(2) Shall be for the express purpose of selling agricultural products grown only on the same property.

(3) Shall be located not less than 30 feet from any street or adjacent property line.

(4) Shall be located so as to provide for adequate off-street parking and safe ingress and egress to adjacent street.

(5) Shall be allowed one wall-mounted sign

c. Private stables, provided that any building or structure designed or intended to provide temporary or permanent shelter for horses shall be setback a minimum of 50 feet from any property line.

d. Storage of agricultural equipment supplies and produce associated with a permitted agricultural use.

5. *In the RE-2A district:*

a. Raising of barnyard animals such as, but not limited to, pigs, goats, sheep, cows, and poultry, provided that such animals are not raised for commercial purposes.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.202. Docks and pilings.

No docks or pilings shall be erected, constructed, installed or maintained with broken glass, spikes, nails, barbed wire, electrical elements, or other hazardous material intended to impede or otherwise inflict injury to wildlife or humans.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.202.1. Duplexes.

Any duplex structure otherwise conforming to regulations in existence at the time of construction shall not be thereafter considered nonconforming solely because one of the dwelling units, together with its underlying land has been conveyed to a separate owner. Additions or improvements that are otherwise permitted to a residential dwelling shall not be subject to side setback restrictions from the common wall lot line. Maintenance and repair of any shared facilities, such as common walls, septic tanks, wells, etc., shall be the joint responsibility of both unit owners unless an agreement between the owners provides otherwise. In the event a duplex structure that has been conveyed in accordance with this section is destroyed such structure may be rebuilt only in its original location and configuration.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.203. Emergency shelters for residential development.

3.203.A. No residential dwelling unit, including mobile homes, shall be created within an area designated as a Category V (5) Surge Zone as depicted in Figure 8.5, Hurricane Vulnerability Zone, of the CGMP unless emergency shelter space is provided as set forth in this section.

3.203.B. To satisfy the requirements of this section, the proposed emergency shelter space shall at a minimum:

1. Not be located within a Hurricane Category V (5) surge zone as depicted in Figure 8.5, Hurricane Vulnerability Zone, of the CGMP.

2. Provide shelter space sufficient to accommodate 25 percent of the number of dwelling units proposed within the Hurricane Category V (5) Surge Zone (rounded up to the next full unit), multiplied by 2.88 (the average number of persons per household in Martin County).

3. Provide 40 square feet of usable shelter space per person, or as recommended by the American Red Cross guidelines for hurricane evacuation shelter selection (ARC 4496) and the State of Florida Model Hurricane Evacuation Shelter Selection guidelines.

4. Emergency shelter buildings shall be designed to meet the established wind load, cyclical load and impact resistance requirements contained in the Martin County, South Florida or statewide building codes.

5. Provide on-site parking at the rate of one space per each three persons. This requirement may be reduced by the Board of County Commissioners upon a finding that the building will be served by alternative means, such as shared parking or pedestrian access. When used only for emergency shelter purposes, the required parking area need not be paved.

6. Be completed prior to the issuance of any Certificate of Occupancy for a dwelling unit located within the Category V (5) Surge Zone.

3.203.C. The requirements of this section shall not apply to the construction of a single-family detached dwelling or the placement of individual mobile home units on lots lawfully established for such use prior to the effective date of this ordinance.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.204. Fences, walls and hedges.

3.204.A. *General requirements.*

1. No fence, wall, or hedge shall be erected, constructed, installed or maintained within six feet of a fire hydrant or other emergency apparatus.

2. No fence, wall, or hedge shall be allowed to create a visual obstruction to vehicular traffic.

3. No fence or wall shall be constructed with broken glass, spikes, exposed nails, barbed wire, electrical elements, or other hazardous material, except that in nonresidential areas, a one-foot-high wire extension may be allowed when the fence or wall is at least six feet in height. The addition of barbed wire shall be deemed an addition to the height of the fence and thus will make a six foot fence subject to the setback standards applicable in the district. The barbed wire and electrical elements prohibition shall not be applicable to agricultural areas.

3.204.B. *Exceptions to setback requirements.* The setback limitations set forth for each zoning district or the setback limitations that may be provided for particular uses in division 2 of this article, shall not apply to fences, walls, or hedges, that are:

1. Six feet or less in height, as measured from the adjacent natural grade; and

2. Thirty inches or less in height, as measured from the adjacent natural grade within the triangular area created within a distance of 25 feet along the front and side lot lines from the point of street intersection of a corner lot.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.205. Gasoline storage.

In all residential zoning districts, no lot shall be used for the storage of more than 20 gallons of gasoline or other motor fuel. This restriction shall not apply to noncommercial vehicles. Fuel storage systems shall be installed and maintained in accordance with F.S. § 403.061.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.206. Household pets, horses and other animals.

3.206.A. For purposes of this section, household pets shall mean dogs, cats, birds, and similar animals commonly kept within, or in close proximity to a residence. This definition specifically excludes barnyard animals such as pigs, goats, sheep, horses, cows, and poultry.

3.206.B. The keeping or boarding of common household pets is permitted in conjunction with a residential use provided that the following limits are not exceeded:

1. Four household pets per lot on lots of one-half acre or less;
2. Six household pets per lot on lots of one acre or less;
3. Ten household pets per lot on lots of more than one acre, or six per established dwelling unit, whichever is greater.

3.206.C. Regardless of whether the purpose is commercial or noncommercial, the keeping or boarding of household pets in excess of the limits set forth in subsection 3.206.B above shall be deemed a commercial kennel and shall require compliance with all zoning requirements applicable to commercial kennels.

3.206.D. With the exception of horses, barnyard animals shall be kept or boarded only in the AG, AR, A-1A, A-1 and A-2 districts as part of an approved agricultural use or within the RE-2A district as provided for in section 3.201.C.5.

3.206.E. Horses may be kept or boarded only in those districts which allow commercial stables or private stables.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002)

Sec. 3.207. Industrial performance standards.

In all districts, industrial uses shall comply with the following:

3.207.A. No smoke with opacity exceeding 20 percent shall be emitted, except that smoke with opacity not exceeding 40 percent, shall be permitted for not more than six minutes of any one hour.

3.207.B. No particle from any flue or smokestack exceeding two-tenths (0.2) grams per cubic foot of flue gas at stack temperature of 500 degrees Fahrenheit shall be permitted.

3.207.C. The applicant shall present detailed plans for the prevention of odors, dust and dirt at time of application for site plan approval. These plans shall document compliance with applicable state and federal regulations.

3.207.D. No processes which result in the escape of obnoxious gases or fumes in concentrations dangerous to plant or animal life or damaging to property shall be permitted.

3.207.E. All fuel storage or delivery systems shall meet all County, state and federal requirements in effect at the time of installation.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 1014, pt. 4, 12-6-2016)

Sec. 3.208. Lighting.

3.208.A. All outdoor lighting fixtures shall be downward directed and shielded so as to prevent other parcels and public rights-of-way from being directly illuminated.

3.208.B. Where outdoor lighting is provided on a nonresidential parcel or on a street, the maximum incidental light spillage onto a nearby residential parcel shall be 0.2 footcandles as measured at eight feet above average grade at the property line of the receiving parcel.

3.208.C. The provisions of subsections 3.208.A. and 3.208.B., above, shall not apply to developments governed by a homeowner's association or similar arrangement where the lot owners have agreed to less stringent lighting standards provided that such development, as a whole, is otherwise in compliance with the subsections 3.208.A. and 3.208.B.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.209. Model dwelling units.

In any residential district where there is active development of ten or more residential units, a developer or his agent may operate a sales office within a model dwelling unit or other temporary facility. All model dwelling units and sales offices shall meet all district requirements and be subject to the following restrictions:

3.209.A. The sales office, if not in a model dwelling unit, may be permitted as an accessory use on the same lot, but shall be used only in connection with the development in which it is located.

3.209.B. Model dwelling units may be used as a means to sell similar homes until such time as 90 percent of the homes within the development are sold to individual buyers.

3.209.C. The sales office, if not in a model dwelling unit, may be used as an office for three years, and thereafter shall either be removed or used in accordance with regulations generally applicable within the district.

3.209.D. At least five off-street parking spaces shall be provided on the same lot as the sales office or model dwelling unit or contiguous lots, and shall be maintained as long as the model dwelling unit is used as such, or the office maintained as an office for the sale of homes in the development.

3.209.E. Model dwelling units, sales offices and signs shall not be illuminated or used for any business activity later than 9:00 p.m.

3.209.F. A landscape buffer as required for limited commercial uses in Article 4, Division 15 shall be installed and maintained between any model dwelling unit, sales office, or parking area and any adjacent residentially zoned land not in the development.

3.209.G. A removal bond shall be required for each sales office and accessory uses which is not of a permanent unit nature. The amount of the bond shall be based on the estimated removal cost for such uses.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.209.1. Rental housing.

The following shall apply to any rented dwelling unit:

3.209.1.A. The minimum bedroom size for one occupant shall be 70 square feet, excluding closets.

3.209.1.B. The minimum bedroom size for two occupants shall be 100 square feet.

3.209.1.C. There shall be no more than two occupants per bedroom, based on FHA guidelines.

3.209.1.D. A room shall not be considered a bedroom if the only access is through another bedroom to access a bedroom.

3.209.1.E. To be considered a bedroom, a room must have a closet; however, the closet area shall not be included in the square foot calculation.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.209.2. Seasonal sales, peddlers and itinerant merchants.

3.209.2.A. *Definitions.* For the purposes of this section the following definitions shall apply:

Itinerant merchant is any person offering goods for sale from a portable apparatus who conducts business by permission at the site of an existing legally operating business.

Peddler is any person traveling by foot or vehicle, from place to place, offering goods for sale.

Seasonal sales are outdoor sales of items such as pumpkins, Christmas trees, and items that are traditionally associated with the holiday which the sale celebrates.

Yard sale is a sale to the general public of used personal property or used household items by persons residing on the premises. The term shall include, but not be limited to, garage sale, moving sale, rummage sale, and estate sale. The term shall not include the sale or offer for sale of goods on consignment or the sale of used property or household items on a regular, ongoing and continuous basis.

3.209.2.B. *General requirements.*

1. All peddlers and itinerant merchants shall apply for a business tax receipt in accordance with chapter 123, local business taxes, General Ordinances, Martin County Code.
2. All peddlers and itinerant merchants shall keep their business tax receipt with them during business hours.
3. Itinerant merchants shall remove from the site all vehicles of conveyance and any portable apparatus immediately upon declaration of a hurricane watch or warning for Martin County by the National Hurricane Center.
4. Yard sales are permitted provided that such sales occur for no more than three consecutive days, a maximum of five times, during any calendar year. The sale of items acquired for resale, barter, or exchange is specifically prohibited.

3.209.2.C. *Application process.*

1. All persons conducting seasonal sales or operating as an itinerant merchant in unincorporated Martin County shall obtain a zoning compliance determination from Martin County.
2. Upon receipt of an application for an itinerant merchant or seasonal sale the County shall conduct a zoning compliance review of the proposed business location. The zoning compliance review shall insure that the criteria in 3.209.2.D. have been met.

3. If the application is found to meet all the requirements of this section, the County Administrator or designee shall approve the application.

4. If the application does not meet the requirements of this section, the application shall be denied and the County Administrator or designee shall notify the applicant of the reason(s) for denial.

5. All applications must be approved or denied within 15 days after submittal.

6. Each application shall be accompanied by an application fee as established by resolution of the BCC.

3.209.2.D. *Requirements for itinerant merchant and seasonal sales.*

1. The business location for an itinerant merchant or seasonal sale shall meet the following criteria:

   a. The site has a commercial zoning in which retail sales are a permitted use.

   b. The owner of the property has provided written permission for the applicant to use the site.

   c. The site shall have at least one parking space for the merchant and two parking spaces for customers.

   d. Portable toilets, or toilets contained within campers or recreation vehicles, shall not be used at sites where there exists a legally operating business. Portable toilets may be used for temporary seasonal sales on vacant lots.

   e. Seasonal sales may be located at a site which does not have an approved commercial site plan provided, however, such site must provide ingress and egress and on-site parking.

2. The sale of pumpkins shall be permitted each year for a period not to exceed 60 calendar days prior to October 31.

3. The sale of Christmas trees shall be permitted each year for a period not to exceed 60 calendar days prior to December 24.

4. Seasonal sales other than the sale of pumpkins or Christmas trees are limited to three weeks prior to the date of the holiday which the sale celebrates.

3.209.2.E. *Prohibitions.*

1. Itinerant merchants, or seasonal sales shall not be located on County-owned land or on County road right-of-way unless authorized by the County Administrator.

2. Peddlers, itinerant merchants, or seasonal sales shall be prohibited from offering for sale, for trade, for free, or otherwise offering for exchange any animal(s).

3.209.2.F. *Grounds for revocation.* Upon written notification to the applicant, an application approved pursuant to the provisions of this section may be revoked by the County Administrator for any one of the following reasons:

1. A violation of any of the provisions of this section.

2. Fraud, misrepresentation or false statement contained in the application.

3. Change of location from what was stated on the application.

3.209.2.G. *Appeal from action of County Administrator.*

1. Any person aggrieved by the action of the County Administrator as provided in this section shall have the right of appeal as provided in section 10.10, Land Development Regulations.

(Ord. No. 901, pt. 3, 11-22-2011)

Sec. 3.210. Temporary construction office.

A temporary construction office may be erected only in connection with the erection of a permanent building, street, utility or other structure. A temporary construction office may be used as a temporary office or for the housing of tools, equipment and materials. A temporary construction office shall be removed no later than 30 days after receipt of the certificate of occupancy for the building under construction.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.211. Dog-friendly restaurants.

3.211.A. *Definitions.* For the purposes of this section the following definitions shall apply:

Division means the Division of Hotels and Restaurants of the State of Florida Department of Business and Professional Regulation.

Dog means an animal of the subspecies Canis lupus familiaris.

Outdoor area means an area adjacent to a public food service establishment that is predominantly or totally free of any physical barrier on all sides and above.

Patron means the same as guest as provided in F.S. § 509.013.

Public food service establishment means the same as the meaning given it by F.S. § 509.013.

3.211.B. *Purpose.* The Dixie Cup Clary Local Control Act, F.S. § 509.233, grants the county the authority to provide exemptions from section 6-501.115, 2001 FDA Food Code, as adopted and incorporated by the Division of Hotels and Restaurants in chapter 61C-4.010(6), Florida Administrative Code (2006). The purpose of this section is to allow dogs in public food service establishments in a manner consistent with the three-year pilot program approved by state statute. The procedure adopted pursuant to this section provides an exemption, for those public food service establishments which have received a permit, to those sections of the Food and Drug Administration Food Code that prohibit live animals in public food service establishments.

3.211.C. *[Dogs in establishments—Permit.]* No dog shall be in a public food service establishment unless allowed by state law and the public food service establishment has received and maintains an unexpired permit pursuant to this section allowing dogs in designated outdoor areas of the establishment.

3.211.D. *Application requirements.* Public food service establishments must apply for and receive a permit from the county, before patrons' dogs are allowed on the premises. The county shall establish a reasonable fee to cover the cost of processing the initial application and renewals. The application for a permit shall require such information from the applicant as is deemed reasonably necessary to enforce the provisions of this section, but shall require, at a minimum, the following information:

1. Name, location, mailing address and division of hotels and restaurants-issued license number of the public food service establishment.
2. Name, mailing address and telephone contact information of the permit applicant. The name, mailing address and telephone contact information of the owner of the public food service establishment shall be provided if the owner is not the permit applicant.
3. A diagram and description of the outdoor area which is requested to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of the other outdoor dining areas no surrounding property lines and public rights-of-way, including sidewalks and common

pathways; and such other information as is deemed necessary by the county. The diagram shall be accurate and to scale but need not be prepared by a licensed design professional. A copy of the approved diagram shall be attached to the permit.

4. A description of the days of the week and hours of operation those patrons' dogs will be permitted in the designated outdoor area.

5. For permits authorizing dog-friendly restaurants, the county shall require the applicant to produce a properly executed certificate of insurance on forms which are to be furnished by the county providing commercial general liability insurance in the amount of $1,000,000.00 per occurrence, and $2,000,000.00 aggregate. The policy shall not have exclusions for animals and animal bites. All insurance shall be from companies duly authorized to do business in the State of Florida. All liability policies for dog-friendly restaurants within the outdoor areas of public food service establishments located on a county right-of-way shall provide that Martin County is an additional insured as to the operation of the sidewalk cafe; and shall provide for the severability of interest. Thirty days' written notice must be given the county of any cancellation or reduction in the policy coverage.

3.211.E. *Regulations.* Public food service establishments that receive a permit for a designated outdoor area pursuant to this section shall require that:

1. Employees shall wash or otherwise sanitize their hands promptly after touching, petting or otherwise handling any dog(s) and shall wash their hands before entering other parts of the public food service establishment from the designated outdoor area.

2. Employees are prohibited from touching, petting or otherwise handling any dog while serving or carrying food or beverages or while handling or carrying tableware.

3. Patrons in a designated outdoor area shall be advised by appropriate signage, at conspicuous locations, that they should sanitize their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.

4. Patrons shall not leave their dogs unattended for any period of time. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

5. Employees and patrons shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products or any other items involved with food service operations. Patrons shall be advised of this requirement by appropriate signage at conspicuous locations.

6. Employees and patrons shall not allow any part of a dog to be on chairs, tables or other furnishings.

7. Employees shall clean and sanitize all table and chair surfaces with an approved product between seating of patrons.

8. Employees shall remove all dropped food and spilled drink from the floor or ground as soon as possible, but in no event less frequently than between seating of patrons at the nearest table.

9. Employees and patrons shall remove all dog waste immediately and the floor or ground shall be immediately cleaned and sanitized with an approved project. The public food service establishment shall keep a kit with the appropriate materials for this purpose near the designated outdoor area. Dog waste shall not be carried in or through indoor portions of the public food establishment.

10. Employees and patrons shall not permit dogs to be in or to travel through, indoor or nondesignated outdoor portions of the public food service establishment.

11. A sign or signs notifying the public that the designated outdoor area is available for the use of patrons and patrons' dogs shall be posted in a conspicuous manner and place, as determined by the county, that places the public on notice.

12. A sign or signs informing patrons of these laws shall be posted on premises in a conspicuous manner and place as determined by the county.

13. A sign or signs informing employees of these laws shall be posted on the premises in a conspicuous manner and place as determined by the county.

14. Ingress and egress to the designated outdoor area shall not require entrance into or passage through any indoor area or nondesignated outdoor portions of the public food service establishment.

15. The public food service establishment and designated outdoor area shall comply with all permit conditions and the approved diagram.

16. Employees and patrons shall not allow any dog to be in the designated outdoor area of the public food service establishment if the public food service establishment is in violation of any of the requirements of this section.

17. Permits shall be conspicuously displayed in the designated outdoor area.

18. It shall be unlawful to fail to comply with any of the requirements of this section. Each instance of a dog on the premises of a public food service establishment without a permit is a separate violation.

3.211.F. *Expiration and revocation.*

1. A permit issued pursuant to this section shall expire automatically upon the sale of the public food service establishment and cannot be transferred to a subsequent owner. The subsequent owner may apply for a revocable permit pursuant to this section if the subsequent owner wishes to continue to allow patrons' dogs in a designated outdoor area of the public food service establishment.

2. Permits shall expire one year from the date of issuance, unless renewed by the application of the permittee and approved by the county.

3. When existing permits are considered for renewal, the County shall review any record of violations regarding the permit and may deny the application for renewal if a clear pattern of violation of this section is documented.

4. A permit may be revoked at any time by the county if, after notice and reasonable time in which the grounds for revocation may be corrected, the public food service establishment fails to comply with any condition of approval, fails to comply with the approved diagram, fails to maintain any required state or local license or is found to be in violation of any provision of this section. If the grounds for revocation is a failure to maintain any required state or local license, the revocation may take effect immediately upon giving notice of revocation to the permit holder.

5. If a public food service establishment's permit is revoked, no new revocable permit may be approved for the establishment until the expiration of 180 days following the date of revocation.

6. Any person aggrieved by the action of the County as provided in this section shall have the right of appeal as provided in section 10.10, land development regulations.

3.211.G. *Complaints and reporting.*

1. Complaints may be made in writing to the Growth Management Director, who shall timely accept, document, and respond to all complaints. The Growth Management Director shall timely report to the division of hotels and restaurants all complaints and the response to such complaints.

2. The Growth Management Director shall provide the division of hotels and restaurants with a copy of all approved applications and permits issued.

3. All applications, permits and other related materials shall contain the division of hotels and restaurants-issued license number for the public food service establishment.

(Ord. No. 905, pt. 1, 1-10-2012)

Secs. 3.212—3.240. Reserved.

DIVISION 5. PLANNED UNIT DEVELOPMENTS

Sec. 3.241. Purpose and intent.

The Planned Unit Development (PUD) is an alternative to the standard zoning districts in which the landowner and the Board of County Commissioners negotiate the zoning standards that will apply to a specific parcel of land such that the resulting development will be of superior quality and design while protecting the health, safety and welfare of the general public.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.242. Applicability of standards of this article to PUD.

The zoning standards for each PUD shall be set forth in a PUD agreement, which shall be a written, mutual agreement signed by the landowner and the Board of County Commissioners. The PUD agreement shall include a master and/or a final development plan and shall comprehensively set forth all of the zoning standards that shall apply to the subject parcel of land and shall be approved pursuant to article 10.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.243. Status of previously adopted PUD agreements.

All PUD agreements adopted prior to the effective date of this ordinance shall continue to be governed by the terms of such agreements. All PUD zoning designations shall be indicated on the Zoning Atlas.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.244. Standards for PUD zoning agreements.

3.244.A. All PUD zoning agreements, as well as amendments to such agreements, shall be consistent with the CGMP. Applicants for PUD zoning shall have the burden of demonstrating that the proposed PUD zoning standards will protect the health, safety and welfare of the general public to a greater extent than would have been possible pursuant to the standard zoning regulations set forth in this article.

3.244.B. Areas designated Agricultural on the Future Land Use Map shall not be eligible for PUD zoning.

3.244.C. Areas designated Agricultural Ranchette on the Future Land Use Map shall comply with all applicable policies of the Comprehensive Growth Management Plan. In particular, any PUD within the Agricultural Ranchette Future Land Use designation shall be consistent with the following:

The plan recognizes the primary value of these lands for small agricultural operations and open space, and, therefore, assigns reasonable development options consistent with the existing and anticipated agricultural character in the area. A density of one unit per five gross acres shall be permitted within the areas designated for agricultural ranchettes. However, residential development on these lands should be related to agricultural uses. These areas are situated in locations removed from urban services, have developed at very sparse densities, and maintain their original agricultural and rural character.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Secs. 3.245—3.259. Reserved.

DIVISION 6. REDEVELOPMENT OVERLAY DISTRICTS [1]

Sec. 3.260. Community Redevelopment Overlay Districts; in general.

3.260.A. *Purpose and intent.* Community Redevelopment Overlay Districts are established to provide an alternative zoning procedure that may be used to implement comprehensive growth management plan policies by providing opportunities for traditional neighborhood design and mixed residential and commercial uses in redeveloping areas. The Community Redevelopment Overlay Districts are designed to preserve and revitalize older residential neighborhoods and commercial areas by allowing modifications to base zoning districts and other applicable regulations and by establishing

special design standards for development, in accordance with a community plan for redevelopment, preservation, and conservation. Appropriate locations for the establishment of Community Redevelopment Overlay Districts shall be limited to existing developed areas, such as commercial downtowns, which could benefit from revitalization in the form of specific long-range planning, innovative development options and community improvement programs. The standards of this division 6 are also intended to implement the specific community redevelopment plans, as amended from time to time, for each redevelopment area.

3.260.B. *Adoption and modification of Community Redevelopment Overlay Districts.* The adoption or modification of Community Redevelopment Overlay Districts shall be by ordinance. The procedure for the adoption or modification of Community Redevelopment Overlay Districts shall be the same as the procedure for amendments to the official zoning map as set forth in article 10 of the Land Development Regulations.

3.260.C. *Function of Community Redevelopment Overlay Districts; consistency with other regulations.* Development in the Community Redevelopment Overlay Districts shall comply with all requirements of the Martin County Land Development Regulations and General Ordinances, except where such requirements are in conflict with the requirements of this Division. In the case of a conflict with the requirements of this division, such conflicting requirements are superseded by the requirements of this division to the extent of such conflict and the requirements of this division shall apply.

3.260.D. *Alternative compliance.* An applicant for development approval may submit a site, landscape, or architectural plan which varies from the requirements of this division 6 in order to accommodate unique circumstances of the proposed development site. Such alternative plan may include offers by the applicant to mitigate or offset the impacts of the alternative design. Such alternative plan may be approved only after having been reviewed by the appropriate Neighborhood Advisory Committee and upon a finding by the Growth Management Director that the alternative plan fulfills the purpose and intent of this division 6 as well as or more effectively than adherence to the strict requirements of this division 6 and would help carry out specific goals or objectives outlined in the particular CRA plan. Appropriate justifications for approving alternative plans include but are not limited to:

1. The resolution of site constraints associated with the incorporation of new buildings and structures on sites developed prior to the adoption of Redevelopment Overlay Districts.
2. The utilization of existing site characteristics, such as historical or archaeological features, topography, scenic views or native vegetation.
3. Improve or provide integration of proposed development with the surrounding off-site development.
4. The preservation of the historical or archaeological features of the area.

3.260.E. *Permitted uses.*

1. Permitted uses are listed within separately identified sections of the Community Redevelopment Overlay Districts. The lists of uses included in each section are intended to classify uses on the basis of common functional characteristics and land use compatibility.
2. The Growth Management Director may approve uses other than those listed in the permitted use tables upon a finding that the use is functionally similar to the permitted uses and that the use is not likely to generate harmful impacts or create incompatibilities with other uses in the area. Prior to the decision, the Growth Management Director may request a recommendation from the particular Neighborhood Advisory Committee. The Growth Management Director shall keep a record of all such determinations.

3.260.F. *Nonconformities.* All legally permitted uses, structures and lots existing on the effective date of this division 6 shall be considered conforming. Expansion of any legally permitted use or structure shall meet the following criteria:

1. The expansion of a structure nonconforming due to setbacks, must meet or exceed the overlay district requirements for setbacks.
2. The expansion of a structure nonconforming due to lot area, must meet or exceed the overlay district requirements for lot area.
3. Structures nonconforming due to lot coverage, must meet or exceed the overlay district requirements for lot coverage.

3.260.G. *Special Parking Alternative for Redevelopment Centers (SPARC) program.*

1. *Purpose and intent.* Although the compact and integrated form of development which is encouraged in the designated Community Redevelopment Areas is often better accomplished with off-site parking, such as on-street parking and public parking lots, than with on-site parking, such common areas are challenging to develop due to the initially high cost of development. This program is intended to provide a mechanism for allowing landowners to satisfy all or part of their on-site parking requirement by paying for a proportionate share of the cost of providing public or other off-site parking. This program requires both a fair assessment of the cost of providing public and other off-site parking and a carefully considered strategy to ensure that the parking demand generated by new development or redevelopment will eventually be satisfied by the provision of other, off-site parking.
2. *Applicability.* The provisions of this subsection 3.260.G shall apply only as specifically indicated in the parking requirements section of each of the County's designated Community Redevelopment Areas.
3. *Establishment of SPARC fund accounts.* Martin County shall establish SPARC fund accounts, one for each Community Redevelopment Area participating in the program, into which shall be deposited all payments made pursuant to this section. Monies deposited into said accounts shall be used by the Martin County Board of County Commissioners, or their assigns, for the exclusive purpose of developing public parking within each particular Community Redevelopment Area. Appropriate uses of SPARC funds includes, but is not limited to, land acquisition, lease payments, construction, reconstruction, and signage. Said cost shall include the cost of all labor and materials, the cost to acquire all lands, property, rights, easements, and franchises acquired, the cost of financing, the cost of interest prior to and during construction and, for one year after completion of construction, discount on the sale of municipal bonds, the cost of plans and specifications, surveys of estimates of costs and of revenues, the costs of engineering and legal services, and such other costs and expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction, administrative expenses, and such other expenses as may be necessary or incident, to the construction or reconstruction of its financing.
4. *Provision of public or other common parking facilities.* The master plan for each Community Redevelopment Area that authorizes the use of the SPARC program shall include provisions for the development of the public or other common parking facilities to be developed with SPARC funds, such as, but not limited to, potential locations for common parking, the preferred form of parking (e.g., elevated parking structures or on-street parking) and the maximum number of spaces likely to be developed at each location.
5. *Tracking and management of parking spaces.*
    a. Prior to the acceptance of contributions for a given SPARC fund, the County shall develop a system for documenting the number of off-site parking spaces for which each development has contributed funds and for ensuring that the public or other common parking facilities will be sufficient to provide all committed spaces.
    b. The County shall use professionally accepted methods to determine the proportionate share of the cost of providing public or other off-site parking within each of the participating Community Redevelopment Areas and shall adopt such fees by resolution.

(Ord. No. 591, pt. 1, § 3.60, 7-10-2001; Ord. No. 696, pt. 2, 2-14-2006; Ord. No. 755, pt. 1, 7-10-2007)

Sec. 3.261. Jensen Beach Community Redevelopment Overlay Districts. [2]

3.261.A. *Permitted uses and development standards.* The permitted uses and development standards for the eight Redevelopment Overlay Districts within the Jensen Beach Community Redevelopment Area shall be as set forth in this section 3.261. The Redevelopment Overlay Districts shall be as set forth in Figure 1 in Ordinance 683, or as such Redevelopment Overlay Districts may be amended from time to time pursuant to subsection 3.260.B. All figures referred to in this section 3.261 shall refer to the figures for Jensen Beach Redevelopment Overlay Districts, which is incorporated herein by reference. The provisions of subsections 3.261.B through 3.261.K shall apply to all eight of the Redevelopment Overlay Districts unless otherwise noted.

1. *District I permitted uses and development standards.*

a. *Permitted uses and specific conditions.*

Residential

Bed and Breakfast Inn
Residential as part of a Mixed Use Project

Public and Institutional Uses

Administrative Services, not for profit
Community Centers
Cultural or Civic Uses
Commercial Day Care
Educational Institutions
Post Offices
Public Libraries
Residential Care Facilities
Public Park and Recreation, Active
Public Park and Recreation, Passive
Places of Worship (11)
Protective and Emergency Services
Utilities

Manufacturing

Limited Impact Industry (1, 4)

Business and Professional Uses

Amusement, Commercial
Artisan, Art Studios, Galleries
Flea Market (1, 6)
Funeral Home
Health and Fitness Club
Hotel or Motel
Kiosks (10)
Medical Offices
Office, Business or Professional
Parking, Commercial (7)

Pet Shop and Supplies
Rental Center (1)
Residential Storage Facility (1)
Restaurant, General
Restaurant, Convenience
Retail Sales and Service (Limited)
Retail Sales and Service (General) (1)
Theater, Indoors,
Theater, Outdoor (1)
Trade and Skilled Services (1)
Veterinary Medical Services (1)
Wholesale and Warehousing (1, 6)

Waterfront: Limited, General and Resort

Commercial (1, 3)
Transient Quarters
Boatels/Motels/Hotels
Commercial Dry Storage
Commercial Wet Storage
Watercraft Sales, Rental, Charters
Marine Power Sales, Service and Repair
Bait and Tackle Shops
Accessory Marine Related Uses
Fuel Sales
Marine Education and Research

Specific Conditions:

1. Uses subject to this condition shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property.
2. Reserved.
3. Other than those listed, specific waterfront limited, general and resort commercial uses shall meet the alternative compliance provision of subsection 3.260.D.
4. All services or uses shall offer the products manufactured for sale on location and the manufacturing process should be accessible to the public for viewing.
5. Reserved.
6. Use shall be either in a totally enclosed area or temporary or occasional.
7. Reserved.
8. Reserved.
9. Reserved.
10. Kiosks are subject to standards set forth in subsection 3.261.H, Miscellaneous Standards.
11. There shall be no separation requirements between places of worship and any other use.

b. *Development standards for all projects in District I.* Refer also to Figures 1 and 1A.

Maximum lot size, square feet	25,000
Minimum lot width and minimum lot frontage on dedicated right-of-way, feet	25
Maximum lot width and maximum lot frontage on dedicated right-of-way, feet	100
Maximum building coverage, percent, minus setbacks	80%
Maximum building size, square feet of gross floor area	15,000
Maximum gross floor area per use	10,000
Minimum building frontage, percent of lot frontage (required only along "A Streets" as designated in Figure 19)	80%
Maximum building frontage, percent of lot frontage	100%
Required front setback, feet	Build-to-line*
Allowed front sidewalk encroachment—first floor, percent of sidewalk width (arcades and/or canvas roofs—10-foot minimum arcade)	100% less 2'
Allowed front sidewalk encroachment—second floor, percent of sidewalk width (balconies or walkways only)	100% less 2'
Allowed side setback encroachment—first floor	NA
Allowed side setback encroachment—second floor	NA
Minimum side setback, feet	0 or 5**
Minimum combined side setback, feet	0 or 5**
Minimum rear setback, feet	0
Maximum building height, feet (to bottom of roof sill plate)	35***
Minimum building height, feet	20

Permitted building types	Mixed-use, retail, civic

* See build-to-line as specified in right-of-way guidelines, Figures 10 through 12.

** Buildings are permitted with 0 feet setbacks (attached or on the property line). If they are not set on the property line, then the minimum setback is 5 feet (no building may be set back between 0—5 feet). Refer to minimum building frontage percent to determine maximum building setbacks along lot frontage.

*** Maximum height east of Indian River Drive shall be 24 feet.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in subsection 3.261.J.

d. *Non-mixed use projects.* Non-mixed use projects (projects that are not designed pursuant to the standards set forth in subsection 3.261.J) shall comply with the standards set forth in paragraphs a. and b., above, and with the standards set forth in subsection 3.261.K, with the more stringent provision prevailing in the event of any conflict.

2. *District II permitted uses and development standards.*

a. *Permitted uses and specific conditions.*

Residential

Bed and Breakfast Inn
Residential as part of a Mixed Use Project

Public and Institutional Uses

Administrative Services, not for profit
Community Centers
Cultural or Civic Uses
Commercial Day Care
Educational Institutions
Post Offices
Public Libraries
Residential Care Facilities
Public Park and Recreation, Active
Public Park and Recreation, Passive
Places of Worship (11)
Protective and Emergency Services
Utilities

Manufacturing

Limited Impact Industry (1, 4)

Business and Professional Uses

Amusement, Commercial
Artisan, Art Studios, Galleries

Flea Market (1, 6)
Funeral Home
Health and Fitness Club
Hotel or Motel
Kiosks (10)
Medical Offices
Office, Business or Professional
Parking, Commercial
Pet Shop and Supplies
Rental Center (1)
Residential Storage Facility (1)
Restaurant, General
Restaurant, Convenience
Retail Sales and Service (Limited)
Retail Sales and Service (General) (1)
Theater, Indoors,
Theater, Outdoor (1)
Trade and Skilled Services (1)
Veterinary Medical Services (1)
Wholesale and Warehousing (1, 6)

Waterfront: Limited, General and Resort

Commercial (1, 3)
Transient Quarters
Boatels/Motels/Hotels
Commercial Dry Storage
Commercial Wet Storage
Watercraft Sales, Rental, Charters
Marine Power Sales, Service and Repair
Bait and Tackle Shops
Accessory Marine Related Uses
Fuel Sales
Marine Education and Research

Specific Conditions:

1. Uses subject to this condition shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property.
2. Reserved.
3. Other than those listed, specific waterfront limited, general and resort commercial uses shall meet the alternative compliance provision of subsection 3.260.D.
4. All services or uses shall offer the products manufactured for sale on location and the manufacturing process should be accessible to the public for viewing.
5. Reserved.
6. Use shall be either in a totally enclosed area or temporary or occasional.
7. Reserved.
8. Reserved.
9. Reserved.

10. Kiosks are subject to standards set forth in subsection 3.261.H, Miscellaneous Standards.

11. There shall be no separation requirements between places of worship and any other use.

b. *Development standards for all projects in District II.* Refer also to Figures 2 and 2A.

Maximum lot size, square feet	25,000
Minimum lot width and minimum lot frontage on dedicated right-of-way, feet (then increments of 25')	25
Maximum lot width and maximum lot frontage on dedicated right-of-way, feet	100
Maximum building coverage, percent, minus setbacks	80%
Maximum building size, square feet of gross floor area	15,000
Maximum gross floor area per use, square feet	10,000
Minimum building frontage, percent of lot frontage (required only along "A Streets" as designated in Figure 19)	80%
Maximum building frontage, percent of lot frontage	100%
Required front setback, feet	Build-to-line*
Allowed front encroachment—first floor, percent of sidewalk width (arcades and/or canvas roofs—8-foot minimum arcade)	100% less 2'
Allowed front encroachment—second floor, percent of sidewalk width (balconies or walkways only)	100% less 2'
Allowed side setback encroachment—first floor	NA
Allowed side setback encroachment—second floor	NA
Minimum side setback, feet	0 or 5**

Minimum combined side setback, feet	0 or 5**
Minimum rear setback, feet	0
Maximum building height, feet (to bottom of roof sill plate plus required 2—3-foot ground crawl space)	35***
Minimum building height, feet	20
Permitted building types	Mixed-use, retail, office, live/work, civic, apartment houses

* See build-to-line as specified in right-of-way guidelines, Figures 10 through 12.

** Buildings are permitted with 0 feet setbacks (attached or on the property line). If they are not set on the property line, then the minimum setback is 5 feet (no building may be set back between 0—5 feet). Refer to minimum building frontage percent to determine maximum building setbacks along lot frontage.

*** Maximum height east of Indian River Drive shall be 24 feet.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in subsection 3.261.J.

d. *Non-mixed use projects.* Non-mixed use projects (projects that are not designed pursuant to the standards set forth in subsection 3.261.J) shall comply with the standards set forth in paragraphs a. and b., above, and with the standards set forth in subsection 3.261.K, with the more stringent provision prevailing in the event of any conflict.

3. *District III permitted uses and development standards.*

a. *Permitted uses and specific conditions.*

Residential

Bed and Breakfast Inn
Residential as part of a Mixed Use Project

Public and Institutional Uses

Administrative Services, not for profit
Community Centers
Cultural or Civic Uses
Commercial Day Care
Educational Institutions
Post Offices
Public Libraries
Residential Care Facilities
Public Park and Recreation, Active
Public Park and Recreation, Passive

Places of Worship (11)
Protective and Emergency Services
Utilities

Manufacturing

Limited Impact Industry (1, 4)

Business and Professional Uses

Amusement, Commercial
Artisan, Art Studios, Galleries
Flea Market (1, 6)
Funeral Home
Health and Fitness Club
Hotel or Motel
Kiosks (10)
Medical Offices
Office, Business or Professional
Parking, Commercial
Pet Shop and Supplies
Rental Center (1)
Residential Storage Facility (1)
Restaurant, General
Restaurant, Convenience
Retail Sales and Service (Limited)
Retail Sales and Service (General) (1)
Theater, Indoors,
Theater, Outdoor (1)
Trade and Skilled Services (1)
Veterinary Medical Services (1)
Wholesale and Warehousing (1, 6)

Waterfront: Limited, General and Resort

Commercial (1, 3)
Transient Quarters
Boatels/Motels/Hotels
Commercial Dry Storage
Commercial Wet Storage
Watercraft Sales, Rental, Charters
Marine Power Sales, Service and Repair
Bait and Tackle Shops
Accessory Marine Related Uses
Fuel Sales
Marine Education and Research

Specific Conditions:

1. Uses subject to this condition shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property.
2. Reserved.

3. Other than those listed, specific waterfront limited, general and resort commercial uses shall meet the alternative compliance provision of subsection 3.260.D.
4. All services or uses shall offer the products manufactured for sale on location and the manufacturing process should be accessible to the public for viewing.
5. Reserved.
6. Use shall be either in a totally enclosed area or temporary or occasional.
7. Reserved.
8. Reserved.
9. Reserved.
10. Kiosks are subject to standards set forth in subsection 3.261.H, Miscellaneous Standards.
11. There shall be no separation requirements between places of worship and any other use.

b. *Development standards for all projects in District III.* Refer also to Figures 3 and 3A.

Maximum lot size, square feet	15,000
Minimum lot width and minimum lot frontage on dedicated right-of-way, feet (then increments of 25')	25
Maximum lot width and maximum lot frontage on dedicated right-of-way, feet	100
Maximum building coverage, percent, minus setbacks	80%
Maximum building size, square feet of gross floor area	15,000
Maximum gross floor area per use, square feet	10,000
Minimum building frontage, percent of lot frontage (required only along "A Streets" as designated in Figure 19)	80%
Maximum building frontage, percent of lot frontage	100%
Required front setback, feet	Build-to-line*
Allowed front encroachment—first floor, percent of sidewalk, width (arcades and/or canvas roofs—8-foot minimum arcade)*	100% (less 2' if on-street parking)

Allowed front encroachment—second floor, percent of sidewalk width (balconies or walkways only)	100% (less 2' if on-street parking)
Allowed side setback encroachment—first floor	NA
Allowed side setback encroachment—second floor	NA
Minimum side setback, feet	0 or 5**
Minimum combined side setback, feet	0 or 5**
Minimum rear setback, feet	5 from alley, 10 if no alley
Maximum building height, feet (to bottom of roof sill plate)	35***
Minimum building height, feet	20
Permitted building types	Mixed-use, retail, office, live/work, apartment house, civic

* See build-to-line as specified in right-of-way guidelines, Figures 10 through 12.

** Buildings are permitted with 0 feet setbacks (attached or on the property line). If they are not set on the property line, then the minimum setback is 5 feet (no building may be setback between 0—5 feet). Refer to minimum building frontage percent to determine maximum building setbacks along lot frontage.

*** Maximum height east of Indian River Drive shall be 24 feet.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in subsection 3.261.J.

d. Non-mixed use projects. Non-mixed use projects (projects that are not designed pursuant to the standards set forth in subsection 3.261.J) shall comply with the standards set forth in paragraphs a. and b., above, and with the standards set forth in subsection 3.261.K, with the more stringent provision prevailing in the event of any conflict.

4. *District IV permitted uses and development standards.*

a. *Permitted uses and specific conditions.*

Residential

Bed and Breakfast Inn
Residential as part of a Mixed Use Project

Horticulture

Retail Greenhouses (1)
Nurseries (1)
Landscaping Services (1)

Public and Institutional Uses

Administrative Services, not for profit
Community Centers
Cultural or Civic Uses
Commercial Day Care
Educational Institutions
Post Offices
Public Libraries
Residential Care Facilities
Public Park and Recreation, Active
Public Park and Recreation, Passive
Places of Worship (11)
Protective and Emergency Services
Utilities

Manufacturing

Limited Impact Industry (1, 4)

Business and Professional Uses

Amusement, Commercial
Artisan, Art Studios, Galleries
Flea Market (6)
Funeral Home
Health and Fitness Club
Hotel or Motel
Kiosks (10)
Medical Offices,
Office, Business or Professional,
Parking, Commercial (7)
Pet Shop and Supplies,
Rental Center (1)
Residential Storage Facility (1)
Restaurant, General,
Restaurant, Convenience,
Retail Sales and Service (Limited),
Retail Sales and Service (General) (1)
Theater, Indoors,
Theater, Outdoor (1)
Trade and Skilled Services (1)
Veterinary Medical Services (1)
Wholesale and Warehousing (1, 6)

Waterfront: Limited, General and Resort Commercial (1, 3)

Transient Quarters
Boatels/Motels/Hotels

Watercraft Sales, Rental, Charters
Marine Power Sales, Service and Repair
Bait and Tackle Shops
Accessory Marine Related Uses
Fuel Sales
Marine Education and Research

Specific Conditions:

1. Uses subject to this condition shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property.
2. Reserved.
3. Other than those listed, specific waterfront limited, general and resort commercial uses shall meet the alternative compliance provision of subsection 3.260.D.
4. All services or uses shall offer the products manufactured for sale on location and the manufacturing process should be accessible to the public for viewing.
5. Reserved.
6. Use shall be either in a totally enclosed area or temporary or occasional.
7. Reserved.
8. Reserved.
9. Reserved.
10. Kiosks are subject to standards set forth in subsection 3.261.H, Miscellaneous Standards.
11. There shall be no separation requirements between places of worship and any other use.

b. *Development standards for all projects in District IV.* Refer also to Figures 4 and 4A.

Maximum lot size, square feet	12,500
Minimum lot width and minimum lot frontage on dedicated right-of-way, feet	50
Maximum lot width and maximum lot frontage on dedicated right-of-way, feet	100
Maximum building coverage, percent	70%
Maximum building size, square feet of gross floor area (5,500 sq. ft. per floor)	16,500
Maximum gross floor area per use, square feet	11,000

Minimum building frontage, percent of lot frontage (required only along "A Streets" as designated in Figure 19)	60%
Maximum building frontage, percent of lot frontage minus setbacks	90%
Required front setback, feet	15 minimum, 20 maximum
Allowed front setback encroachment, feet—first floor, porches only*	10
Allowed front setback encroachment, feet—second floor*	10
Allowed side setback encroachment, feet—first floor	5
Allowed side setback encroachment—second floor	NA
Minimum side setback, feet (one side)	5
Minimum combined side setback, feet	10
Minimum rear setback, feet	5 from alley, 10 if no alley
Maximum building height, feet (to bottom of roof sill plate)	35
Minimum building height, feet	20
Permitted building types	Mixed-use, live/work, retail, office, townhouse, side yard house, single-family house, apartment house, apartment building, civic

* Minimum width of encroachment will be at least 50 percent of building width. See build-to-line as specified in right-of-way guidelines, Figures 10 through 12. 12-foot rear alleys with 5-foot setbacks required behind lots.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in subsection 3.261.J.

d. *Non-mixed use projects.* Non-mixed use projects (projects that are not designed pursuant to the standards set forth in subsection 3.261.J) shall comply with the standards set forth in paragraphs a. and b., above, and with the standards set forth in subsection 3.261.K, with the more stringent provision prevailing in the event of any conflict.

5. *District V permitted uses and development standards.*

a. *Permitted uses and specific conditions.*

Residential

Bed and Breakfast Inn
Residential as part of a Mixed Use Project

Horticulture

Retail greenhouses (1)
Nurseries (1)
Landscaping Services (1, 4)

Public and Institutional Uses

Administrative Services, not for profit
Community Centers
Cultural or Civic Uses
Commercial Day Care
Educational Institutions
Post Offices
Public Libraries
Residential Care Facilities
Public Park and Recreation, Active
Public Park and Recreation, Passive
Places of Worship (11)
Protective and Emergency Services
Utilities

Manufacturing

Limited Impact Industry (1, 4)

Business and Professional Uses

Amusement, Commercial
Artisan, Art Studios, Galleries
Flea Market (1, 6)
Funeral Home
Health and Fitness Club
Hotel or Motel
Kiosks (10)
Medical Offices,

Office, Business or Professional, Parking, Commercial (7)
Pet Shop and Supplies, Rental Center (1)
Restaurant, General, Restaurant, Convenience, Retail Sales and Service (Limited), Retail Sales and Service (General) (1)
Theater, Indoors, Theater, Outdoor (1)
Trade and Skilled Services (1)
Veterinary Medical Services (1)
Wholesale and Warehousing (1, 6)

Waterfront: Limited, General and Resort Commercial (1, 3)

Transient Quarters Boatels/Motels/Hotels
Boat Yards
Commercial Dry Storage
Commercial Wet Storage
Watercraft Sales, Rental, Charters
Marine Power Sales, Service and Repair
Bait and Tackle Shops
Accessory Marine Related Uses
Waterfront Community and Public Services
Fuel Sales
Marine Education and Research

Specific Conditions:

1. Uses subject to this condition shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property.
2. Reserved.
3. Other than those listed, specific waterfront limited, general and resort commercial uses shall meet the alternative compliance provision of subsection 3.260.D.
4. All services or uses shall offer the products manufactured for sale on location and the manufacturing process should be accessible to the public for viewing.
5. Reserved.
6. Use shall be either in a totally enclosed area or temporary or occasional.
7. Reserved.
8. Reserved.
9. Reserved.
10. Kiosks are subject to standards set forth in subsection 3.261.H, Miscellaneous Standards.
11. There shall be no separation requirements between places of worship and any other use.

b. *Development standards for all projects in District V.* Refer also to Figures 5 and 5A.

Maximum lot size, square feet	12,500
Minimum lot width and minimum lot frontage on dedicated right-of-way, feet (then increments of 15', 25' 25')	35
Maximum lot width and maximum lot frontage on dedicated right-of way, feet	100
Maximum building coverage, percent	60%
Maximum building size, square feet of gross floor area	15,000
Maximum gross floor area per use, square feet	10,000
Minimum building frontage, percent of lot frontage (required only along "A Streets" as designated in Figure 19)	60%
Maximum building frontage, percent of lot frontage minus setbacks	80%
Required front setback, feet	15 minimum 25 maximum
Allowed front setback encroachment, feet—first floor (porches)*	10
Allowed front setback encroachment, feet—second floor (balconies or walkways only)*	10
Allowed side setback encroachment—first floor	NA
Allowed side setback encroachment, feet—second floor	5
Minimum side setback, feet (one side)	5
Minimum combined side setback, feet	10

Minimum rear setback, feet	5 from alley, 10 if no alley
Maximum building height, feet (to bottom of roof sill plate)	30***
Minimum building height, feet**	1-story for residential, all others 20'
Permitted building types	Mixed-use, retail, apartment house, apartment building, side yard house, rear yard house, civic

* Minimum width of encroachment will be at least 50 percent of building width.

** Nonresidential buildings shall appear to be two stories high.

*** Maximum height east of Indian River Drive shall be 24 feet.

12-foot rear alleys with 4-foot setbacks behind lots.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in subsection 3.261.J.

d. *Non-mixed use projects.* Non-mixed use projects (projects that are not designed pursuant to the standards set forth in subsection 3.261.J) shall comply with the standards set forth in paragraphs a. and b., above, and with the standards set forth in subsection 3.261.K, with the more stringent provision prevailing in the event of any conflict.

6. *District VI permitted uses and development standards.*

a. *Permitted uses specific conditions.*

Residential

Bed and Breakfast Inn
Residential as part of a Mixed Use Project

Horticulture

Retail Greenhouses (1)
Nurseries (1)
Landscaping Services (1, 4)

Public and Institutional Uses

Administrative Services, not for profit
Community Centers
Cultural or Civic Uses

Commercial Day Care
Educational Institutions
Post Offices
Public Libraries
Residential Care Facilities
Public Park and Recreation, Active
Public Park and Recreation, Passive
Places of Worship (11)
Protective and Emergency Services
Utilities

Manufacturing

Limited Impact Industry (1, 4)

Business and Professional Uses

Amusement, Commercial
Artisan, Art Studios, Galleries
Flea Market (1, 6)
Funeral Home
Health and Fitness Club
Hotel or Motel
Kiosks (10)
Medical Offices,
Office, Business or Professional,
Parking, Commercial (7)
Pet Shop and Supplies,
Rental Center (1)
Residential Storage Facility (1)
Restaurant, General,
Restaurant, Convenience,
Retail Sales and Service (Limited),
Retail Sales and Service (General) (1)
Theater, Indoors,
Theater, Outdoor (1)
Trade and Skilled Services (1)
Veterinary Medical Services (1)

Specific Conditions:

1. Uses subject to this condition shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property.
2. Reserved.
3. Other than those listed, specific waterfront limited, general and resort commercial uses shall meet the alternative compliance provision of subsection 3.260.D.
4. All services or uses shall offer the products manufactured for sale on location and the manufacturing process should be accessible to the public for viewing.
6. Use shall be either in a totally enclosed area or temporary or occasional.
7. Reserved.
9. Reserved.

10. Kiosks are subject to standards set forth in subsection 3.261.H, Miscellaneous Standards.

11. There shall be no separation requirements between places of worship and any other use.

b. *Development standards for all projects in District VI.* Refer also to Figures 6 and 6A.

Maximum lot size, square feet	3,500
Minimum lot width and minimum lot frontage on dedicated right-of-way, feet	16
Maximum lot width and maximum lot frontage on dedicated right-of-way, feet	25
Maximum building coverage, percent (less setbacks)	80%
Maximum building size, square feet of gross floor area	4,500
Maximum gross floor area per use, square feet	4,500
Minimum building frontage, percent of lot frontage (required only along "A Streets" as designated in Figure 19)	100%
Required front setback, feet	5
Allowed front setback encroachment—first floor	stoop*
Allowed front encroachment, feet—second floor	5
Allowed side setback encroachment—first floor	NA
Allowed side setback encroachment—second floor	NA
Minimum side setback, feet (one side)	0 or 5**
Minimum combined side setback, feet	NA
Minimum rear setback, feet	5 from alley
Maximum building height, feet (to bottom of roof sill plate	30

Minimum building height, feet	20
Permitted building types	Townhouse, live/work, retail

Minimum 12-foot rear alleys with 5-foot setbacks required behind lots.

* Stoops (steps and landings needed to access the first floor of the building) shall be uncovered.

** Buildings are permitted with 0 feet setbacks (attached or on the property line). If they are not set on the property lines then the minimum setback is 5 feet (no building may be set back between 0—5 feet). 100% minimum building frontage requires buildings to be attached along lot frontage.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in subsection 3.261.J.

d. *Non-mixed use projects.* Non-mixed use projects (projects that are not designed pursuant to the standards set forth in subsection 3.261.J) shall comply with the standards set forth in paragraphs a. and b., above, and with the standards set forth in subsection 3.261.K, with the more stringent provision prevailing in the event of any conflict.

7. *District VII permitted uses and development standards.*

a. *Permitted uses and specific conditions.*

Residential

Bed and Breakfast Inn
Residential as part of a Mixed Use Project

Horticulture

Retail Greenhouses (1)
Nurseries (1)
Landscaping Services (1, 4)

Public and Institutional Uses

Administrative Services, not for profit
Community Centers
Cultural or Civic Uses
Commercial Day Care
Educational Institutions
Post Offices
Public Libraries
Residential Care Facilities
Public Park and Recreation, Active
Public Park and Recreation, Passive
Places of Worship (11)

Protective and Emergency Services
Utilities

Manufacturing

Limited Impact Industry (1, 4)

Business and Professional Uses

Amusement, Commercial
Artisan, Art Studios, Galleries
Flea Market (1, 6)
Funeral Home
Health and Fitness Club
Hotel or Motel
Kiosks (10)
Medical Offices,
Office, Business or Professional,
Parking, Commercial (7)
Pet Shop and Supplies,
Rental Center (1)
Residential Storage Facility (1)
Restaurant, General,
Restaurant, Convenience,
Retail Sales and Service (Limited),
Retail Sales and Service (General) (1)
Theater, Indoors,
Theater, Outdoor (1)
Trade and Skilled Services (1)
Veterinary Medical Services (1)

Specific Conditions:

1. Uses subject to this condition shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property.
2. Reserved.
3. Other than those listed, specific waterfront limited, general and resort commercial uses shall meet the alternative compliance provision of subsection 3.260.D.
4. All services or uses shall offer the products manufactured for sale on location and the manufacturing process should be accessible to the public for viewing.
5. Reserved.
6. Use shall be either in a totally enclosed area or temporary or occasional.
7. Reserved.
9. Reserved.
10. Kiosks are subject to standards set forth in Section 3.261.H, Miscellaneous Standards.
11. There shall be no separation requirements between places of worship and any other use.

b. *Development standards for all projects in District VII.* Refer also to Figures 7 and 7A.

Maximum lot size, square feet	7,500
Minimum lot width and minimum lot frontage on dedicated right-of-way, feet	35
Maximum lot width and maximum lot frontage on dedicated right-of-way, feet	50
Maximum building coverage, percent	50%
Maximum building size, square feet of gross floor area	5,000
Maximum gross floor area per use	NA
Minimum building frontage, percent of lot frontage minus setbacks (required only along "A Streets" as designated in Figure 19)	40%
Maximum building frontage, percent of lot frontage	75%
Required front setback, feet	10 minimum, 15 maximum
Allowed front setback encroachment, feet—first floor	5
Allowed front encroachment, feet—second floor	5
Allowed side setback encroachment, feet—first floor	0
Allowed side setback encroachment, feet—second floor	0
Minimum side setback, feet (one side)	5
Minimum combined side setback, feet	10
Minimum rear setback, feet	5 from alley, 10 if no alley
Maximum building height, feet (to bottom of roof sill plate)	24

Minimum building height	1-story
Permitted building types	Side yard house, rear yard house

Minimum 12-foot rear alleys with 5-foot setbacks required behind lots.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in subsection 3.261.J.

d. *Non-mixed use projects.* Non-mixed use projects (projects that are not designed pursuant to the standards set forth in subsection 3.261.J) shall comply with the standards set forth in paragraphs a. and b., above, and with the standards set forth in subsection 3.261.K, with the more stringent provision prevailing in the event of any conflict.

8. *District VIII permitted uses and development standards.*

a. Reserved.

b. *Development standards for all projects in District VIII.*

Maximum lot size, square feet	NA
Minimum lot width and minimum lot frontage on dedicated right-of-way, feet	NA
Maximum lot width and maximum lot frontage on dedicated right-of-way, feet	NA
Maximum building coverage, percent	80%
Maximum building size, square feet of gross floor area (5,500 sq. ft. per floor)	16,500
Maximum gross floor area per use, square feet	16,500
Minimum building frontage, percent of lot frontage	NA
Maximum building frontage, percent of lot frontage minus setbacks	100%

Required front setback, feet	15
Allowed front setback encroachment, feet—first floor, porches only*	3
Allowed front setback encroachment, feet—second floor*	3
Allowed side setback encroachment—first floor	NA
Allowed side setback encroachment—second floor	NA
Minimum side setback, feet (one side)	10
Minimum combined side setback, feet	20
Minimum rear setback, feet	10
Maximum building height, feet (to bottom of roof sill plate)	35
Minimum building height, feet	20
Permitted building type	Civic, retail, other prior approval by Martin County

* Minimum width of encroachment will be at least 50 percent of building width.

NOTE: This District is intended for a special use to function as a major attraction of the Downtown Redevelopment's Central Area. Innovative and creative projects and designs are encouraged. Refer to subsection 3.260.D, Alternative Compliance.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in subsection 3.261.J.

d. *Non-mixed use projects.* Non-mixed use projects (projects that are not designed pursuant to the standards set forth in subsection 3.261.J) shall comply with the standards set forth in paragraphs a. and b., above, and with the standards set forth in subsection 3.261.K, with the more stringent provision prevailing in the event of any conflict.

3.261.B. *Roadway and street design.*

1. All roadways within the Jensen Beach Community Redevelopment Area shall comply with the standards of section 4.847, Traditional Neighborhood Development Street Design of the Martin County Land Development Regulations, and the designs specified in figures 10 through 14. When the specifications shown in figures 10 through 14 are in conflict with section 4.847, then

the specifications in figures 10 through 14 shall apply. A five-foot minimum pedestrian walking space shall be maintained on all sidewalks. The Indian River Drive design standards, provided in the Jensen Beach Community Redevelopment Plan, takes into consideration the proposed Riverwalk improvements along Indian River Drive.

2. In addition, all alleys shall interconnect and to the extent possible be consistent with the Jensen Beach CRA conceptual roadway network plan, which shall be maintained by the Growth Management Department and is hereby incorporated by reference.

3.261.C. *Parking.* Parking shall conform with article 4, division 14, Parking and Loading, of the Land Development Regulations or as specified this subsection 3.261.C and in the parking specifications set forth in the Figures for Jensen Beach Redevelopment Overlay Districts. Where the provisions of this subsection 3.261.C or the specifications shown in the Figures for Jensen Beach Redevelopment Overlay Districts are in conflict with article 4, division 14, Parking and Loading, of the Land Development Regulations, then the provisions of this subsection 3.261.C and the specifications set forth in figures for Jensen Beach Redevelopment Overlay Districts shall control.

1. *Parking rates.* On-site parking requirements are as follows:

   a. Residence: 1.5 per efficiency unit, 1.75 per each 1-bedroom unit, 2 per each unit with 2 or more bedrooms.

   b. Retail/office: Three per 1,000 square feet of floor area.

   c. Medical office: Four per 1,000 square feet of floor area.

   d. Restaurant: Five per 1,000 square feet of floor area.

2. *Off-site parking.* With the exception of parking generated by residential uses on the third floor in Districts IV, V, VI, VII and VIII, off-site parking may be used to satisfy all or part of the on-site parking requirements as set forth below.

   a. *On-street parking.* On-street parking may be used to satisfy all or part of the on-site parking requirements provided that:

      (1) The developer constructs the on-street parking spaces to County specifications along the length of the lot directly abutting the parcel generating the parking requirements, in a manner that does not infringe upon the ability of neighboring parcels to access the street.

         (a) In no case shall other on-street parking spaces, such as previously existing spaces or spaces constructed to satisfy the requirements for other developments, be eligible to count towards the fulfillment of on-site parking requirements.

         (b) On-street parking spaces developed within the public right-of-way shall be available for general public use and shall not be reserved for the use of any particular business or residence.

         (c) Such on-street parking must be constructed and found to be in compliance with County standards prior to issuance of a Certificate of Occupancy for the particular development.

      (2) The maximum amount of the on-site parking requirement that may be satisfied with on-street parking shall be as set forth in paragraph 3., below.

   b. *Special Parking Alternative for Redevelopment Centers (SPARC) program.* Pursuant to section 3.260.G of the Land Development Regulations, the SPARC program is hereby authorized within the Jensen Beach Community Redevelopment Overlay Districts as more specifically set forth below.

(1) *Cost per space.* For each required on-site parking space that a developer proposes to satisfy by way of participation in the SPARC program, the cost to the developer shall be as set forth in the following table. For purposes of this paragraph (1), the "base cost" shall be the estimated cost of constructing a typical off-street parking space within the Jensen Beach Community Redevelopment Area, including both the land and costs of construction, pursuant to the methods as more particularly set forth in section 3.260.G.

Option	Description	Cost to Developer
1	Developer constructs on-street parking to County standards within existing County-owned right-of-way.	50% of base cost
2	Landowner dedicates land to the County and constructs on-street parking spaces to County standards.	None
3	Developer reimburses the County for on-street parking constructed by the County prior to June 1, 2007, including parking constructed within the right-of-way of Florida East Coast Railway.	100% of base cost
4	Developer constructs on-street parking to County standards within the right-of-way of Florida East Coast Railway.	100% of base cost plus proportionate cost of lease
5	Developer contributes toward or reimburses the County or other public entity for parking spaces developed or planned in a surface parking arrangement.	200% of base cost
6	Developer contributes toward or reimburses the County or other public entity for parking spaces developed or planned in a structured parking arrangement.	400% of base cost

(2) *Location.* In addition to the provisions of subsection 3.260.G.4. of the Land Development Regulations, the parcel proposed for development shall be no further than 1,350 feet from the public or other common parking anticipated to provide the off-site parking, as measured by the shortest pedestrian route of travel.

(3) *Timing.* For developers using Options 1—4, where construction of the spaces will be the developer's responsibility, the spaces must be constructed and found to be in compliance with County standards prior to issuance of a Certificate of Occupancy for the particular development. For Options 5—6, the developer must pay the appropriate

amount into the SPARC fund as part of the post-approval process and the County must construct the required number of spaces within two years of the date the new development is approved.

c. *Crossing of district boundaries.* With the exception of District VIII, which must satisfy all of its parking demand within its own boundaries, off-site parking provided pursuant to this subsection 3.261.C may cross district boundaries, provided that parking generated by developments within Districts I, II or III shall not be located in Districts IV, V, VI, VII or VIII.

3. *Maximum percentage by district.* The maximum amount of the on-site parking requirement that may be satisfied by off-site parking shall be as follows:

District	Commercial	Residential	All Other Uses
I. Jensen Beach Boulevard	100%	100%	100%
II. Ricou Terrace	80%	50%	80%
III. Northern CRA Boundary to Mango Terrace	70%	50%	70%
IV. Ricou Terrace to Mango Terrace:	75%	50%	50%
V. Indian River Drive to Mango Terrace	50%	50%	50%
VI. Maple Street Town Commons*	50%	50%	50%
VII. Maple Street	0%	25%	0%
VIII. Special District**	N/A	N/A	N/A

* A 40 percent overall parking reduction may be applied to parcels within the district contributing land to public open space consistent with the CRA master plan.

** All of the required parking shall be provided within the boundaries of the Special District.

4. *Screening of parking from residential uses.* There shall be an alley between parking areas and adjacent residential uses. Where an alley is not possible, there shall be a visual barrier between parking areas or commercial uses and residential uses.

5. *Exceeding the minimum parking requirements.* If the actual number of parking spaces provided on-site will exceed the minimum number required, the development shall be required to provide an additional 200 square feet of open space per excess parking space.

6. *Parking arrangements along "A Streets".* Along any "A Street", as shown in figure 19, any parking structure, or any situation in which parking is provided beneath a building, commercially leasable space, a minimum of twenty feet in depth as measured from the front building line,

must be provided along the first floor of the minimum building frontage area, as required for the particular district.

3.261.D. *Stormwater management.* Stormwater management shall be as required by article 4, division 9 of the Land Development Regulations. Exfiltration is the preferred method of stormwater management. A Master Stormwater Management Plan (Plan) will be developed for the entire Jensen Beach Community Redevelopment Area. The Plan will be based upon the most likely build-out scenario for the CRA. A cost estimate and joint retention strategy will be based upon the Plan.

3.261.E. *Landscaping, buffering, and tree protection.* Landscaping, buffering and tree protection within the Jensen Beach Community Redevelopment Area shall comply with the following requirements and the specifications illustrated in figures 15, 16 and 17. Division 15, Landscaping, Buffering and Tree Protection, of the Land Development Regulations shall not apply unless specifically indicated.

1. *Applicability.* Subsection 4.661.B., Applicability, of the Land Development Regulations shall apply except that single-family or duplex residences shall be required to plant one tree per 2,000 square feet of total site area consistent with the requirements of subsection 3.261.E.4 of the Land Development Regulations.

2. *Glossary.* Subsection 4.661.C., Glossary, of the Land Development Regulations shall apply.

3. *Required submittals.* Section 4.662, Application Requirements, of the Land Development Regulations shall apply.

4. *General requirements.* The following minimum landscaping and tree planting requirements shall apply:

   a. Open space requirements shall be determined by the application of the property development standards for the eight districts. Open space may include any landscaped pedestrian environment such as planted courtyards or walkways. Ten percent of the open space requirement may be met by landscaping adjacent public space.

   b. Credit towards the landscape area requirement may be allowed for all or part of native habitat pursuant to subsection 4.663.A.2 of the Land Development Regulations.

   c. All development shall provide at least one tree per 2,000 square feet of total site area. At least 50 percent of all trees required to be planted shall be native species or fruit trees. At the time of planting, all required trees shall have the following minimum heights:

      (1) Along the right-of-way, trees shall be 14 to 18 feet in height at the time of planting with a minimum crown spread of eight feet and a minimum DBH of three inches. In all other areas trees shall be eight feet at the time of planting.

      (2) Coconut palms shall be a minimum of ten feet at the time of planting. All other palms shall be six feet clear on single trunk, and ten feet clear on a multi-trunk.

      (3) Fruit trees shall be five feet in height at the time of planting.

   d. *Hedges and shrubs.* At the time of planting, hedges and shrubs shall have a minimum height of 24 inches, a minimum spread of 14 inches and be spaced not less than 24 inches on center. Spacing may be increased if larger plants are used to create a full appearance among adjacent plants.

   e. *Vines.* Vines which have a minimum of three runners 30 inches in length may be used in conjunction with fences, screens or walls to meet barrier requirements. If vines are used in conjunction with fences, screens or walls, their runners shall be attached in a way that encourages proper growth.

   f. *[Plant and landscape material quality and species.]* Except as specified above, plant and landscape material quality and species shall be as provided for in subsection 4.664.A., Quality and Species, of the Land Development Regulations.

g. *[Tree species and placement.]* Tree species and placement shall be selected so as to minimize conflicts with existing or proposed utilities pursuant to subsection 4.664.B.1.b of the Land Development Regulations.

h. *[Ground treatment.]* Ground treatment shall be as provided for in subsection 4.664.E of the Land Development Regulations.

i. *[Tree preservation credits.]* Tree preservation credits shall be determined pursuant to subsection 4.664.F of the Land Development Regulations.

j. *Landscaping in easements.* Landscaping shall be permitted in easements only with the written permission of the easement holder. Written permission shall specify the party responsible for replacing disturbed landscape areas and shall be submitted to the county in a form acceptable to the County Attorney. Written permission to plant within easements shall be filed with the land records applicable to the site.

k. *[Water efficiency requirements.]* Landscaping shall comply with the water efficiency requirements of subsection 4.663.D of the Land Development Regulations.

l. *[Tree protection requirements.]* The tree protection requirements of section 4.666 of the Land Development Regulations shall apply.

5. *Exposed dirt yards* are prohibited.

6. *Vehicular use and right-of-way areas.* The following landscaping requirements shall apply within vehicular use areas and along roads:

   a. The landscaping on Jensen Beach Boulevard, Indian River Drive, Ricou Terrace, and Pineapple Avenue shall include the planting of shade trees unless a covered walkway is provided. If a covered walkway is provided, palm trees shall be permitted. Trees shall be a minimum height of 12 feet at the time of planting and located at a maximum of 50-foot intervals. Every other tree shall be complemented with a bench and a garbage container. The landscape islands shall have pervious open area sized appropriately to the maximum growth of the tree.

   b. Perimeter landscaping. Landscaping shall be provided along the perimeter of vehicular use areas in accordance with the following standards:

      (1) *Tree planting on site.* One tree shall be planted for each 30 linear feet of roadway. Trees may be planted in clusters, but not located more than 50 feet apart.

      (2) *Visual barriers.* A hedge, fence, or other durable landscape barrier with a minimum height of three feet shall be installed along the perimeter of parking areas unless a right-of-way or access easement is located adjacent to that portion of the parking area, in which case, no visual barrier shall be required. Visual barriers shall provide a continuous solid visual screen along open areas adjacent to sidewalks except open courtyards, walks and driveways. Walls, fences or landscaping around parking areas must have one pedestrian access for every 50 linear feet in order to provide connection to adjacent development or sidewalks.

7. *Garden wall.* The following material shall be permitted:

   a. Sand and stone blocks.

   b. Wood.

   [c. Reserved.]

   d. Wrought iron.

   e. Picket.

   f. Coral rock.

8. *Fences.*

   a. Plain concrete block and/or barbed wire fences are prohibited.

   b. Chain link fences are permitted in rear yards only and must have vegetative screening where visible from a common area.

   c. Fences shall be three and one-half feet in height or less between the front of the building and the road right-of-way and may be a maximum of six feet in height for the remainder of the lot.

9. *[Trash, recycling and similar receptacles.]* Trash, recycling and similar receptacles including dumpsters shall be screened with an opaque, six-foot high masonry wall or wood fence. Landscaping shall not be required around the perimeter of the screen.

10. *[Bufferyard requirements.]* The bufferyard requirements of subsection 4.663.B of the Land Development Regulations shall not be applicable within the Jensen Beach Community Redevelopment Area except as required by the Comprehensive Plan.

11. *Installation and maintenance.* All property owners shall be responsible for properly installing and maintaining required landscaping so as to at all times present a healthy, neat and orderly appearance, free of refuse and debris. Plants selected for landscaping purposes should be compatible with the soil and water conditions of the CRA. All landscaping shall be installed according to sound nursery practices in a manner designed to encourage vigorous growth. Soil improvement measures may be required to ensure healthy plant growth. A plant or tree's growth characteristics shall be considered before planting to prevent conflicts with utilities, views or signs.

    a. *Replacement.* Vegetation which is required to be planted or preserved shall be replaced with equivalent vegetation if it dies.

    b. *Maintenance.* The property owner, or successors in interest, or agent, if any, shall jointly and severally be responsible for the following:

       (1) Regular maintenance of all landscaping in good condition and in a way that presents a healthy, neat and orderly appearance. All landscaping shall be maintained free from disease, pest, weeds and litter. Maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, as needed and in accordance with acceptable horticultural practices;

       (2) Repair or replacement of required wall, fences or structures to a structurally sound condition;

       (3) Regular maintenance, repair or replacement where necessary, of any required screening.

       (4) Perpetual maintenance to prohibit the reestablishment of harmful exotic species within landscaping; and

       (5) Property owners are responsible for maintenance of landscaping in the adjacent right-of-way fronting their property.

    c. *[Ensuring the installation and maintenance of required landscaping.]* Pursuant to the requirements of subsection 4.665.B.3, LDR, security shall be required to ensure the installation and maintenance of required landscaping.

    d. *Pruning.* Pruning of trees shall be permitted to allow for healthy uniform growth and promote structural, aesthetic and safety considerations. All permitted pruning shall be conducted in accordance with the latest standards of the National Arborist Association.

12. *[Certification of compliance.]* A certification of compliance pursuant to section 4.668, LDR, shall be submitted prior to the issue of a certificate of occupancy to demonstrate compliance with the requirements of this Section.

3.261.F. *Sign regulations.*

1. *Glossary of terms.* For purposes of this subsection 3.261.F, the following words, terms and phrases shall have the meanings as set forth below:

Alter or change. A change of lettering, lighting, graphics, color; change in the business name, change of material, change of sign face, replacement of any component part. Alter or change does not include general maintenance, such as touch-up painting, replacement of incandescent bulbs or a replacement of brackets.

Appropriate. Consistent with the standard themes and characteristics of the design standards set forth in this section 3.261.

Artistically harmonious. Designed to reflect the unique characteristic of the business and to be compatible with existing signage and existing buildings.

Detrimental. Injurious, causing harm or damage.

Pleasing. Signage that is harmonious with the surroundings and scale of people.

Refurbish. Brighten, refresh, polish up or repaint using the same color scheme.

Visual blight. Proliferation of nonconforming and/or nonmaintained signs, including faded, checked, rusted, or mildewed signs.

Well-designed. Artistically harmonious, reflects attention to detail.

2. *Purpose.* The purpose of this subsection 3.261.F is to promote the public health, safety and welfare through a comprehensive system of reasonable, effective, consistent, content-neutral, and nondiscriminatory sign standards and requirements. Toward this end, the NAC finds that Jensen Beach is an historic riverfront, oceanside resort community that has traditionally depended on a tourist economy. Tourists, in part, are attracted to the visual character and quality of Jensen Beach.

The proliferation of signs in Jensen Beach would result in visual blight and unattractiveness and would convey an image that is inconsistent with a high quality resort environment. Effective sign control has preserved and enhanced the visual character of other resort communities in Florida and other states. Jensen Beach must compete with many other Florida, national and international resort communities for tourism opportunities.

In order to preserve Jensen Beach as a desirable community to live, vacation and conduct business, a pleasing, visually attractive environment is of foremost importance. These sign regulations are intended to:

a. Preserve and maintain Jensen Beach as a pleasing, visually attractive environment.

b. Promote and accomplish the goals, policies and objectives of the Martin County Comprehensive Plan.

c. Enhance the attractiveness and economic well-being of Jensen Beach as a place to live, vacation and conduct business.

d. Address community needs relating to upgrading the quality of the tourist experience, preserving the unique natural environment, preserving and enhancing the high quality human existence, retaining Jensen Beach's premier status in an increasingly competitive resort market, preserving the historically and architecturally unique character of Jensen

Beach, fostering the "village style" quality of Jensen Beach, and preserving and enhancing scenic views.

e. Enable the identification of places of residence and business.

f. Allow for the communication of information necessary for the conduct of commerce.

g. Encourage signs that are appropriate to the zoning district in which they are located and consistent with the category of use to which they pertain.

h. Permit signs that are compatible with their surroundings and provide locational information, and preclude placement in a manner that conceals or obstructs the view of adjacent land uses or signs.

i. Preclude signs from conflicting with the principal permitted use of the site or adjoining sites.

j. Curtail the size and number of signs and sign messages to the minimum reasonably necessary to identify a residential or business location and the nature of any such business.

k. Establish sign size in relationship to the scale of the lot's street frontage and building's street frontage.

l. Protect the public from the dangers of unsafe signs, and require signs to be constructed, installed and maintained in a safe and satisfactory manner.

m. Lessen hazardous situations, confusion and visual clutter caused by proliferation, improper placement, illumination, animation and excessive height, area and bulk of signs which compete for the attention of pedestrian and vehicular traffic.

n. Regulate signs in a manner so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians.

3. *Objectives.* The primary objective of sign review is to avoid the appearance of visual clutter and excessive advertising in the design and placement of business signs. In order to meet this objective, business signs should be:

   a. Informative as to business use and location.

   b. Simple in design, however, creative graphic depictions that are related to the business use are appropriate.

   c. Compatible in design, color and scale with the business storefront, adjoining structures, and surroundings.

   d. Oriented toward the pedestrian, walking environment within the commercial district.

4. *[Compliance requirements.]* Signs within the Jensen Beach Community Redevelopment Area shall comply with figure 18 and the following requirements. In addition, all signage must be reviewed and approved by the NAC Sign Review Committee. The NAC will appoint a three-member NAC Sign Review Committee consisting of a professional with design and signage experience, a member of the NAC and a property owner within the Jensen Beach Community Redevelopment Area. The NAC will also appoint an alternate from any one of the three categories above. The role of this Committee is to review and approve signage that meets the criteria of the sign regulations within the Jensen Beach CRA boundaries.

5. *Prohibited signs.* The following signs are prohibited within the Jensen Beach Community Redevelopment Area:

   a. Signs, other than governmental signs of a public nature, erected, placed or maintained on or over any public property and/or right-of-way.

b. Billboards unless grandfathered as of the effective date of this section 3.261. Grandfathered billboards may remain until five years from the adoption of this section 3.261.

c. Blank temporary signs.

d. Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for traditional barber poles.

e. Signs with the optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or changing copy.

f. Signs with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary in intensity or color except for time-temperature-date signs.

g. Signs, commonly referred to as wind signs, consisting of one or more banners, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind.

h. Signs that incorporate projected images, emit any sound that is intended to attract attention, or involve the use of live animals.

i. Signs that emit audible sound, odor, or visible matter such as smoke or steam.

j. Signs or sign structures that interfere in any way with free use of any fire escape, emergency exit, or standpipe, or that obstruct any window to such an extent that light or ventilation is reduced to a point below that required by any applicable regulations.

k. Signs that by reason of position, shape or color, would conflict with the proper functioning of any traffic sign or signal, or be of a size, location, movement, content, color, or illumination that may be reasonably confused with or construed as, or conceal, a traffic control device.

l. Signs that obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering public streets.

m. Nongovernmental signs that use the words "stop", "look", "danger", or any similar word, phrase, or symbol.

n. Signs, within ten feet of public right-of-way or 100 feet of traffic control lights, that contain red or green lights that might be confused with traffic control lights.

o. Signs that are of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist, or pedestrian using or entering a public way, or that are a hazard or a nuisance to occupants of any property because of glare or other characteristics.

p. Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television or other communication signals.

q. Searchlights used to advertise or promote a business or to attract customers to a property.

r. Signs that are painted, pasted, or printed on any curbstone, flagstone, pavement, or any portion of any sidewalk or street, except house numbers and traffic control signs.

s. Signs placed upon benches, bus shelters or waste receptacles.

t. Vehicle signs. Signs attached to or placed on a vehicle, including trailers, that are parked on public or private property shall be prohibited. This provision shall not be construed to prohibit the identification of a firm or its principal products on a vehicle operated during normal business hours, provided, however, that no such vehicle shall be parked on public or private property for the sole purpose of advertising a business or firm or calling attention to the location of a business or firm.

u. A portable sign is permitted with a maximum size of 12 square feet upon a determination by the NAC Sign Review Committee that it is artistically harmonious with its surroundings, and shall only be displayed during the hours of business operation. Sign lettering shall not exceed 18 inches in height.

v. Prohibited illumination. No sign shall be illuminated through the use of internal illumination, rear illumination, fluorescent illumination or neon or other gas tube illumination, [except when used for indirect illumination] and in such a manner as to not be directly exposed to public view. Primarily glossy signs shall also be prohibited. Other prohibited illumination includes flashing, neon, phosphorescent, and signs incorporating lights or movement as viewed from the public right-of-way or from any area open to the public.

6. *Exempt signs.* The following signs are exempt from subsection 3.261.F and from the requirement that a permit be obtained for the erection of permanent signs, provided that such signs are not placed or constructed so as to create a hazard of any kind. It shall be the responsibility of the property owner to ensure that any of the following exempt signs are erected and maintained in accordance with all required hurricane protection measures.

a. Prohibition, safety or caution signs, provided that such signs are:

(1) Nonilluminated;

(2) Not over four square feet in overall area; and

(3) No greater than four feet in overall height.

b. Signs bearing only property numbers, street addresses, telephone numbers, post box numbers or names of occupants of the premises, including professional nameplates, provided that such signs are:

(1) Not over four square feet in area;

(2) Limited to one per street frontage, per housing unit, or per business; and

(3) Letters and/or numbers are four inches in height.

c. Governmental flags and insignias, except when displayed in connection with commercial promotion.

d. Legal notices of 16 square feet or less, either publicly or privately owned, directing and guiding traffic and parking, in accordance with the standards for internal traffic control signs as recommended by the Manual on Uniform Traffic Control Devices (MUTCD) but bearing no advertising matter (example: parking, entrance, exit, service, etc.).

e. Temporary real estate signs on properties where an owner is actively attempting to sell such property, either personally or through an agent, provided that such signs are:

(1) Nonilluminated;

(2) Not over six square feet in area;

(3) No greater than four feet in overall height; and

(4) No closer than 15 feet to any side or rear property line.

f. Holiday displays, during the applicable holiday season except as specifically prohibited.

g. Memorial signs or tablets, not to exceed two square feet.

h. Names of buildings and dates of erection.

i. Window signs.

j. Air towed banners.

k. Umbrellas containing advertising when used in conjunction with an approved food or beverage establishment or when used to denote products or services not available for sale or consumption on-site.

l. Any sign required by any governmental regulation as a public notice.

7. *Temporary signs.* The following temporary signs are permitted, subject to compliance with the Standard Building Code and the following requirements:

a. Subdivision and on-site development signs identifying where an approved active on-site development program is underway, provided that such signs are:

(1) Nonilluminated;

(2) Ground-mounted;

(3) Erected no more than 180 days prior to the beginning of actual construction;

(4) Removed: if construction is not initiated within 180 days after the sign is erected; within 60 days of cessation of construction if construction is not continuously and actively pursued to completion; or when construction is completed and a final certificate of occupancy has been issued;

(5) No larger than 100 square feet in area per sign face and no more than 18 feet in overall height;

(6) Limited to one sign per street frontage abutting the development;

(7) Signs approved in PUD projects are additionally subject to any conditions specified in the PUD agreement.

(8) No closer than 15 feet to any property line.

b. Promotional, special event, grand opening and seasonal sales signs, provided that such signs are:

(1) Limited to commercial and industrial use areas;

(2) Ground or wall mounted;

(3) Not over 40 square feet in area;

(4) No closer than 15 feet to any property line;

(5) Securely fastened or attached to the ground or wall to assure safety;

(6) Erected in such a way that they do not interfere with vehicular or pedestrian traffic;

(7) Permitted on the basis of not more than one such permit in any given six-month period;

(8) Permitted for a period not to exceed 60 days for seasonal sales (such as Christmas tree sales) or for a period not to exceed 30 days for promotional sales;

(9) Removed upon the expiration of the use permit for the use or event for which they are granted; and

(10) Limited to one per each 500 feet of street on which the activity has frontage.

c. Temporary "For Sale" real estate signs greater than six square feet on properties where an owner is actively attempting to sell such property, either personally or through an agent, provided such signs are:

(1) Located on industrial, commercial or agricultural property;

(2) Limited to ten feet in height;

(3) Limited to one sign per site;

(4) Nonilluminated;

(5) No closer than 15 feet to any property line; and

(6) A maximum of 32 square feet.

8. *Permanent on-site development identification signs.* Permanent on-site development identification signs are permitted subject to compliance with the Standard Building Code and the following requirements:

a. Signs exceeding six feet in height shall meet the height and setback requirements for the zoning district in which they are located.

b. Signs are permitted in any zoning district for the exclusive purpose of identifying residential developments.

c. Signs shall only identify a county-approved subdivision, development or community.

9. *Reserved.*

10. *Point of purchase signs.* The following point of purchase signs are permitted within the Jensen Beach Community Redevelopment Area subject to compliance with the Standard Building Code and the following requirements:

a. Location. Wall signs, projecting signs or freestanding signs are restricted to point of purchase advertising only and are further restricted to the following districts:

(1) Commercial;

(2) Mixed use districts where the land use is commercial; and

(3) Planned unit development where permitted in the PUD agreement.

b. Wall signs with a maximum square footage of 32 square feet per 25 feet of lineal footage or greater and 124 percent of lineal footage less than 25 feet. For walls other than front walls, one-half of the square footage for the front is permitted.

(1) The permitted size of wall signs shall be based on a percentage of the wall area computed by the length times the height of the geometric figure which determines the actual area. The wall length shall be the building, or that portion occupied. The height of the wall for computation purposes shall not exceed 15 feet for one-story structures or 25 feet for two or more story structures. One wall shall be deemed the front wall. Other walls shall be figured on the basis of one-half of the percent allowed for the front wall. Individual signs may not be larger than 32 square feet.

(2) No wall sign shall be mounted at a distance measured perpendicular to said wall greater than 24 inches.

(3) No wall sign shall cover wholly or partially any required wall opening.

(4) Murals are permitted after review and approval by the NAC Sign Review Committee.

c. Projecting signs. No projecting sign shall have a sign area exceeding 50 percent of the permitted freestanding sign area and in no case shall it exceed 50 percent of the wall-mounted sign area.

d. Freestanding signs:

(1) Not more than one freestanding sign shall be permitted per 200 feet of linear frontage.

(2) The total sign area of all freestanding signs permitted on any property line adjacent to a public street shall be limited to one square foot of sign area for each lineal foot of property line adjacent to that public street.

(3) No freestanding sign shall exceed 50 square feet in sign area per face.

(4) No freestanding sign shall exceed a height of ten feet from existing grade.

(5) All freestanding signs shall be located at least five feet from all buildings.

(6) Freestanding signs shall include street numbers.

e. Off-premises signs shall be limited to directional signs or signs used for directory purposes with a maximum allowable size of 16 square feet.

f. Auxiliary signs. Time-and-temperature devices are permitted in association with public service activities only. These signs may be freestanding, projecting or wall signs. Those devices with alternating messages shall display each such message for not less than ten seconds.

11. *Compliance requirements.*

a. Signs prohibited by this section 3.261 shall be removed immediately upon the effective date.

b. Any sign located within a public right-of-way shall be removed immediately unless otherwise permitted. The enforcing official is authorized to remove any sign not permitted in the right-of-way at such time as the sign is determined to be in noncompliance.

12. *Maintenance.* Signs shall be kept clean, painted and free from all hazards such as, but not limited to, faulty wiring and loose fastenings. Weeds shall be cut underneath and around the base of ground signs and no rubbish or debris shall be permitted that would constitute a fire hazard or be detrimental to the public health and safety. All signs shall be maintained in a manner which will withstand hurricane wind load requirements.

13. *Nonconformities.*

a. All billboards or off-premises signs which were legally erected prior to the enactment of this section 3.261, but which do not comply with the requirements of this section must be removed or altered to comply with the requirements of this section within five years of adoption of this section or upon a change in property ownership, whichever comes first.

b. Nonconforming signs may not be structurally modified. Any nonconforming sign damaged in excess of 50 percent of the integrity of the structure as determined by the Building Official shall only be repaired in full compliance with the requirements of this section.

14. *Reserved.*

15. *Permits required.* Signs shall not be erected, constructed or altered until a permit has been issued and the applicable fee paid. A sign permit shall become null and void and any fee forfeited unless work on the permitted sign is substantially under way within six months after the effective date of the permit. All permit applications shall be approved by the NAC Sign Review Committee prior to review and approval by the Building Department.

16. *Directory signage.* Directory signs are permitted upon approval by the NAC, and may be sited on public or private property. Directories may include up to five sign panels per face. Each panel is leasable on a yearly basis, for a fee to be determined by the CRA, after recommendation from the NAC. All panel applications must be reviewed and approved by the Sign Review Committee. All fees collected shall be remitted to the county for maintenance and construction of existing/additional directory signs.

17. *Sign lettering, logos and graphic designs.*

a. *Lettering.* No lettering on any sign, including cut-out letter signs, shall exceed 18 inches in height.

b. *Logos.* No logo on any sign, including cut-out letter signs, shall exceed 18 inches in height.

c. *Graphic designs.*

(1) Any proposed graphic design must comply with all provisions of subsection 3.261.F.14 except for the limitations on the size of lettering set forth in subsection a., above.

(2) Any graphic design shall be reviewed by the Sign Review Committee and approved if it:

(a) Harmonize with the structure or structures on the parcel on which it is to be painted;

(b) Compatible with the other signs or graphic designs on the premises;

(c) Suitable and appropriate to the neighborhood;

(d) Contribute to any special characteristics of the particular area in which it is to be located;

(e) Is well designed and pleasing in appearance;

(f) Is desirable as an urban design characteristic;

(g) Does not constitute a nuisance to the occupants of adjacent or contiguous property;

(h) Is not detrimental to the redevelopment goals;

(i) Does not constitute a traffic and safety hazard because it is distracting;

(j) Is not considered obscene, lewd, indecent or otherwise offensive to public morals.

3.261.G. *Architectural design.* All structures within the Jensen Beach Overlay Zoning District shall comply with the following:

1. *Exterior building walls.*

a. The following materials and techniques shall be permitted:

(1) Wood clapboard.

(2) Board and batten. However, no reverse board and batten shall be allowed.

(3) Wood shingles.

(4) Lap siding.

(5) Stucco.

(6) Brick.

(7) Thatch.

(8) Hardiplank.

(9) Glass block shall only be permitted on side and rear walls.

b. No exposed exterior concrete block shall be permitted. Concrete block structure (CBS) construction shall be covered over with one of the materials as specified in subsection 3.261.G.1, above.

c. Materials used shall be used over the entire exterior of the building except for the openings.

2. *Arcades and porches.*

a. The following materials shall be permitted:

(1) Metal columns.

(2) Brick.

(3) Wood posts.

(4) Poured cement columns.

(5) Fabric material for porch enclosures.

b. Size and height restrictions:

(1) Posts shall be no less the four inches by four inches or the circular equivalent. Rails and balusters shall be no more than four feet high with maximum space between baluster of five inches. Partial walls shall not exceed a height of three feet on-center. Roof pitch shall be a minimum ratio of 3:12.

c. Front porches are required on all commercial and residential buildings except when the building is connected to an arcade system. Porches must span a minimum of two-thirds of the front elevation of the building. If enclosed, front porches may only be enclosed by screening.

3. *Roofs and gutters.*

a. The following materials shall be permitted for roofs:

(1) Thatch.

(2) Wood/imitation wood dimensional asphalt shingles.

(3) Galvanized metal, finished or unfinished.

(4) Clay tile.

b. Restrictions. Only gable and hip roofs shall be permitted except on multistory buildings when there is a decorative cornice on top of all sides visible from the street. Multistory buildings with cornice built-up types of roof construction must have a minimum pitch of 1:12. Principle roof pitch shall be no less than 5:12 and no greater than 12:12. Rafters at overhangs shall be exposed. Dormers are permitted only on pitched roofs with a 45-degree angle and the angle of the dormer roof shall also be 45 degrees.

c. The following additions to windows shall be permitted:

(1) Wood shutters matching the dimensions of the windows.

(2) Fabric awnings.

(3) Bahama shutters.

(4) Screened windows.

(5) Storm or hurricane shutters, if concealed.

4. *Outbuildings.*

a. Material shall be or have the appearance of that of the primary structure.

b. Accessory uses such as the following shall be permitted if allowed by other applicable zoning regulations:

(1) Fountains and barbecues.

(2) Pavilions and arbors.

(3) Detached garages and carports.

(4) Garage apartments.

(5) Guest houses and studios.

(6) Workshops and tool houses.

(7) Greenhouse and slat houses.

(8) Dog houses.

(9) Pools and equipment houses.

(10) Playhouses.

(11) Pump house.

(12) Tree house.

(13) Kiosks.

c. Outbuildings shall not exceed 850 square feet of interior floor space.

5. *Restrictions on use of building frontage.* The following are not permitted between the building front and the fronting right-of-way:

a. Exposed pumps or electrical meters.

b. Air conditioning compressors or projecting air conditioning window units.

c. Clothes lines or clothes drying in the yard.

d. Antennas and satellite dishes.

e. The parking or storage of recreational vehicles, boats or boat trailers. This is not intended to apply to vehicles, boats or boat trailers associated with a lawfully established commercial use.

f. Garbage cans except on pick-up days and as required by subsection 2.261.E.9.

6. *Elevation of residential floors.* In all districts, wherever residential use is proposed on the first floor of a building, the first floor shall be elevated at least thirty inches above the finished grade as measured along the front building line. This provision shall be voluntary for any residential building that is developed pursuant to an affordable housing program, such as, but not limited to, projects funded by the State Housing Initiative Partnership Program (SHIP) or by nonprofit housing providers such as Habitat for Humanity.

7. *Arcades and balconies.* Where otherwise permitted, arcades and balconies shall also comply with the following when located on or over a sidewalk or other public right-of-way:

a. There shall be no habitable space located directly above the public right-of-way.

b. Arcades must have a minimum clear height of 12 feet from the lowest point of the ceiling, a minimum clear width of eight feet and be open to the public at all times.

c. Restaurant seating and the display of merchandise is permitted within an arcade provided that a public passageway of at least six feet in width is maintained for pedestrians.

d. Use of the public right-of-way must be approved by both the Growth Management Director and the County Engineer.

e. Balconies shall have a minimum depth of three feet, a minimum clear height of ten feet at ground level and shall not be used as a means of ingress or egress.

8. *Architectural guidelines.* The Jensen Beach Architectural Guidelines, which are incorporated herein by reference, illustrate the architectural styles that are preferred within the Jensen Beach Redevelopment Overlay Districts. Regardless of whether or not the applicant intends to conform to the Architectural Guidelines, all applications for new development and redevelopment shall include architectural drawings.

3.261.H. *Miscellaneous standards.*

1. *Coin-operated amusements.* Coin-operated amusements shall be limited to no more than four per business establishment. This restriction shall apply to all businesses within any of the Jensen Beach Redevelopment Overlay Districts, regardless of whether such coin-operated amusements are offered as a primary use, such as in an amusement arcade, or as an accessory to another business. For purposes of this subsection 3.261.J, "coin-operated amusements" shall mean any machine intended to provide amusement on demand, such as, but not limited to, pin-ball machines, pool tables and video games, regardless of whether the actual method of payment is via coins, tokens, paper money, credit card or by similar means. This restriction on the number of coin-operated amusements shall not apply to Harper's Pub, located at 1969 NE Jensen Beach Boulevard or to Mulligan's Restaurant, located at 1999 NE Jensen Beach Boulevard, but shall apply to any future businesses located at those addresses.

[2. *Reserved.*]

3. *Kiosks.* Kiosks may be allowed on public property in any of the Jensen Beach Redevelopment Overlay Districts, subject to review by the Neighborhood Advisory Committee and subject to approval of the County Engineer. Placement of a kiosk on private property will be at the discretion of the property owner or lease holder. Kiosks will be subject to the general design criteria established for the CRA. Operation of a kiosk will be subject to an annual fee determined by the Board of County Commissioners and will be deposited into the Jensen Beach CRA Redevelopment Trust Fund account.

4. *Utilities.* All utilities shall be located underground.

3.216.I. *Reserved.*

3.216.J. *Mixed use projects.*

1. *Mixed use project, defined.* A "mixed use project" is a development with one or more buildings, containing more than one land use type, including both a residential and nonresidential component, where the various land uses are in close proximity to one another, are planned as a unified, complementary whole and are functionally integrated for the use of shared infrastructure.

2. *Locations.* Mixed use projects are permitted in Districts I through VIII.

3. *Maximum density and intensity.*

a. Mixed use projects shall have a minimum of 20 percent residential use and a maximum of 75 percent residential use based on the total project building square footage.

b. Residential densities shall range from a minimum of two units per acre to a maximum of fifteen units per acre pursuant to the methodology set forth in section 3.13 of the Land Development Regulations.

c. The allowable number of residential dwelling units in a mixed use project shall be calculated according to the following formula:

$$[(RB/TP) \times PA \times MD] = TU$$

Where:

RB = Residential Building (or unit) square footage

TP = Total Project building square footage

PA = Project Acreage

MD = Maximum Density (15)

TU = Total Maximum Dwelling Units

By way of illustration, if a Project Acreage (PA) is two and one-half acres with residential building square footage (RBSF) proposed of 30,000 square feet and total project building square footage (TPSF) of 50,000 square feet with the maximum density (MD) of 15 units per acre then, the total dwelling units (TU) is 30,000/50,000 x 2.5 x 15 = 22.5 units.

(1) When the result of the calculation ends in 0.5 or higher, the total unit count shall be rounded up.

(2) When the result of the calculation is less than one, the total unit count shall be rounded up to ensure that at least one residential dwelling unit is allowed.

(3) When calculating the number of units in a mixed use project on lot sizes of one-half acre or less, units of 800 square feet or less of gross floor area shall be counted as one-half dwelling unit.

4. *Parking.* Where more than 200 parking spaces are provided on-site, such parking shall be distributed such that no more than 50 percent of the spaces are grouped in a single area of the parcel. Methods of distributing parking areas may include locating parking adjacent to the rear or sides of a building or by physically separating parking areas with other buildings or landscaped areas.

5. *Landscape buffers and residential transitioning.*

a. Despite any provision to the contrary within article 4, division 15, of the Land Development Regulations, Martin County Code, the bufferyard requirements of subsection 3.663.B of the Land Development Regulations, Martin County Code, shall not apply to any disparate land uses that may occur:

(1) Within the interior of a mixed use project.

(2) Between mixed use projects or other developments that are located entirely within a Mixed Use Overlay.

b. Despite any provision to the contrary within sections 3.83.1 or 3.402 of the Land Development Regulations, Martin County Code, "residential transitioning" requirements shall not apply:

(1) Within the interior of a mixed use project.

(2) Between mixed use projects or other developments that are located entirely within a Mixed Use Overlay.

6. *Vertical mix of uses.* For multistory buildings, the use of each story shall be limited as follows:

First floor: Nonresidential uses.

Second floor: Office or residential uses.

Third floor: Residential uses only.

3.261.K. *Non-mixed use projects.*

Future Land Use Designation	Minimum Lot Size	Maximum Building Coverage	Minimum Open Space	Maximum Building Height
Mobile Home	N/A	N/A	50%	35 ft.
Limited Commercial	10,000 sq. ft.	50%	30%	30 ft.
General Commercial	10,000 sq. ft.	60%	20%	35 ft.
Commercial Waterfront	10,000 sq. ft.	50%	30%	30 ft. for water-related, 35 ft. for water-dependent

(Ord. No. 591, pt. 1, § 3.61, 7-10-2001; Ord. No. 609, pt. 1, § 3.61, 3-26-2002; Ord. No. 683, pt. 1, 10-11-2005; Ord. No. 755, pt. 1, 7-10-2007; Ord. No. 958, pt. 1, 7-15-2014)

Editor's note— The figures cited in this section are not set out herein but are on file in the Growth Management Department.

Sec. 3.262. Port Salerno Community Redevelopment Area. [3]

Sec. 3.262.A. *General* .

1. Section 3.260, Land Development Regulations (LDR) applies within all seven Martin County Community Redevelopment Areas.
2. Within the Port Salerno Community Redevelopment Area, there are three zoning overlay districts and three mixed-use future land use overlays: (1) Cove Road, (2) Salerno Road and (3) Town Center. The boundaries of the Cove Road zoning overlay and Mixed-Use Overlay are identical, as are the Salerno Road zoning overlay and Mixed-Use Overlay. The Town Center zoning overlay encompasses more land than the Town Center Mixed-Use Overlay.
3. Except as otherwise specifically provided by a particular provision within section 3.262, the rules and standards of this section shall apply throughout the Port Salerno Community Redevelopment Area (CRA).

Figure 3.262.1 Port Salerno Community Redevelopment Area.

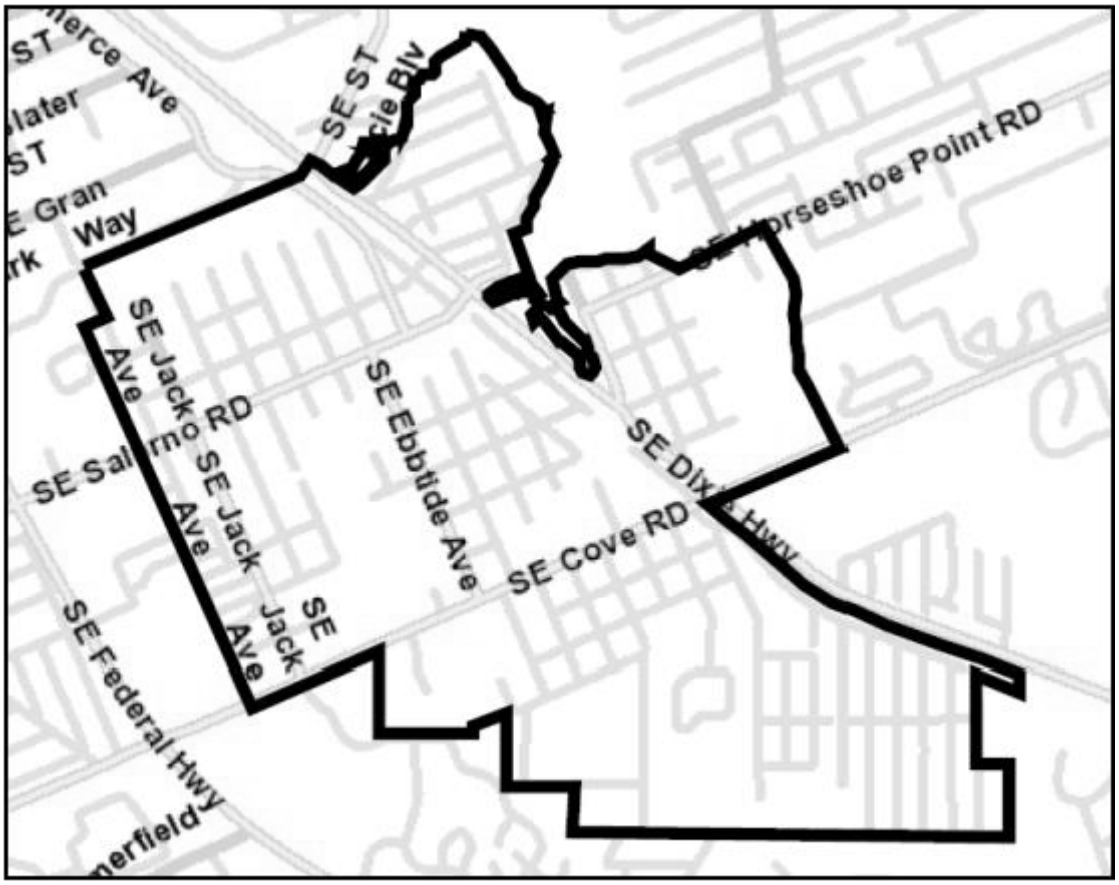


Figure 3.262.1 generally depicts the Port Salerno CRA. This map is provided for the convenience of users of the LDRs. It is not legally-binding. To determine the status of any particular parcel, the official maps of Martin County should be consulted. They can be accessed on the Martin County website at https://www.martin.fl.us/search?text=CRA%20maps.

Figure 3.262.2 Cove Road Zoning and Mixed-Use Overlay,

Figure 3.262.2 generally depicts Port Salerno's Cove Road Zoning and Mixed-Use Overlay as the shaded gray area. This map is provided for the convenience of users of the LDRs. It is not legally-binding. To determine the status of any particular parcel, the official maps of Martin County should be consulted. They can be accessed on the Martin County website at https://www.martin.fl.us/search?text=CRA%20maps.

Figure 3.262.3 Salerno Road Zoning and Mixed-Use Overlay.

Figure 3.262.3 generally depicts Port Salerno's Salerno Road Zoning and Mixed-Use Overlay. This map is provided for the convenience of users of the LDRs. It is not legally-binding. To determine the status of any particular parcel, the official maps of Martin County should be consulted. They can be accessed on the Martin County website at https://www.martin.fl.us/search?text=CRA%20maps.

Figure 3.262.4 Town Center Zoning and Mixed-Use Overlay.

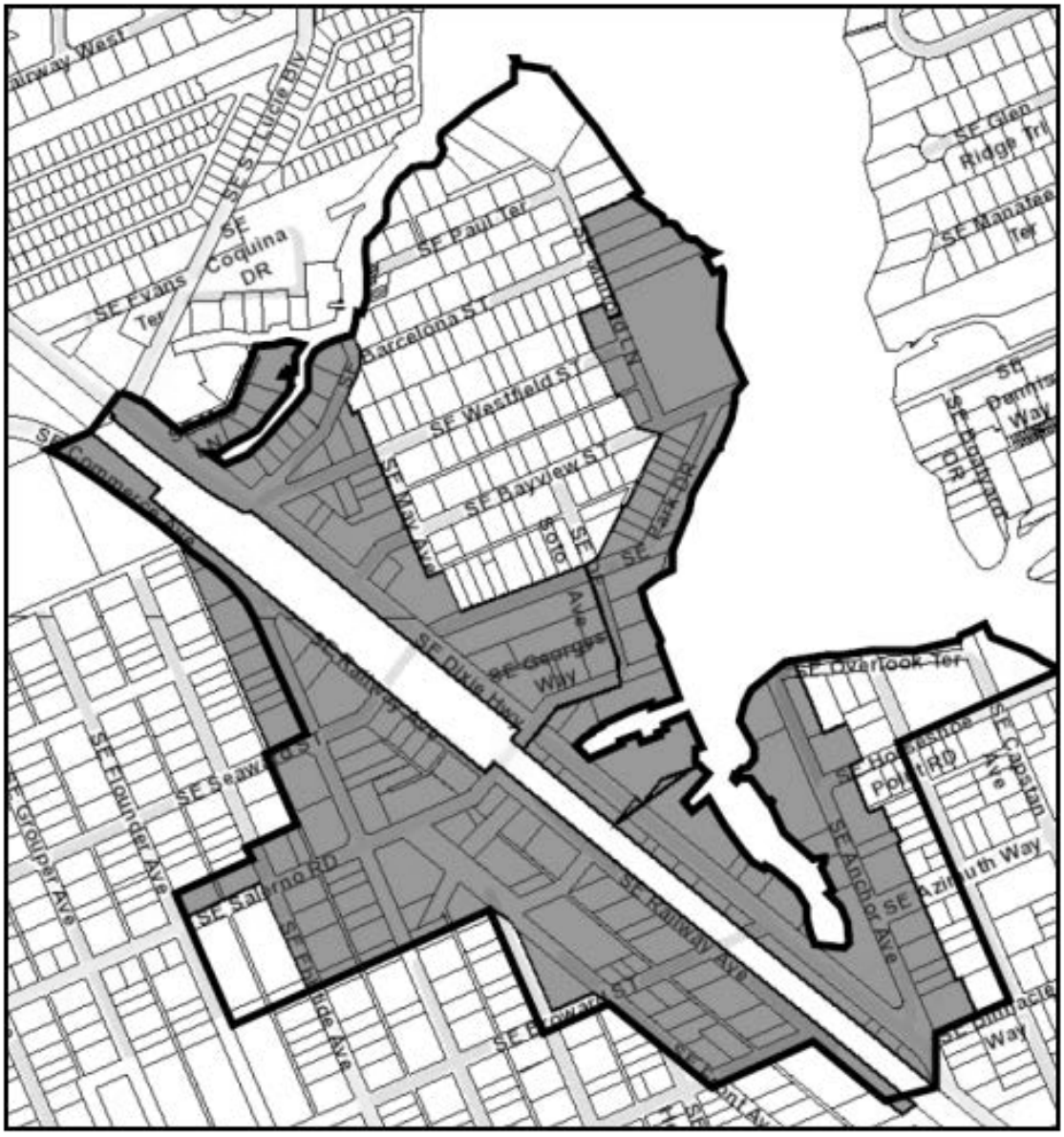


Figure 3.262.4 generally depicts Port Salerno's Town Center Zoning Overlay (black outline) and Town Center Mixed-Use Overlay (gray shading). This map is provided for the convenience of users of the LDRs. It is not legally-binding. To determine the status of any particular parcel, the official maps of Martin County should be consulted. They can be accessed on the Martin County website at https://www.martin.fl.us/search?text=CRA%20maps.

Sec. 3.262.B. *Cove Road, Salerno Road and Town Center Zoning Overlays.*

1. *Permitted uses.*

   a. The permitted uses in the Cove Road, Salerno Road, and Town Center Zoning Overlays are provided in Table 3.262.1, except as provided in paragraphs b through e of this section.

b. Not all uses listed in Table 3.262.1 are permitted on all lots in the Zoning Overlays. All single-use development must also be consistent with the future land use designation on the subject property.

TABLE 3.262.1. Permitted Uses in the Zoning Overlay Districts.

USE	COVE ROAD	SALERNO ROAD	TOWN CENTER
Residential Uses			
Single-Family Dwelling	X	X	X (10)
Townhouse Dwelling	X	X	X
Duplex Dwelling			X
Zero Lot Line Dwelling			X
Multifamily Dwelling	X	X	X
Bed and Breakfast Inn	X	X	X
Public and Institutional Uses			
Administrative Service	X	X	X
Club, Fraternity & Lodge	X	X	X
Cultural and Civic Use	X	X	X
Adult or Child Day Care	X	X	X
Educational Institution	X	X	
Residential Care Facility	X	X	X
Place of Worship	X	X	X
Protective and Emergency Services	X	X	

Public Parks and Recreation Areas	X	X	X
Commercial and Business Uses			
Amusement, Commercial [1]	X	X	X
Artisan, Art Studios. Galleries [2]	X	X	X
Business and Professional Uses	X	X	X
Funeral Home	X	X	
Health and Fitness Club	X	X	X
Hotel or Motel	X		X
Kiosks [3]	X	X	X
Medical Offices	X	X	X
Office, Business or Professional	X	X	X
Parking, Commercial [4]	X	X	X
Pet Shop and Supplies [2]	X	X	X
Restaurant, General [2]	X	X	X
Retail Sales and Service, Limited [2]	X	X	X
Retail Sales and Service, General [2]	X	X	X
Service Station [5]	X	X	
Theater, Indoor	X	X	X
Trade and Skilled Services [2]	X	X	X

Veterinary Medical Services [6]	X	X	X
Waterfront General Commercial [7]			X
Waterfront Resort Commercial [8]			X
Transportation, Communication and Utilities			
Utilities [9]	X	X	X
Industrial			
Limited Impact Industry	X [11]		X

Notes to Table 3.262.1:

[1] Maximum of four coin-operated amusements are allowed. Commercial Amusements must comply with section 3.59.F., LDR.

[2] The outdoor storage of goods or materials is prohibited, unless completely screened from view from the street and adjacent property. The display of retail merchandise and street side cafes shall be allowed in the pedestrian zone provided a clear sidewalk is maintained and no visual or physical obstacle to pedestrian or vehicular movement results. Use of the public right-of-way for dining, display of retail goods or any other private use requires a right-of-way use permit.

[3] Kiosks in the public right-of-way shall be subject to the approval of the Neighborhood Advisory Committee, a right-of-way use permit, and payment of an annual fee. The fee shall be determined by the Board of County Commissioners and deposited into the Port Salerno CRA Redevelopment Trust Fund account. Kiosks shall be subject to the Port Salerno CRA design regulations.

[4] Parking may occur in a structure or on surface lots.

[5] No more than four gas pumps (four hoses) shall be allowed. Each pump may include a range of grades of gasoline or diesel fuel.

[6] No outdoor kennels shall be allowed.

[7] Waterfront General Commercial Permitted Uses include all Waterfront Resort Commercial Uses plus Fish Hatcheries; Fish Farms; Boat Engine Repair; Commercial Fish Processing; Limited Impact Industry; and Watercraft Manufacture.

[8] Waterfront Resort Commercial Permitted Uses include Outdoor Performing Arts Theaters; Public or Private Boardwalks and Piers; Boat Ramps; Boat Sales. Service and Repair; Sanitary Pump-out Facilities; Wet or Dry Boat Storage; Commercial Marinas; Marine Education and Research (not including primary, secondary or high schools); Marine Fuel Sales; and other consistent uses. Minor boat maintenance such as oil changes, engine tune-ups or rigging is permitted to occur outdoors. Other

outdoor boat repairs are permitted if such use constitutes the continuation of a legal use established prior to August 21, 2001 (date of adoption of section 3.262.). Waterfront Resort Commercial Permitted Uses also include hotels, motels, restaurants and retail shops and similar uses related to water-related tourism and visitation.

(9) All utilities shall be underground.

(10) Detached single-family dwellings are not permitted within the Town Center Mixed-Use Future Land Use Overlay.

(11) Limited industrial use that is consistent with the approved site plan for the Port Salerno Industrial Park is permitted.

c. The Growth Management Director may approve uses in a Zoning Overlay other than those listed in Table 3.262.1 upon a finding that the use is functionally similar to the permitted uses and that the use is not likely to generate harmful impacts or create incompatibilities with other uses in the area. Prior to the decision, the Growth Management Director may request a recommendation from the Neighborhood Advisory Committee. The Growth Management Director shall keep a record of all such determinations.

d. Mixed-Use Development.

(1) Mixed-Use Development is permitted within the Cove Road, Salerno Road, and Town Center Mixed-Use Overlays, on land with any future land use designation, notwithstanding section 3.262.B.1.b.

(2) All Mixed-Use Development, regardless of size, shall be allowed at least one dwelling unit and all Mixed-Use Development shall provide at least one dwelling unit.

(3) The nonresidential component of Mixed-Use Development in a Mixed-Use Overlay shall include a use from the list of commercial and business or industrial uses on Table 3.262.1. On a parcel with the waterfront commercial future land use designation, in the Mixed-Use Overlay, the nonresidential component shall be a water-dependent or water-related commercial use, as enumerated in Notes 7 and 8 to Table 3.262.1. Public and institutional uses may also be included in a Mixed-Use Development.

(4) Drive-through businesses are not permitted in a Mixed-Use Development.

e. Accessory uses and accessory structures are permitted and shall be governed by section 3.201, LDR, except as otherwise provided in this section.

(1) Accessory dwelling units shall be allowed as follows:

(a) A guest house or guest quarters shall be permitted on any property on which a single-family residence is located.

(b) One accessory dwelling unit available for rent shall be permitted on a property on which there is an owner-occupied detached single-family residence.

Table 3.262.2. Development Standards for the Port Salerno Zoning Overlays

		COVE ROAD	SALERNO ROAD	TOWN CENTER
A	Max. lot size	North side: 12,500 sf.	lot depth ≤ 100 ft.: 7,500 sf.	none

		South side: 18,750 sf.	lot depth=101-150 ft.: 9,375 sf. lot depth ≥151 ft.: 11,250 sf.	
B	Min. lot width	25 ft.	25 ft.	25 ft.
C	Max. lot width	150 ft.	150 ft.	100 ft.
D	Max. building coverage	(1)	(1)	(1)
E	Min. open space	(1)	(1)	(1)
F	Max. bldg. size per floor	14,000 sf.	10,000 sf.	none
G	Max. floor area per use	14,000 sf.	10,000 sf.	10,000 sf.
H	Min. building frontage (2)	60%	60%	60%
I	Max. bldg frontage (2)	100%	100%	100%
J	Required front setback	(3)	(3)	(3)(4)
K	Allowed encroachment into pedestrian zone			
	FIRST STORY			
	Awnings and marquees	(5)	(5)	(5)
	Arcades and Colonnades	(6)	(6)	(6)
	SECOND STORY or higher			
	Awnings	(7)	(7)	(7)

	Balconies	(8)	(8)	(8)
L	Min. side setback (9)	0 ft.	lot width 25 ft. to 50 ft.: 0 ft. lot width greater than 50 ft.: 5 ft.	0 ft.
M	Min. rear setback	5 ft.	5 ft.	5 ft.
N	Building height (10)	1 to 3 stories	1 to 3 stories	1 to 3 stories
O	Residential Density (dwelling units per acre)	15 in mixed-use project; 8 in Medium Density single-use project; 5 in Low Density single use project	15 in mixed-use project; 8 in Medium Density single-use project; 5 in Low Density single use project	15 in mixed-use project in Mixed-Use Overlay; 8 in Medium Density single-use project; 5 in Low Density single-use project
P	Usage by floor for mixed-use buildings 1st floor (11)	Off/Ret/Res	Off/Ret/Res	Off/Ret/Res
	2nd floor	Off/Ret/Res	Off/Ret/Res	Off/Ret/Res
	3rd floor	Residential	Residential	Residential
Q	Parking (12)	on-street and in rear or side of bldg.	on-street and in rear or side of bldg.	on-street and in rear of bldg.

NOTES to Table 3.262.2:

(1) Maximum building coverage and minimum open space for a mixed-use project is set forth in section 3.262.B.2.c.(5) Maximum building coverage and minimum open space for a single-use project shall be based on the future land use designation, as follows:

	Residential	General Commercial	Limited Commercial	Commercial Office/Residential	Waterfront General

					Commercial
Maximum Building Coverage	NA	60%	50%	40%	50%
Minimum Open Space	50% (*)	20%	30%	40% (*)	30%
* No minimum open space is required for the construction of a single-family residence on a lot of record existing as of April 1, 1982.					

(2) For purposes of Table 3.262.2, building frontage means the width of the building that abuts the front setback line, as a percentage of the lot width.

(3) In the Cove Road, Salerno Road and Town Center Zoning Overlays, the front setback shall be within 0 to 15 feet of the pedestrian zone. Fee simple dedication or an easement may be required to provide the pedestrian zone, furnishing zone, and on-street parking.

(4) For waterfront lots, the front setback shall be measured from a property line abutting a street right-of-way.

(5) Awnings and marquees shall extend at least 5 feet from the building and the lowest point shall be 10 feet clear of the pavement. Awnings and marquees may cover the pedestrian zone but must be set back at least two feet from the curb. Awnings shall be made of fabric. Plastic awnings are not permitted. Awnings and marquees may cover up to 100 percent of the building façade. Any private encroachment into the public right-of-way requires the approval of the County Engineer, a right-of-way use permit, a construction agreement, and an indemnification agreement.

(6) Colonnades and arcades shall be constructed only where the minimum ten-foot depth can be achieved, as measured from exterior wall of building to interior side of the column. An arcade may cover 100 percent of the adjacent pedestrian zone, but must be set back at least 2 feet from the curb. If there is no adjacent on-street parking, an additional clear zone from the travel way may be required. A clear sidewalk must be maintained. The ceiling of an arcade shall be at least 10 feet high. Verandas, balconies and enclosed useable space shall be permitted above arcades. The columns shall be consistent with the building style and building proportions. Any private encroachment into the public right-of-way requires the approval of the County Engineer, a right-of-way use permit, a construction agreement, and an indemnification agreement.

(7) Second floor or third floor awnings shall be permitted to encroach over the pedestrian zone. Any private encroachment into the public right-of-way requires the approval of the County Engineer, a right-of-way use permit, a construction agreement, and an indemnification agreement.

(8) Balconies on the second or third story shall be at least 6 feet deep. Balconies shall be permitted to encroach over the pedestrian zone. A second floor balcony shall provide no less than ten feet clear from the ground. Balconies may encompass up to 100 percent of the building façade. Balconies shall have railings and balustrades according to the style of the building. No simulated or faux balconies are

permitted. Any private encroachment into the public right-of-way requires the approval of the County Engineer, a right-of-way use permit, a construction agreement, and an indemnification agreement.

(9) "Lot width" for this standard refers to the width of the parcel occupied by the structure in question, not the width of the platted lots of record.

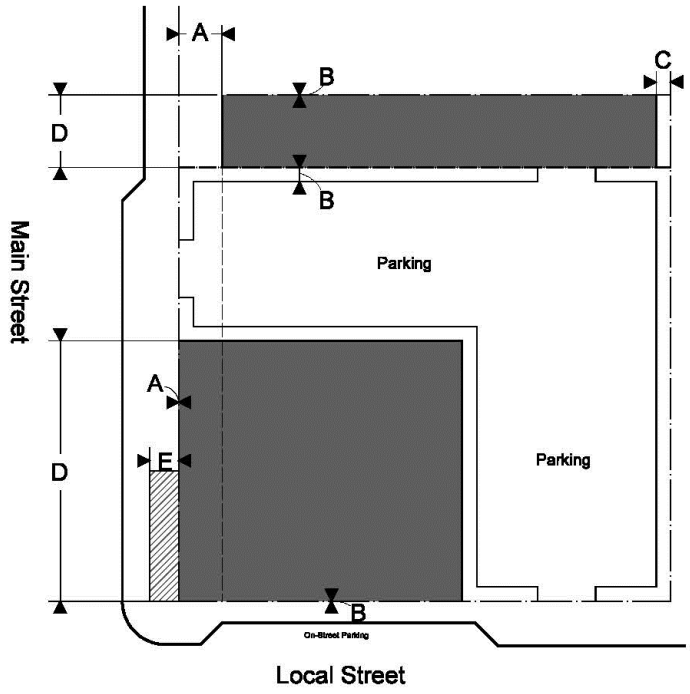
(10) Maximum building height for a mixed-use project in a Mixed-Use Overlay is three stories or 35 feet, whichever is lower. Maximum building height for a single-use structure is governed by the future land use, as follows:

	Residential	General Commercial	Limited Commercial	Commercial Office/Residential	Waterfront General Commercial
Maximum Building Height	40 ft.	40 ft.	30 ft.	30 ft.	30 ft.

(11) "Off" means office; "Ret" means retail; "Res" means residential.

(12) For waterfront development, parking may be placed between the building and the street right-of-way. Landscaping, seating, screening and building design shall establish and maintain a pedestrian-oriented environment in the pedestrian zone and furnishings zone. If located on a lot which has no building, parking shall comply with standards applicable to side yard parking provided in section 3.262.G.6.

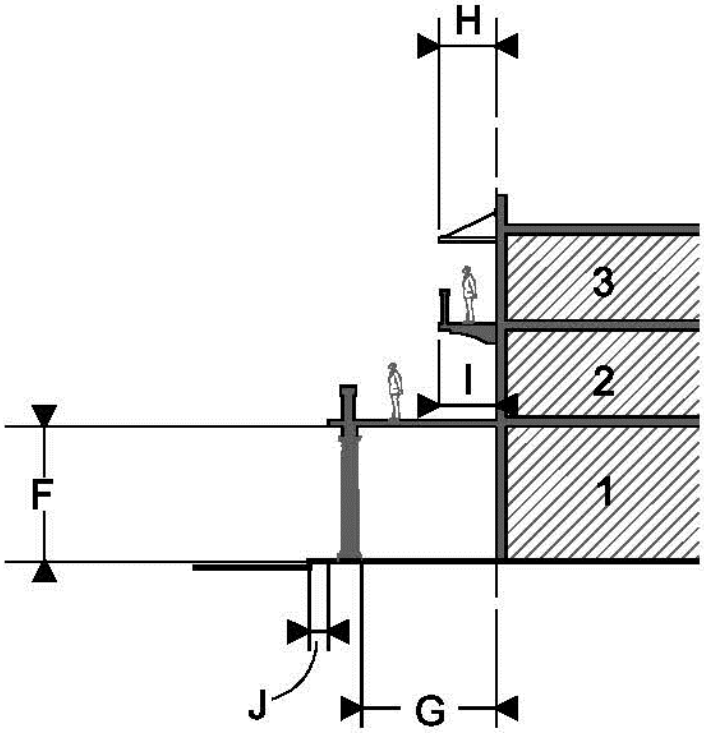
Figure 3.262.5.A. Illustration of Development Standards for the Zoning Overlays



		Cove Road	Salerno Road	Town Center
A	Min. Front Setback	0 ft.	0 ft.	0 ft.
	Max. Front Setback	15 ft.	15 ft.	15 ft.
B	Min. Side Setback	0 ft.	Lot width up to 50 ft.—0 ft. Lot width more than 50 ft.—5 ft.	0 ft.
	Max. Side Setback	none	none	none
C	Min. Rear Setback	0 ft.	0 ft.	0 ft.
	Max. Rear Setback	none	none	none
D	Min. Building Frontage	60%	60%	60%
	Max. Building Frontage	100%	100%	100%

E	Pedestrian Zone Encroachment	Permitted for awnings, marquees, arcades, colonnades, and balconies

Figure 3.262.5.B. Illustration of Development Standards for the Zoning Overlays



		Cove Road	Salerno Road	Town Center
F	Min. clear height from ground to ceiling of colonnade or arcade, to lowest part of awning or marquee, and to lowest part of second floor balcony	10 ft.	10 ft.	10 ft.
G	Min. clear depth for colonnade or arcade	10 ft.	10 ft.	10 ft.
H	Min. projection of awnings and marquees	5 ft.	5 ft.	5 ft.
I	Min. depth of balconies	6 ft.	6 ft.	6 ft.
	Max. depth of balconies	width of	width of	width of

		pedestrian zone	pedestrian zone	pedestrian zone
J	Min. setback from curb for any encroachment into pedestrian zone	2 ft.	2 ft.	2 ft.

2. *Development Standards applicable in the Zoning Overlays.*

a. All new development, any substantial improvement of a building, and any substantial renovation of a building exterior, as those terms are defined in section 4.871.B., LDR, within the Cove Road, Salerno Road and Town Center Zoning Overlays, shall comply with the development standards in Table 3.262.2, except as provided in paragraph b.

b. Whenever substantial improvement of a building or substantial renovation of building exterior triggers the obligation to comply with this section, the Growth Management Director may authorize incremental compliance with its requirements proportional to the nature and scope of the existing and proposed improvements, if full compliance would be unreasonable. An application for alternative compliance shall not be required but the Growth Management Director may require that the proposal be presented to the Neighborhood Advisory Committee for review and comment.

c. Mixed-Use Development within a Mixed Use Overlay.

(1) Mixed-Use development shall have residential density ranging from two units per acre to 15 units per acre.

(2) When the lot is one-half acre or less, dwelling units of 800 square feet or less, shall count as one-half a dwelling unit. This requirement shall not require a small mixed-use project to have more than one dwelling unit because that dwelling unit is 800 square feet or less.

(3) When the lot is larger than one-half acre, dwelling units of 800 square feet or less shall count as one-half a dwelling unit, if at least 50 percent of the units qualify as affordable housing, as defined in the Comprehensive Growth Management Plan (CGMP).

(4) Buildings shall have one to three stories and a building height that does not exceed 35 feet.

(5) Mixed-use development shall provide no less than 20 percent open space. In mixed-use development, open space shall include landscaped pedestrian environments and community gathering areas. Mixed-Use Development shall be permitted 100 percent building coverage if the equivalent of 20 percent open space is contributed in the form of land or money and Policy 4.3., CGMP, Alternative Compliance for mixed-use projects in a Mixed-Use Overlay, is met.

(6) No landscape buffer, other physical or visual screen or barrier, or density transition shall be required between different land uses within a Mixed-Use Development.

(7) When proposed mixed-use development abuts property with an existing residential use or a residential future land use outside of a Mixed-Use Overlay, buffering or a transition in scale and character shall be provided between the mixed-use project and

the adjacent residential property, giving due consideration to the size of the site area of the mixed-use development.

d. Single-family or duplex residential development within a Zoning Overlay.

(1) Detached single-family or duplex residential development located in the Cove Road, Salerno Road, or Town Center Zoning Overlay shall comply with the development standards for the Zoning Overlays set forth in Table 3.262.2.

e. Accessory uses and structures in a Zoning Overlay:

(1) Maximum building footprint: 850 square feet.

(2) Maximum height: the lower of two stories or 20 feet.

(3) Setbacks shall be as provided for principal structures in Table 3.262.2., except as provided by 3.262.F.4 for residential garages.

(4) Accessory Dwelling Units.

(a) A guest house or accessory dwelling unit shall not count as a separate unit for purposes of calculating density.

(b) Guest houses and accessory dwelling units may be the second floor of a garage, a freestanding cottage, or physically attached to the principal dwelling.

(c) A guest house or accessory dwelling unit shall not exceed 50 percent of the floor area of the principal dwelling.

(d) Accessory dwelling units may have separate utility meters or share utilities with the principal dwelling, as required or permitted by the utility provider.

(e) A guest house, an accessory dwelling or the land either one occupies shall not be sold or conveyed separately from the principal dwelling unit.

(5) Home occupations shall employ no more than two persons, in addition to members of the family who reside in the household.

(6) Walls, fences and signs. See section 3.262.J. for standard governing walls and fences and section 3.262.K. for standards governing signs.

f. Additional development standards applicable within the Zoning Overlays can be found in the following sections:

(1) Building types, section 3.262.D.

(2) Street type regulating plan, section 3.262.E.

(3) Architectural styles, section 3.262.L.

(4) Article 4, Division 20, commercial design, LDR.

Sec. 3.262.C. *Port Salerno CRA outside of the Zoning Overlays.*

1. *Permitted Uses outside of a Zoning Overlay.*

a. Permitted uses shall be consistent with the zoning district and future land use designation. Permitted uses for category A and category B zoning districts are set forth in section 3.11, LDR. Permitted uses for category C zoning districts are set forth in Article 3, Division 7., LDR. If the land is in a Category C zoning district, consistency with the future land use map must be confirmed, pursuant to section 3.402, LDR.

b. Mixed-use development shall be permitted, outside of a Mixed-Use Overlay, on land with the Commercial Office/Residential, Limited Commercial, or General Commercial Future Land Use designation. Mixed-use development outside of a Mixed-Use Overlay shall

include a Commercial and Business Use that is consistent with the future land use designation and the zoning district, and a residential use. Public and Institutional Uses may also be included. All mixed-use development, regardless of size, shall be allowed at least one dwelling unit and all mixed-use development shall provide at least one dwelling unit.

c. Accessory uses and structures outside of the Zoning Overlays shall be permitted the same as inside the Zoning Overlays, as set-forth in section 3.262.B.1.e.

2. *Development Standards outside of a Zoning Overlay.*

a. *Single-Use Development outside of a Zoning Overlay.*

(1) Commercial, institutional, and industrial development shall comply with the development standards established by:

(a) The zoning district.

(b) The future land use designation.

(c) Article 3, Division 3, Standards for Specific Uses, LDR.

(d) Article 3, Division 4, Miscellaneous Development Standards, LDR.

(e) Section 3.262.L., Architectural Styles.

(2) Commercial Development shall comply with Article 4, Division 20, Commercial Design, LDR.

(3) Residential development shall comply with the residential building types in section 3.262.D. and the Architectural Styles described in section 3.262.L., except as provided in section 3.262.D.3. regarding development in the Mobile Home Future Land Use.

b. *Mixed-Use Development outside of a Mixed-Use Overlay.*

(1) The maximum height, maximum building coverage and minimum open space shall be determined by the future land use designation. Table 3.262.3 summarizes these standards.

(2) Residential density within a Mixed-Use Development outside of a Mixed-Use Overlay shall comply with section 3.262.B.2.c.(1), (2) and (3).

(3) No landscape buffer, other physical or visual screen or barrier, or density transition shall be required between different land uses within a Mixed-Use Development.

(4) When proposed Mixed-Use Development abuts property with an existing residential use or a residential future land use outside of a Mixed-Use Overlay, a buffer or a transition in scale and character shall be provided between the mixed-use project and the adjacent residential property, giving due consideration to the size of the site area of the Mixed-Use Development.

(5) Additional development standards applicable to Mixed-Use Development, outside of the zoning overlay, can be found in the following sections:

(a) Building Types, section 3.262.D.

(b) Street Type Regulating Plan, section 3.262.E.

(c) Architectural Styles, section 3.262.L.

(d) Article 4, Division 20, Commercial Design.

c. The development standards applicable to accessory uses and structures outside of the Zoning Overlays shall be the same as those applicable inside the Zoning Overlays, as set-forth in section 3.262.B.2.e.

Table 3.262.3. Development Standards for Mixed-Use Development, outside of a Mixed-Use Overlay, by Future Land Use designation.

	General Commercial	Limited Commercial	Commercial Office/Residential
Maximum Building Height	40 ft.	30 ft.	30 ft.
Maximum Building Coverage	60%	50%	40%
Minimum Open Space	20%	30%	40%
Maximum Residential Density	2-15 dwelling units per acre	2-15 dwelling units per acre	2-15 dwelling units per acre
Setbacks			
Front	0—15 ft.	0—15 ft.	0—15 ft.
Rear	1 st story = 20ft. 2 nd story = 20 ft. 3 rd story = 30 ft. 4 th story = 40 ft.	1 st story = 20 ft. 2 nd story = 20 ft. 3 rd story = 30 ft.	1 st story = 20 ft. 2 nd story = 20 ft. 3 rd story = 30 ft
Side	1 st story = 10ft. 2 nd story = 10 ft. 3 rd story = 20 ft. 4 th story = 30 ft.	1 st story = 10ft. 2 nd story = 10 ft. 3 rd story = 20 ft.	1 st story = 10 ft. 2 nd story = 10 ft. 3 rd story = 30 ft.
Parking	In the rear or to the side of the buildings or on the	In the rear or to the side of the buildings or on the	In the rear or to the side of the buildings or on the interior of

	interior of the development.	interior of the development.	the development.

Sec. 3.262.D. Building Types.

1. The six Port Salerno Building Types are:
   a. Main Street Shopfront Building.
   b. Office Building.
   c. Apartment Building.
   d. Single-Family House:
      (1) Rear Yard House.
      (2) Side Yard House.
      (3) Row House or Town House.
2. The six Building Types shall be located within the CRA according to the Street Type Regulating Plan, section 3.262.E. The Street Type Regulating Plan distinguishes Port Salerno's Main Streets and A-1-A/Dixie Highway, which are intended for a mix of land uses, from Local Streets which are primarily intended to serve residential and civic uses, and specifies which Building Types are permitted on which street type.
3. Commercial and residential development within the Cove Road, Salerno Road and Town Center Zoning Overlays shall be comprised of Main Street Shopfronts, Office Buildings, Apartment Buildings, and Single-Family Building Types, as identified and described in this section.
4. Commercial uses shall adhere to the Commercial Design standards in Art. 4, Division 20, LDR, and section 3.262.L.
5. In the CRA, but outside the Cove Road, Salerno Road and Town Center Zoning Overlays, all residential development shall be consistent with one of the residential Building Types described in this section, except as provided for the Mobile Home Future Land Use, in paragraph 6 below, Additional standards for single-family and duplex development are set forth in section 3.262.F.
6. Outside of the Cove Road, Salerno Road and Town Center Zoning Overlays, in the Mobile Home Future Land Use designation, section 3.262.D. and section 3.262.L. are inapplicable and installation of a mobile home or modular home is permitted.
7. Main Street Shopfront Building. Shopfront buildings represent the basic unit of any traditional mixed-use street or Main Street. A Main Street Shopfront Building typically has the following characteristics:
   a. The ground floor is level with the sidewalk.
   b. The ground floor elevations are predominantly transparent with display windows and door openings.
   c. The ground floor plan is flexible to accommodate a variety of uses.
   d. Upper-story uses will be retail, residential or office as specified in Table 3.262.2.
   e. Building fronts should have at least one of the following, extending at least 50 percent of the building facade:

(1) Arcade or colonnade.

(2) 2nd floor balcony.

(3) Marquee or awnings.

f. For all architecture other than the four styles identified in section 3.262.L., a cornice line is required at the top of the front facade and side facades facing streets. The cornice shall be at least 18 inches in height.

g. A parapet or cornice is required on flat or shed roofs, at the top of the front façade and side facades facing streets.

h. Courtyard buildings are permitted as Main Street shop front buildings.

i. It is desirable for shop front buildings:

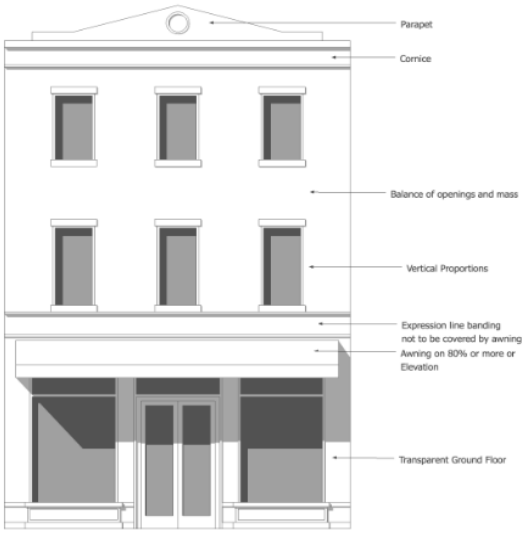
(1) to have an expression line between the first floor and the second floor that is visible above the awning;

(2) for the openings and mass of the buildings to be balanced;

(3) for the windows and door openings to have vertical proportion and rhythm.

j. See illustrations.

Figure 3.262.6 Illustration of Shop Front Building



8. Office Building. An Office Building typically exhibits the following characteristics:
   a. The office building is placed towards the front of the lot, along the front property line or the build-to-line.
   b. The ground floor can be slightly elevated from the sidewalk to provide privacy.

c. The ground floor should be somewhat transparent.

d. Mirrored windows are not permitted.

e. The ground floor plan should be flexible to accommodate a variety of uses.

f. Upper story uses shall be as provided in Table 3.262.2.

g. Parking should be on-street, in the rear, or on the side of the building.

h. Building fronts should have at least one of the following, extending at least 80 percent of the building façade:

(1) Porch.

(2) Arcade or colonnade.

(3) 2nd floor balcony.

(4) Marquee or awnings.

i. For all architecture other than the four styles identified in section 3.262.L., a cornice line is required at the top of the front facade and side facades facing streets. The cornice shall be at least 18 inches in height.

j. A parapet or cornice is required on flat or shed roofs, at the top of the front facade and any side facade facing a street.

k. Courtyard buildings are permitted as Office Buildings.

l. It is desirable for Office Buildings:

(1) To have an expression line between the first floor and the second floor that is visible above the awning,

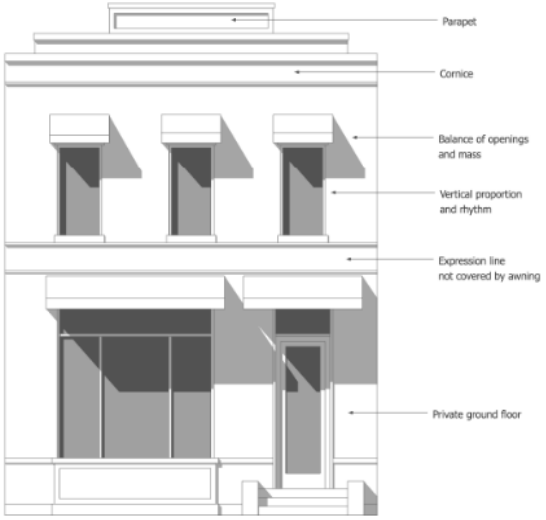
(2) For the openings and mass or walls of the building to be balanced,

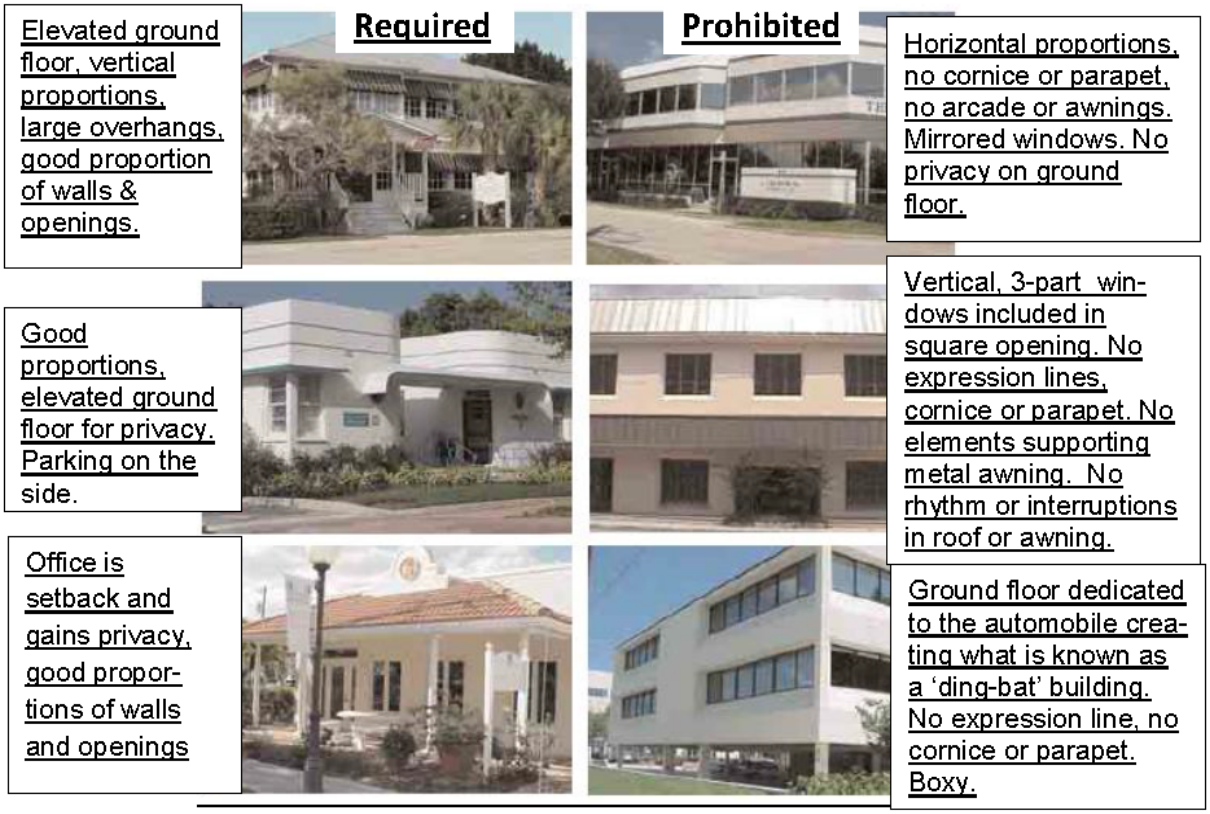
(3) For the building and its openings to have vertical proportions and rhythm, and

(4) To have a roof with large overhangs.

m. See illustrations.

Figure 3.262.7. Illustration of Office Building





9. *Apartment Building.* Apartment Houses can diversify the type, size and price of housing available to meet needs of diverse people and at different stages of people's lives.

   a. The apartment building is set back from the property line between 5 to 15 feet or along the build-to-line.

   b. The ground floor is slightly elevated from the sidewalk to provide privacy.

c. The ground floor plan may be flexible to accommodate future office or commercial uses.

d. Upper-story uses shall be residential.

e. Parking shall be on-street or in the rear or on the side of the building.

f. Private open space takes the form of individual porches or balconies and a shared rear yard.

g. Apartment building fronts shall have at least one of the following:

(1) Porch;

(2) Arcade or colonnade;

(3) 2nd floor balcony;

(4) Marquee or awnings.

i. Courtyard buildings are permitted as Apartment Buildings.

j. A parapet or cornice is required on flat or shed roofs, at the top of the front façade and any side facade facing a street.

k. The windows, door openings and mass of the buildings shall be balanced and have vertical proportion and rhythm.

l. For architectural considerations, follow the proportions and elements defined for each style.

n. It is desirable for Apartment Houses:

(1) to create a good relationship to the street and differentiation between public and private space;

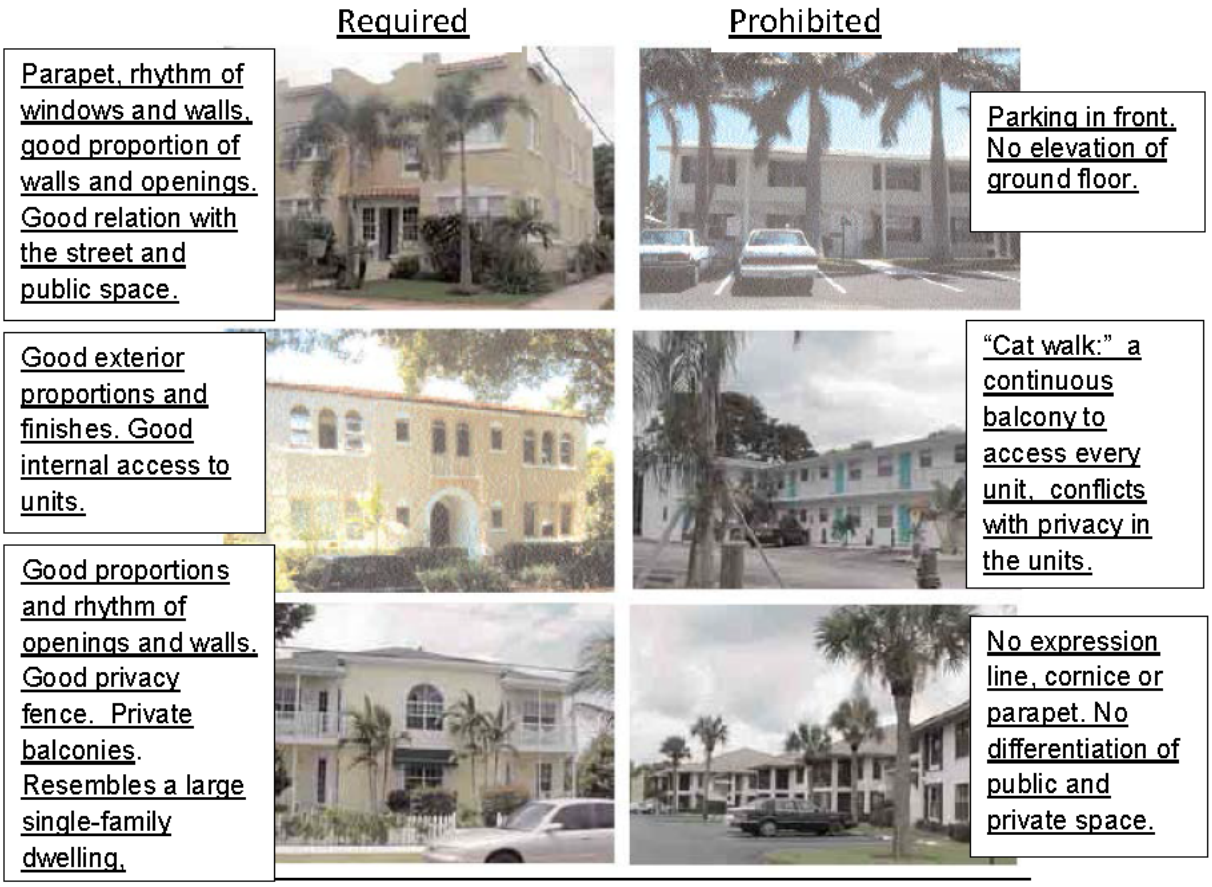
(2) for the building walls and openings to have good rhythm and be properly balanced and proportioned, and

(3) to have high quality exterior finishes;

(4) to have interior access to the individual units.

m. See illustrations.

Figure 3.262.8. Illustration of Apartment Building



10. *Single Family Houses and Duplexes.*

    a. *Rear Yard House.*

        1. Rear yard houses are generally suited for larger lots and are located at the edge of town.

2. Rear yard houses are generally set back between five and 15 feet from the property line, may have a porch that encroaches on this setback, and have a yard in the rear.

3. Porches could be present along front and rear elevations or wraparound the entire structure.

b. *Side Yard House.*

1. Side yard houses are usually one room wide, positioned towards the front and side of the lot with porches wrapping around the front and the side that faces an open yard.

2. Parking is generally provided in the rear.

c. *Town Houses or Row Houses.*

1. Row houses are usually sited at the front of a narrow lot (16 feet to 25 feet), have no side setbacks and share one or more walls with neighboring structures.

2. Entrances are generally elevated from the sidewalk to provide privacy.

3. Porches and stoops are common elements.

4. Parking is provided in the rear.

Figure 3.262.9. Illustrations of Rear Yard House

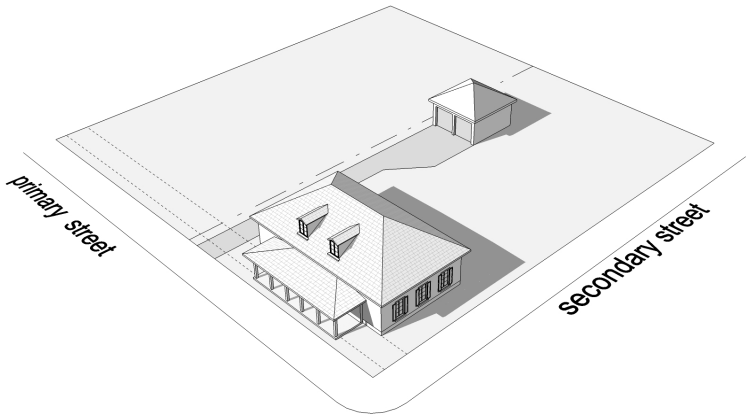
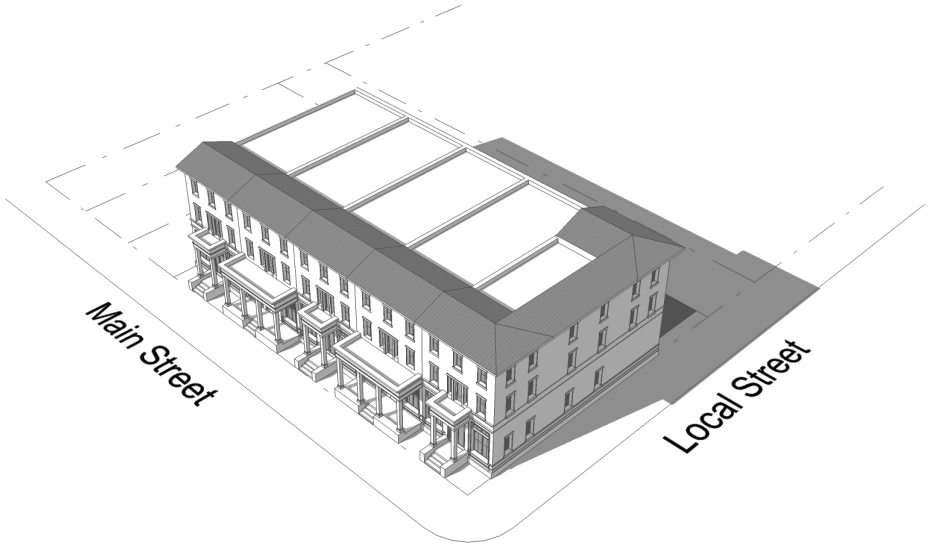


Figure 3.262.10. Illustrations of Town House



Sec. 3.262.E. *Street Type Regulating Plan.*

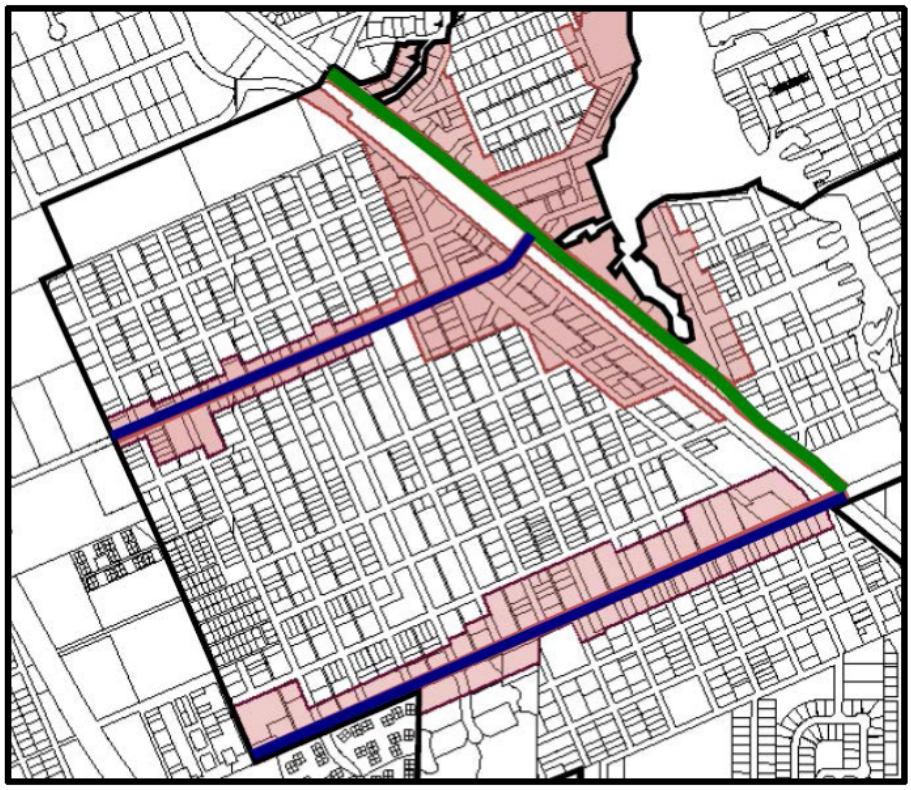
1. The Street Type Regulating Plan, comprised of Figure 3.262.5 and Table 3.262.6, identifies which Building Types shall front Main Streets and A-1-A/Dixie Highway, and which Building Types shall front Local Streets. The Building Types are further described in section 3.262.D.
2. At the intersection of a Local Street and a Main Street or A-1-A/Dixie Highway, the Main Street or A-1-A/Dixie Highway controls which building types are allowed. The front of the building and its main entrance must face the primary street.
3. For purposes of section 3.262.E. only, Port Salerno's Main Streets are the sections of Cove Road and Salerno Road that lie west of the A-1-A/Dixie Highway right-of-way and within the Port Salerno CRA.
4. For purposes of section 3.262.E only, Port Salerno's local streets are all streets in the CRA that are not A-1-A/Dixie Highway, a Main Street, as described in paragraph 3, or located within a Mixed-Use Overlay.
5. All Building Types permitted to be located on a Main Street shall be permitted on any lot that is located within a Mixed-Use Future Land Use Overlay,

Table 3.262.6 Port Salerno CRA Street Regulating Plan

Building Types	Street Types		
	Main Streets	A-1-A/Dixie Hwy	Local Streets
Main Street Shopfront	X	X	
Office Building	X	X	

Apartment Building	X	X	X
Townhouse/Rowhouse	X	X	X
Side yard House	X		X
Rear Yard House	X		X
Civic Buildings	X	X	X

Figure 3.262.11 Port Salerno Street Regulating Plan



Sec. 3.262.F. *Single-family and duplex residential.*

1. Single family and duplex dwellings shall utilize the Rear Yard House, Side Yard House, or Row House Building Type, described in section 3.262.D.
2. Setbacks and other development standards

a. Single-family dwellings constructed within the Cove Road, Salerno Road or Town Center Mixed-Use Future Land Use Overlays shall comply with the development standards set forth in Table 3.262.2.

b. Single-family and duplex dwellings constructed in the Port Salerno CRA outside of any mixed-use future land use overlay shall adhere to the standards in Table 3.262.5.

Table 3.262.5. Single-Family and Duplex Development Standards, outside a Mixed-Use Future Land Use Overlay

	Rear Yard House	Side Yard House	Row House/Townhouse (3)
Lot Width	35 ft. to 150 ft. (1)	35 ft. to 50 ft. (2)	16 ft. to 35 ft.
Dwelling Width	30 ft. to 130 ft.	10 ft. to 24 ft. (plus side porch)	16 ft. to 35 ft.
Dwelling Depth	NA	NA	65 ft. maximum
Lot Area	NA	NA	NA
Front Setback	5 ft. to 25 ft.	0 ft. to 10 ft.	0 ft. to 10 ft.
Side Setback	Lots up to 100 ft.—5 ft. Lots 101 to 150 ft.—10 ft. Lots wider than 150 ft.—20 ft.	Minimum 5 ft. on one side and 20 ft. on other	0 ft.
Rear Setback	Determined by zoning district.		
Minimum First floor elevation	Determined by drainage and stormwater standards or the requirements of an on-site sewer facility	Determined by drainage and stormwater standards or the requirements of an on-site sewer facility	2-5 feet above grade (4)
Main Building Height (5)	Max.—3 stories Min.—one story	Max.—3 stories Min.—1 story	Max.—3 stories Min.—1 story

Porch [6]	Front porches are encouraged. A front porch may be required by the architectural style. A front porch may encroach into front setback.	A porch facing the side yard is required. Wrapping the porch around the house is encouraged.	A front porch or stoop is required for each dwelling unit.

Notes to Table 3.262.5:

[1] Maximum lot width is not limited to 150 feet, but if new lots are being platted, lot widths shall be such that, when combined, they do not form blocks that are larger than 600 feet on any side.

[2] Maximum lot width is not limited to 50 feet, but if new lots are being platted, lot widths should be such that, when combined, the built portion of the block is larger than the open space along it. If lot width exceeds 50 feet, the width of the house may be increased proportionately.

[3] Architectural differentiation between adjoining dwellings and expression lines between the first and second floor of the front facade are required.

[4] This minimum first floor elevation is voluntary for any dwelling developed pursuant to an affordable housing program, such as but not limited to housing funded through the State Housing Initiative Partnership or Habitat for Humanity. A higher minimum first floor elevation may be required by Article 4, Division 10, LDR., Flood Protection.

[5] Maximum height shall not exceed three stories or the maximum height measured in feet, as determined by future land use designation, whichever is lower. Residential future land use designations permit a maximum building height of 40 feet. The commercial office/residential future land use designation permits a maximum building height of 30 feet.

[6] See 3.262.F.3. for standards applicable to porches, stoops and balconies.

3. *Residential porches, stoops and balconies.*

   a. When a front porch or side porch is required by the building type or architectural style or otherwise desired, the porch shall be at least eight feet deep and have at least eight feet clear height.

   b. Front porches and side porches may have multi-story verandas, terraces, and/or balconies above.

   c. Front porches shall be open on three sides and shall not be screened.

   d. Front porches and side porches may cover up to 100 percent of the length of the respective building façade.

   e. The front porch on a rear yard house must cover at least 40 percent of the front façade.

   f. Stoops shall provide sufficient space to comfortably and safely pause before entering the dwelling, taking into account the swing of the door. Minimum dimensions shall be five feet deep by four feet wide.

g. Single-story porches and stoops may encroach 100 percent into the minimum front setback. Side porches on side yard houses may encroach up to 50 percent into the side yard.

h. Second or third story balconies shall be at least six feet deep and have a minimum clear height of ten feet. A balcony may encompass up to 100 percent of the length of the front facade.

4. *Parking.*

a. Uncovered driveways and surface parking may be located in any required front, side or rear yard. (Section 3.201.C.2.h., LDR., governs the parking of boats and recreational vehicles in residential driveways.)

b. Residential driveways shall not exceed 20 feet in width at the point where such driveways intersect a street right-of-way. This limitation does not apply to residential driveways or parking that intersects an alley.

c. Garages for detached single-family or duplex residences shall not dominate the front elevation of the house. Garages shall be subordinate to the main living area of the dwelling in terms of area, height, width and/or location. Options to achieve this include the following:

(1) Front-loading garages shall be recessed at least five feet behind the front façade of the house.

(2) When an improved alley is present, garages shall be located in the rear of the property and accessed from the alley.

d. Garages or covered parking provided for townhouses must be located in the rear of the dwelling and be accessed from an alley. On-street parking may be provided in the front or side of the building.

Sec. 3.262.G. *Parking.*

1. Parking shall conform to Article 4, Division 14, Parking and Loading, LDR unless otherwise specified in section 3.262.

2. *Applicability.* This section shall apply, as set forth in paragraphs (a) through (c) below, to all development within the Port Salerno CRA that requires approval of a final site plan, pursuant to Article 10, Development Review Procedures, LDR, and all development that undergoes a substantial improvement of a building or substantial renovation of a building exterior, as substantial improvement and substantial renovation are defined section 4.871.B., LDR.

a. Development within a Zoning Overlay, whether mixed-use or single-use, shall comply with this section.

b. Parking provided for residential use, whether a single-use residential development or the residential component of a mixed-use project, shall comply with this section.

c. Parking for non-residential development outside of the Zoning Overlays shall comply with this section, except that parking rates shall be consistent with section 4.624, LDR.

3. *SPARC.* The Special Parking Alternative for Redevelopment Centers program, established by section 3.260.G., LDR, shall be available in the Port Salerno CRA, upon adoption by resolution of the Board of County Commissioners of the program specifics. SPARC is intended to provide on-street and other public parking and to allow property owners to satisfy some or all of their parking requirement by paying a proportionate share of the cost of providing such parking.

4. *Parking space requirements:*

a. Residential: Two per residential unit.

b. Commercial and mixed-use:

(1) Development with less than 15,000 square feet of gross floor area shall provide a maximum of one space per 500 square feet of gross floor area and no spaces for residential units in any mixed-use building where residential use constitutes 30 percent or less of the gross floor area.

(2) Development with more than 15,000 square feet of gross floor area shall provide a maximum of two spaces per 500 square feet of gross floor area and 1.5 spaces for each residential unit.

(3) Dock space for waterside uses shall be counted as one dock space equals two parking spaces.

5. *Access.* Residential, commercial and institutional development within the Cove Road and Salerno Road Zoning Overlays shall provide a rear alley located within a dedicated right-of-way or an easement, or shall provide joint and cross access as described in section 4.845.D., access management, LDR.

6. *Location and design.*

a. In addition to compliance with this section, parking areas shall be designed and located in accordance with section 3.262.B.2., development standards in Zoning Overlays; section 3.262.D., building types; section 3.262.J., walls and fences; and section 3.262.I., landscaping.

b. On-street parking along the street frontage of a development shall count 100 percent towards the parking requirements for that development.

c. On-site parking shall be restricted to the side or rear yards of properties fronting Cove or Salerno Roads or A-1-A/Dixie Highway. In the case of side yard parking, the parking area shall be a minimum of five feet behind the front façade.

7. *Joint use of parking lots.*

a. Joint use of parking lots is encouraged.

b. Shared parking lots must be located within 500 feet of each use. These lots may be separated from the use(s) by a street, easement, or other right-of-way.

c. Parking shared by different uses must be supported by evidence that peak parking demands of each use occur at different times of the day or days of the week. Section 4.626.B.2, shared parking, LDR, provides the methodology to support shared parking. Mixed-use projects do not have to meet this standard.

8. *Off-street loading.* A minimum of one loading space must be provided for all buildings that receive or ship goods via semitrailer or trucks larger than 20 feet in length. The space must not obstruct or hinder the movement of vehicles or pedestrians.

Sec. 3.262.H. *Stormwater.*

Stormwater management shall be as required by Article 4, Division 9, LDR, with the exception that parcels within the Zoning Overlays may develop a stormwater management plan in conjunction with the adjacent properties.

Sec. 3.262.I. *Landscaping.*

1. *Applicability.*

a. Except as provided in paragraph b, this section shall apply to all development within the Port Salerno CRA that requires approval of a final site plan, pursuant to Article 10, Development Review Procedures, LDR, and all development that undergoes a substantial improvement of a building or substantial renovation of a building exterior, as such terms are defined in section 4.871.,B, LDR.

b. Construction or substantial renovation of a single-family or duplex residence shall require the planting of one tree per three thousand square feet of lot area (1 tree/3,000 sf), and those trees shall comply with the standards set forth in section 4.664., LDR. Single-family and duplex residences shall also comply with section 4.37, land clearing plans and procedures, LDR. Single-family and duplex residences shall be exempt from all other requirements of section 3.262.H.

c. The enlargement or repair of single-family or duplex units shall be exempt from this section.

d. No development order or building permit for any use, structure or development within the Port Salerno CRA shall be issued until a landscape plan that complies with this section to the maximum extent possible is approved. A certificate of occupancy shall not be granted for any use, structure or development until all requirements of this section are met.

e. Whenever substantial improvement of a building or site or substantial renovation of building exterior triggers the obligation to comply with this section, the Growth Management Director, or the Director's designee, may authorize incremental compliance with its requirements when the nature and scope of the existing and proposed improvements make full compliance unreasonable. An application for alternative compliance shall not be required but the Growth Management Director may require that the proposal be presented to the Neighborhood Advisory Committee for review and comment.

f. Unless expressly provided differently in this section, the following sections of Article 4, Division 15, Landscaping, Buffering and Tree Protection, LDR, shall apply in the Port Salerno CRA:

4.661.C., Glossary;

4.662.B., Irrigation plans;

4.663.B.5, Bufferyards for uses adjoining conservation land;

4.664.A., Quality and species;

4.664.B. Trees

4.665., Maintenance of required landscaping;

4.668., Certification of compliance.

2. *Landscape plan.* The landscape plan shall be prepared by a qualified professional and shall comply with section 4.662.A., Landscape Plan, LDR.

3. *General requirements.* The following minimum landscaping and tree planting requirements shall apply.

a. All developments shall provide at least one tree per thousand square feet of total site area.

b. For purpose of determining the number of trees required, total site area excludes any required upland preserve area. If an upland preserve is required on the site, the trees in the upland preserve count towards meeting the number of trees required by the landscaping code.

c. In mixed-use projects, open space may include landscaped pedestrian environments such as planted courtyards or walkways and ten percent of the open space requirement may be met by landscaping adjacent public space and permanently maintaining the area as a pedestrian environment. Such space shall be designated on site plan.

d. Trees planted in the adjacent right-of-way or other nearby public space shall be credited towards meeting the number of trees required by this section.

e. Except as required for principal roadways and vehicular use areas in sub-section 4, below, and notwithstanding the size requirements for trees, provided in section 4.664.B., LDR, if a fruit tree is planted to meet the Port Salerno landscaping requirements, the minimum height at time of planting shall be five feet.

f. Landscaping shall be permitted in easements only with the written permission of the easement holder. A written agreement shall specify the party responsible for restoring disturbed landscape areas, shall be submitted to the county in a form acceptable to the county attorney, and shall be filed with the county's permanent land records.

g. Exposed dirt yards are prohibited.

4. *Roadways and Vehicular Use Areas.* The following landscaping requirements shall apply to vehicular use areas and along roads.

a. Principal roadways. The landscaping on Cove Road, Salerno Roads and A-1-A/Dixie Highway shall include trees with a minimum height of 16 feet, with a four-foot clear trunk, and three-inch diameter at breast height (dbh) at the time of planting, planted at a maximum of 30-foot intervals. Along A-1-A/Dixie Highway, every third planting shall be complemented with a bench and a garbage container. The landscape islands shall be sized adequately for the maximum mature size of the tree.

b. Vehicle use areas. Landscaping shall be provided along the perimeter of all vehicular use areas in accordance with the following standards:

(1) Any side of a vehicular use area fronting Cove Road, Salerno Road or A-1-A/Dixie Highway shall be planted with trees at 30-foot intervals. The trees shall be 16 feet in height, with a four-foot clear trunk, and three-inch dbh, at the time of planting. The remaining sides of the perimeter of the vehicle use area shall be planted consistent with paragraph 2 below.

(2) All other vehicular use areas shall be planted with trees that comply with section 4.664.B., LDR, at 50-foot intervals.

(3) A wall, fence, or hedge shall be provided around all vehicle use areas. Between the vehicle use area and a road right-of-way, the wall, fence, berm or hedge shall not exceed four feet in height. For the remainder of the lot, it shall be no more than six feet in height. Walls and landscaping around parking areas shall provide pedestrian access every 50 linear feet. No wall, fence, or hedge is required along the side of a parking area that abuts another parking area.

(4) If a vehicle use area abuts a residential property (existing residential use or residential future land use designation), and the residential property is not a part of the subject development, trees shall be planted at 30-foot intervals in a landscape area that is at least eight feet wide. A five-foot wall or hedge shall also be provided. The landscaped buffer and the wall, fence or hedge may be reduced or eliminated with the written consent of the owner of the residential property.

5. *Buffer requirements.* To reduce potential incompatibilities between adjacent land uses, fences, walls or hedges between certain uses shall be required.

a. A fence, wall, hedge, or landscaped screen, at least five feet in height, between a proposed nonresidential use and an existing residential use shall be provided unless the owner of the residential property agrees in writing to waive this requirement.

b. Where a hedge or vegetative landscape screen is used, it shall be required to form a solid visual screen at the time of planting.

c. Existing native vegetation may be used to satisfy screening requirements upon approval of the Growth Management Director.

Sec. 3.262.J. *Walls and fences.*

Walls and fences in the Port Salerno CRA shall be governed by this subsection and section 3.204.A., LDR.

1. *Location.* Fences and walls not exceeding the maximum heights provided in paragraph 3 may be located on the property line and are not subject to minimum setbacks.
2. *Materials.* Fences and walls shall be architecturally compatible with nearby buildings.
    a. Walls or fences erected on a property line, to meet requirements related to buffering between uses or around vehicular use areas, or to create street enclosure, shall be constructed of the following materials:
        (1) Sand and stone blocks.
        (2) Split-face masonry block.
        (3) Coral rock.
        (4) Wrought iron.
        (5) Wood.
        (6) Vinyl.
    b. The finished side of a fence or wall shall face outwards.
    c. Chain link fences are permitted in rear yards only and shall have vegetative screening where visible from a street right-of-way or public park.
    d. Barbed wire, spire tips, or sharp objects are not permitted.
3. *Height.*
    a. Fences or walls located between a principal building and a street right-of-way shall not exceed three feet in height, except as provided in paragraphs b, c and d.
    b. Fences and walls around a vehicular use area must be four feet, notwithstanding paragraph a.
    c. Fencing of a side yard for a single-family or duplex residential use that abuts a street right-of-way shall not exceed three feet in height from the front property line to a point parallel to the front façade of the residence. Side yard fences may not exceed six feet for the remainder of the side yard.
    d. Other than as provided in paragraphs a and c, fences around a rear yard or a side yard shall not exceed six feet in height.

Sec. 3.262.K. *Sign regulations.*

Signage in the Port Salerno CRA shall be as provided for in chapter 33, article XLVI, of the Martin County Code of Laws and Ordinances [section 4.691 et seq. of the LDR] unless otherwise provided below. All new signage must be reviewed and approved by the port salerno neighborhood advisory committee. It shall be unlawful to erect, display or maintain any sign that does not comply with the following standards and regulations. All signs which are legally permitted signs, as of the effective date of this section, shall be deemed conforming. Such signs shall be afforded the same maintenance privileges as new permitted signs, provided the square footage is not increased.

1. *Temporary signs.* Temporary signs are permitted, subject to compliance with the Standard Building Code and the following requirements:
    a. Promotional, special event, grand opening and seasonal sales signs, provided that such signs are:

(1) Not over eight square feet in area; and

(2) No closer than ten feet to any right-of-way line;

(3) Erected in such a way that they do not interfere with vehicular or pedestrian traffic;

(4) Permitted on the basis of not more than one such permit in any given six-month period;

(5) Permitted for a period not to exceed 60 days for seasonal sales such as Christmas tree sales) or for a period not to exceed 30 days for promotional sales;

(6) Removed immediately upon the expiration of the use or event for which they are granted; and

(7) Limited to one per each 100 feet of street frontage.

b. Portable signs, such as sandwich board or A-frame signs, may be used on the premises or on the sidewalk directly in-front of the premises provided:

(1) The sign is placed indoors after business hours; and

(2) If placed on the sidewalk, the portable sign does not exceed 24 inches in width;

(3) A clear path not less than six feet is maintained.

c. Banner signs may be erected for a temporary period, not to exceed 21 days. If hung over a right-of-way, they must comply with all applicable FDOT or Martin County regulations. They shall be used to advertise only redevelopment area events.

2. *Billboards.*

a. New billboards shall not be allowed in the Port Salerno Community Redevelopment Area.

3. *Point of purchase signs.* The following point of purchase signs are permitted subject to compliance with the Standard Building Code and the following requirements:

a. *Wall signs.* Signs shall be designed to integrate with the building or associated storefronts in materials and colors.

(1) Maximum area. Maximum square footage of a wall sign shall be of 32 square feet per 50 feet of lineal frontage; of the lineal frontage and a square footage equal to 80 percent of lineal frontage if less than 50 feet. For walls other than front walls one-half of the square footage for the front wall signs is permitted.

(2) The permitted size of wall signs shall be based on a percentage of the wall areas computed by the length times the height in the geometric figures which determine the actual area. The wall length shall be the building, or that portion occupied. The height of the wall for computation purposes shall not exceed 15 feet for one-story structures 25 feet for two or more story structures. One wall shall be the front wall. Other walls shall be figured on the basis of one-half of the amount allowable for the front wall. Individual signs may not be larger than 32 square feet.

(3) No wall sign shall cover wholly or partially any required wall opening.

(4) Murals are permitted, but may not contain advertising.

b. *Projecting signs.*

(1) No projecting sign shall have a sign area exceeding 50 percent of the permitted frontage wall area and in no case shall it exceed 50 percent of the frontage wall mounted sign area; the maximum permitted wall sign for the given wall.

(2) Projecting signs may extend over the right-of-way (sidewalk). The maximum distance, measured perpendicular to the building, is the sidewalk less two feet.

c. *Freestanding signs.*

(1) There shall be no freestanding signs allowed in the Port Salerno overlay districts.

d. *Off-premises signs.* Shall be limited to directional signs or signs used for directory purposes. Maximum allowable size is two square feet for each tenant or property, with the maximum allowable size of 32 square feet.

e. *Auxiliary signs.*

(1) Time-and-temperature devices are permitted in association with public service activities only. These signs may be freestanding, projecting or wall signs. Those devices with alternating messages shall display each such message for not less than ten seconds.

f. *Window signs.*

(1) Signs shall not exceed 20 percent of the window area.

4. *Compliance requirements.*

a. Signs prohibited by this section shall be removed immediately upon the effective date of this section unless specifically grandfathered. Grandfathered signs shall be removed no later than five years from the effective date of this section; and

b. Any sign located within a public right-of-way shall be removed immediately, unless it is permitted elsewhere within this section. The enforcing official is authorized to remove any sign not permitted in the right-of-way under this section at such time as the sign is determined to be in noncompliance.

5. *Maintenance.* Signs shall be kept clean, painted and free from all hazards such as, but not limited to, faulty wiring and loose fastenings. Weeds shall be cut underneath and around the base of ground signs and no rubbish or debris shall be permitted that would constitute a fire hazard or be detrimental to the public health and safety. All signs shall be maintained in a manner which will withstand hurricane wind load requirements.

6. *Enforcement.* The Growth Management Department Director shall work with the Port Salerno Neighborhood Advisory Committee appointed sign review committee as the enforcing official. This sign review committee shall have five members, consisting of a current sign professional with five years active experience, one current member of the Port Salerno Revitalization Committee, and two members of currently operating businesses in the Port Salerno Community Redevelopment Area.

7. *Permits required.* Sign shall not be erected, constructed, altered or maintained except as provided in this section until a permit for same has been issued and the applicable fee paid. A sign permit shall become null and void unless work on the permitted sign is substantially under way within six months after the effective date of the permit. Any fee paid shall be forfeited.

Sec. 3.262.L. *Architectural styles.*

All new development in the Port Salerno CRA is required to adhere to one of the four architectural styles described in this section. Any substantial improvement of an existing structure or substantial renovation of a building exterior shall be consistent with the existing architectural style of the structure, or one of the four architectural styles in this section.

1. *General characteristics of Florida Vernacular Architectural Style.*

a. Roofs of the primary structure are typically gabled with a slope between 6:12 and 12:12.

b. Roofing materials consist of metal, standing seam or "V" crimp, asphaltic shingles or wooden shakes.

c. Roof overhangs are typically deep, between two feet and four feet, and have exposed rafter tails. Fasciae on the gabled ends are deeper than those exposed along the running eave edge.

d. When attic spaces are desired, they are vented at the gable ends underneath the ridge and/or where the rafters meet the wall along the running eave edge.

e. Generally, the massing of Florida wood vernacular buildings is vertically proportioned and two stories. Where possible, roof rafters should be exposed to the interior to allow for greater interior volume on the second floor.

f. The exterior finishes are almost always horizontal wood lap siding. The siding should have between four inches to six inches exposed to the weather and is terminated with vertical corner boards at the building's edges. Other siding materials such as wood-plank are acceptable.

g. Doors and windows are vertically proportioned with wooden surrounds and sills. Horizontally-proportioned openings are made of a grouping of vertical windows. Windows are usually double hung with no light divisions in the top or bottom sash.

h. Porches are ideal and in many cases wrap around the front façade and continue at some length along the side façade. The porch roof is supported by posts which are placed to create vertical or square openings between them. Porches in this genre are typically quite deep and occupy a large percentage, if not all, of the front, ground floor elevation. The porch roof may be of a different slope than that of the primary building, however detailing and overhangs shall be consistent.

i. The entire Florida Wood Vernacular Building sits on a continuous, typically skirted, base. The base actually conceals a crawl space to allow for access and ventilation to the underside of the building.

j. Other architectural styles which could be considered in this genre include Victorian, "Carpenter Gothic," Cracker, and Shingle styles.


Turnover
Thrift
Shop

FLORIDA CRACKER
General Characteristics

2. *General characteristics of Mediterranean Revival Architectural Style.*

   a. Roofs of the primary structure can be hipped, gabled or a combination of both. Roof slopes are somewhat shallow and are generally sloped between 3:12 and 6:12.

   b. Roofing materials consist of barrel tile, Spanish "S" tile, or flat concrete tile.

   c. Roof overhangs can vary from being deep to having no overhang at all. When deep overhangs exist, they are typically supported by sizable wooden brackets. Roofs that do not overhang are usually treated with a molded cornice.

   d. The Mediterranean Revival House is typified as ornate, asymmetrical and eclectic. It is not uncommon to have multiple levels, multiple interior and exterior spaces, and even multiple buildings. Building massing tends to irregular with a variety of shapes and heights; however, the appearance of solidity and permanence is critical.

   e. Exterior finishes are almost exclusively stucco and colored with great richness, variety and multiple methods of application.

   f. Brackets, balconies, porches, shutters, and other elements are usually wood or iron.

   g. The prolific use of arched openings or windows is also a prominent characteristic.

   h. Windows and doors are of vertical and/or square proportions with the occasional round, oval or ornamental windows.

   i. Openings for doors and windows are deep and cast deep shadows as well as give the impression of thickness and solidity.

   j. Windows usually have divided lights and are commonly double-hung, casement, or jalousie. Window and door surrounds, when they exist, are made of stucco or stone.

   k. The attached porch is a common element, as are balconies and courtyards. Loggias (porches not attached but located within the volume of the building) are very common and may even serve as outside circulation between rooms.

l. Columns, posts, wooden and masonry balustrades, brackets and various ornamentation are all very common elements within this genre. Columns may be rounded, twisted, or detailed as squared masonry piers. Although all of these elements are compatible, it is the delicate composition of a few of them that creates the successful Mediterranean Revival House.

m. Variations of this style include Mission or Santa Fe.

3. *General Characteristics of Anglo-Caribbean Architectural Style.*

   a. The Anglo-Caribbean house is a hybrid of Wood Vernacular and Spanish or Mediterranean detailing and materials.

   b. Roofs of the Anglo-Caribbean house are made of wood or asphalt shingles, metal or slate. Roof slopes are between 4:12 and 8:12 and are typically hip roofs.

c. Roof overhangs are typically quite deep with exposed rafter tails and thin eaves. Often the overhang will kick out from the beam at a shallower roof slope to give the appearance of a canted roof. This allows for a steeper roof slope and a deeper overhang without covering too much of the elevation with roof. Brackets can be used at the overhang but are not used as extensively as with the Florida Bungalow House.

d. Masonry or stone is used on the ground floor while wood framing and siding are used on the second floor. The façade compositions are typically symmetrical with long covered balconies and porches. Ground level masonry columns or piers support second level wooden posts.

e. Exterior finishes are almost exclusively lower level stucco and upper level siding. Colors tend to be subtle with an emphasis on natural materials and earth tones. There is extensive use of balconies supported by brackets, two story porches, Louvered openings and shutters. Detailing and ornamentation is very simple in its usage.

f. Windows and doors are of vertical and/or square proportions. Openings for doors and windows are deep and cast deep shadows as well as give the impression of thickness and solidity. Windows can have divided lights, single lights and may borrow light configurations from the Florida Bungalow or Craftsman languages. Windows are most commonly double hung or casement. Window and door surrounds, when they exist, are made of stucco, stone or wood.

g. The front porch is a common element and typically supports a second story balcony and is thereby under the primary roof. Loggias, like in Mediterranean Revival, can be found on either the first or second story. Porches are augmented by second floor balconies.

h. Columns, posts, wooden and masonry balustrades, and brackets are all very common elements within this architecture. Columns are either smooth and round, or can be detailed as square masonry piers. The most prominent feature of the Anglo-Caribbean house is the clear distinction between the first and second floors; between the massive and the delicate, between masonry and wood.

ANGLO-CARIBBEAN
General Characteristics

4. *General Characteristics of Florida Bungalow Architectural Style.*

   a. The Florida Bungalow House, like the Mediterranean Revival, is eclectic in its origins and detailing. Generally, the house is one or one-and-a-half stories tall and maintains a low profile. It is typically moderate in size vet delivers a prominent street presence with its porches and detailing.

   b. Roofs of the Bungalow are predominantly gabled with shallow slopes of 3:12 to 6:12.

   c. Roofing materials are mostly asphalt shingles; although metal is appropriate.

d. Deep overhangs are characteristic as well as exposed rafter tails and support joinery. Typically at a gable's end there are substantial wooden brackets.

e. Exterior finishes shall be primarily wood and masonry. Although stucco is a common wall finish, variations of wood siding and shingles give the bungalow its true craftsman aesthetic. Masonry and stone are used extensively for a building's base, steps, and the pedestal for porch columns. Wooden brackets, railings, balustrades, and tapered columns are very common elements.

f. Windows and doors are square or vertically proportioned and are almost exclusively double-hung. In character with the Craftsman or Prairie style, windows will typically have multiple vertically divided lights. Many times the top sash alone will be divided with the bottom sash remaining whole. Window and door surrounds are wood and can be quite elaborate.

g. Front porches are a very important element in the Bungalow composition. In addition to their usefulness as an important neighborhood device, the front porch provides an opportunity to articulate and ornament an otherwise straightforward box. The porch, when it is the full width of the house, can share the roof of the primary structure. When under the primary roof, typically shed or "sleepy" dormers are provided to add light into the roof space. This condition occurs when the ridge of the roof is running parallel to the street.

h. The Florida Bungalow House sits on a continuous stone or masonry base which becomes an integral and defining element throughout the façades. Rarely are rounded columns used. Tapered wooden posts or masonry piers are the most common vertical support members.

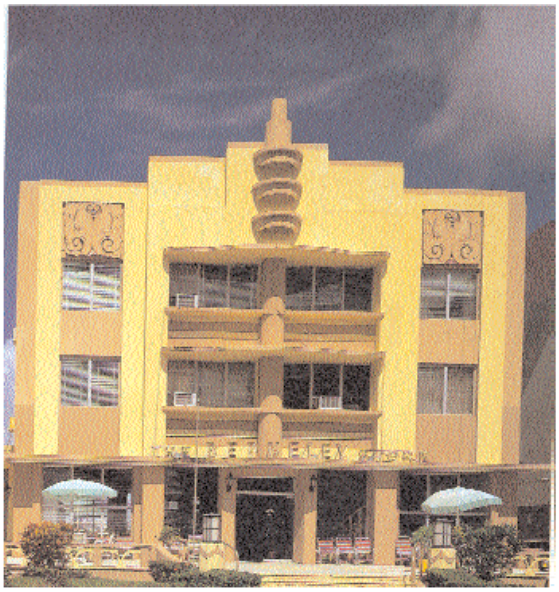
i. Variations of this style include Prairie, Craftsman, or "Stick" style.

FLORIDA BUNGALOW
General Characteristics

5. *General Characteristics of Art Deco Architectural Style.*

1. The term Art Deco describes early 20 th Century modern design. During the decades following World War I, came the Art Deco architectural style. The buildings are characterized by flat roofs, smooth stucco walls, and distinctly modern look. They are highly ornamented, especially around entrances, windows, and along roof lines, and use the abstract, angular or floral ornament taken from the 1925 Paris Exposition des Arts

Decoratifs et Industriels Modernes. Art Deco buildings during the Great depression, a second Art Deco period, usually have very little ornamentation and have a very flat, machine-like look. Hallmarks of this period include rounded corners, banded stripes, porthole windows and lots of glass brick.



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(Ord. No. 1044, pt. 1, 12-12-2017)

Sec. 3.263. Hobe Sound Redevelopment Overlay District.

3.263.A. *Property development standards and permitted uses.* The property development standards and permitted uses for two areas identified as: Bridge Road Corridor and A-1-A Corridor are provided as shown in figures 1 and 2 and Tables 1 and 2. These areas are shown on Map 1 and as further described in the Hobe Sound Community Redevelopment Area Zoning Overlay Legal Description. [4]

TABLE 1
BRIDGE ROAD CORRIDOR PERMITTED USES - SPECIFIC CONDITIONS ( )

Residential

Townhouse Dwelling
Multifamily Dwelling
Bed and Breakfast Inn
Home Occupation (7)
Outbuildings (9)

Public and Institutional Uses

Administrative Service
Club, Fraternity and Lodge
Cultural and Civic Use
Adult Or Child Day Care
Adult Congregate Living Facility
Public, Park and Recreation
Protective and Emergency Services

Business and Professional Uses

Amusement, Commercial (4)
Artisan, Art Studios, Galleries
Health and Fitness Club
Hotel or Motel
Kiosks (5)
Medical Offices,
Office, Business or Professional,
Parking, Commercial (2)
Pet shop and Supplies
Restaurant, General
Restaurant, Convenience
Retail Sales and Service (Limited),
Retail Sales and Service (General) (1)
Service Station (6)
Theater, Indoor
Trade and Skilled Services (1)
Veterinary Medical Services (8)

Transportation, Communication and Utilities

Utilities (3)

Specific Conditions:

(1) Outdoor storage. Uses subject to this condition shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property. However, street side cafes or sidewalk display of merchandise may be allowed provided they do not interfere with pedestrian or vehicular movements.

(2) Parking may occur in a structure or parking lots that conform to all development standards and shall be located to the rear and side of buildings.

(3) All utilities shall be reviewed for location and design and approved by the Hobe Sound Neighborhood Advisory Committee (HS-NAC) prior to installation. No towers shall be located within the Bridge Road Corridor.

(4) Maximum of four coin-operated amusements.

(5) Kiosks may be allowed on public property, subject to the approval of the HS-NAC. Placement of a kiosk on private property will be at the discretion of the property owner or lease holder. Kiosks will be subject to the general design criteria established for the CRA. Operation of a kiosk will be subject to an annual fee. Fees will be determined by the Board of County Commissioners and will be deposited into the Hobe Sound CRA Redevelopment Trust Fund account.

(6) No more than four gas pumps. Each pump may include a range of grades of gasoline or diesel fuel.

(7) Up to two employees, not members of the immediate family, may be employed in a home business provided no other provision of the Code of Laws and Ordinances or Land Development Regulations are violated.

(8) No outdoor kennels.

(9) Accessory uses including, but not limited to, the following shall be permitted:

a. Fountains and barbecues.

b. Pavilions and arbors.

c. Detached garages and carports.

d. Garage apartments.

e. Guest houses and studios.

f. Workshops and tool houses.

g. Greenhouse and slat houses.

h. Dog houses.

i. Pools and equipment houses.

j. Playhouses.

k. Pump house.

l. Tree house.

m. Kiosk.

TABLE 2
A-1-A CORRIDOR PERMITTED USES - SPECIFIC CONDITIONS ( )

Residential

Townhouse Dwelling
Multifamily Dwelling
Bed and Breakfast Inn
Home Occupation (7)
Outbuildings (9)
Public and Institutional Uses

Administrative Service

Club, Fraternity and Lodge
Cultural and Civic Use
Adult Or Child Day Care
Adult Congregate Living Facility
Public, Park and Recreation
Protective and Emergency Services

Business and Professional Uses

Amusement, Commercial (4)
Artisan, Art Studios, Galleries
Health and Fitness Club
Kiosks (5)
Medical Offices
Office, Business or Professional
Parking, Commercial (2)
Pet Shop and Supplies
Restaurant, General
Restaurant, Convenience
Retail Sales and Service (Limited)
Retail Sales and Service (General) (1)
Service Station (6)
Trade and Skilled Services (1)
Veterinary Medical Services (8)

Transportation, Communication and Utilities

Utilities (3)

Specific Conditions:

(1) Outdoor storage. Uses subject to this condition shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property. However, street side cafes or sidewalk display of merchandise may be allowed provided they do not interfere with pedestrian or vehicular movements.

(2) Parking may occur in a structure or parking lots that conform to all development standards and shall be located to the rear of buildings.

(3) All utilities shall be reviewed for location and design and approved by the Hobe Sound Neighborhood Advisory Committee (HS-NAC) prior to installation. No towers shall be located within the A-1-A Corridor.

(4) Maximum of four coin-operated amusements.

(5) Kiosks may be allowed on public property, subject to the approval of the HS-NAC. Placement of a kiosk on private property will be at the discretion of the property owner or lease holder. Kiosks will be subject to the general design criteria established for the CRA. Operation of a

kiosk will be subject to an annual fee. Fees will be determined by the Board of County Commissioners and will be deposited into the Hobe Sound CRA Redevelopment Trust Fund account.

(6) No more than four gas pumps. Each pump may include a range of grades of gasoline or diesel fuel.

(7) Up to two employees, not members of the immediate family, may be employed in a home business provided no other provision of the Code of Laws and Ordinances or Land Development Regulations are violated.

(8) No outdoor kennels.

(9) Accessory uses, including, but not limited to, the following, shall be permitted:

a. Fountains and barbecues.

b. Pavilions and arbors.

c. Detached garages and carports.

d. Garage apartments.

e. Guest houses and studios.

f. Workshops and tool houses.

g. Greenhouse and slat houses.

h. Dog houses.

i. Pools and equipment houses.

j. Playhouses.

k. Pump house.

l. Tree house.

m. Kiosk.

3.263.B. *Building story limit.* Buildings will be limited to a maximum of two stories with the exception of the following areas in which three-story buildings are permitted:

1. The intersection of Lars Avenue and Bridge Road;

2. The intersection of Hercules Road and Bridge Road; and

3. The Winn Dixie Shopping Center frontage along Bridge Road.

3.263.C. *Roadway and street design.* Roads, Streets, Lanes and Alleys. All roadways within the Hobe Sound Community Redevelopment Area shall comply with the standards of article 4, division 19, Roadway Design, section 4.847, Traditional Neighborhood Street Design of the Martin County Land Development Regulations.

3.263.D. *Sign regulations.* Signage shall be as provided for in Chapter 33, Article XLVI, of the Martin County Code of Laws and Ordinances [section 4.691 et seq. of this LDR], unless otherwise provided below. New signage must be reviewed and approved by the Hobe Sound Neighborhood Advisory Committee. It shall be unlawful to erect, display or maintain any sign that does not comply with the following standards and regulations.

All signs which are legally permitted signs, as of the effective date of this section, shall be deemed conforming. Such signs shall be afforded the same maintenance privileges as new permitted signs, provided the square footage is not increased.

1. *Temporary signs.* The following temporary signs shall be permitted, subject to compliance with the Standard Building Code and the following requirements:

   a. Promotional, special event, grand opening and seasonal sales signs provided that such signs are:

      (1) Not over eight square feet in area; and

      (2) No closer than ten feet to any right-of-way line.

   b. Portable signs, such as sandwich boards or A-frame signs, on the premises or on the sidewalk directly in-front of the premises provided:

      (1) The sign is placed indoors after business hours; and

      (2) If placed on the sidewalk, does not exceed 24 inches in width; and

      (3) Is erected in such a way that they do not interfere with vehicular pedestrian traffic; and

      (4) Permitted on the basis of not more than one such event in any given three (3) month period; and

      (5) Permitted for a period not to exceed 60 days for seasonal sales such as Christmas tree sales or for a period not to exceed 30 days for promotional sales; and

      (6) Removed immediately upon the expiration of the use or event for which they are granted; and

      (7) Limited to one per each 100 feet of street frontage.

   c. Banner signs may be erected for a temporary period, not to exceed 21 days. If hung over a right-of-way, the sign must comply with all applicable FDOT or Martin County regulations. The signs shall only be used to advertise Hobe Sound Community Redevelopment Area events.

2. *Billboards.* New billboards shall not be allowed in the Hobe Sound Community Redevelopment Area.

3. *Point of purchase signs.* The following point of purchase signs shall be permitted subject to compliance with the Standard Building Code and the following requirements:

   a. *Wall signs:*

      (1) Maximum square footage of six square feet per 20 feet of lineal footage on A-1-A and 25 feet on Bridge Road.

      (2) No wall sign shall cover wholly or partially any required wall opening.

      (3) Murals are permitted, but shall not contain advertising.

   b. *Projecting signs:*

      (1) No projecting sign shall have a sign area that exceeds the area allowed for a wall mounted sign.

      (2) Projecting signs may extend over the right-of-way or sidewalk. The maximum distance, measured perpendicular to the building shall be the sidewalk less two feet.

   c. *Freestanding signs:*

      (1) One freestanding sign shall be allowed per building or every 200 linear feet;

   d. *Off-premises signs:*

(1) Off-premises signs shall be limited to directional signs or signs used for directory purposes. The maximum allowable size shall be two square feet for each tenant or property, with a total maximum allowable size of 16 square feet.

e. *Auxiliary signs:*

(1) Time-and-temperature devices are permitted in association with public service activities only. These signs may be freestanding, projecting or wall signs. Devices with alternating messages shall display each such message for not less than ten seconds.

f. *Window signs:*

(1) Window signs shall not exceed 20 percent of the window area.

4. *Compliance requirements.*

a. Signs prohibited by this section shall be removed immediately upon the effective date of this section.

b. All legal nonconforming signs shall be removed or brought into compliance no later than five years from the effective date of this section.

5. *Maintenance.* Signs shall be kept clean, painted and free from all hazards such as, but not limited to, faulty wiring and loose fastenings. Weeds shall be cut underneath and around the base of ground signs and no rubbish or debris shall be permitted that would constitute a fire hazard or be detrimental to the public health and safety. All signs shall be maintained in a manner which will withstand hurricane wind load requirements.

6. *Enforcement.* The Growth Management Director shall work with the Hobe Sound Neighborhood Advisory Committee appointed Sign Review Subcommittee as the enforcing entity. This Subcommittee shall have five members consisting of a current sign professional with five years active experience, one current board member of the Hobe Sound Chamber of Commerce, and two members of currently operating businesses in the Hobe Sound Community Redevelopment Area.

7. *Permits required.* Signs shall not be erected, constructed, altered or maintained except as provided in this section until after a permit has been issued and the applicable fee paid. A sign permit shall become null and void and the fee forfeited unless work on the permitted sign is substantially under way within six months of the issuance of the permit. No sign permit will be issued without written approval from the Sign Review Subcommittee.

3.263.E. *Parking.* Parking shall conform with section 4.846. of the Martin County Land Development Regulations, unless otherwise specified in this section. Properties fronting Bridge Road and A-1-A are exempted from parking requirements until a Master Parking Plan is developed for the Hobe Sound Redevelopment Overlay District.

1. *On-site parking requirements.*

a. The required parking may be provided off-site, provided the site is approved by the Hobe Sound Neighborhood Advisory Committee;

b. Developers may pay a fee in lieu of the required spaces. The fee shall be based on the average cost of constructing a parking space in Martin County, as determined by the Building Department using the most recently published RS Means Construction Cost Data. Said fee shall be a one-time payment, to be placed in the Hobe Sound Community Redevelopment Area trust fund and utilized for parking improvements.

c. On-street parking along the corresponding frontage shall count towards 100 percent the parking requirements.

d. Specific parking space requirements:

(1) *Residential:* Two per residential unit.

(2) *Nonresidential:*

(a) Greater than 15,000 square feet. A maximum of two spaces per 500 square feet of leasable floor area; 1.5 spaces for each residential unit in any mixed use building where residential is 30 percent or less of the use.

(b) Less than 15,000 square feet. A maximum of one space per 500 square feet of leasable floor area and 1.5 spaces for each residential unit.

(c) On-site parking will be restricted to the side or rear yards of those properties fronting Bridge Road and A-1-A/Dixie Hwy. In the case of side yard parking, the parking area shall be a minimum of five feet behind the front setback line, and a street wall or opaque screen shall be provided, at the right-of-way line or building setback line, whichever is further removed from the roadway. Such street wall or opaque screen shall be no taller than four feet.

(d) There shall be a minimum ten-foot buffer between parking areas and adjacent residential uses.

(e) Each use required to have on-site parking may provide a range of parking stall sizes to accommodate compact and larger vehicles; however, 25 percent to 50 percent of the spaces shall meet the standards specified in division 19 of the Martin County Land Development Regulations; and

(f) A minimum of three bicycle racks for each nonresidential use is required.

2. *Access.*

a. Adjoining public or private parking lots must share ingress/egress points, where feasible or legally permitted; and

b. Public or private parking lots may be accessed from alleys, provided the alleyways are constructed to County standards.

3. *Location and design.* Parking lots shall be designed in accordance with the adopted design guidelines for the Hobe Sound Community Redevelopment Area.

4. *Joint use of off-street parking lots.*

a. Joint use of parking lots is encouraged;

b. Shared parking lots may be separated from the use(s) by a street, easement, or other right-of-way; and

c. Parking shared by different uses must provide evidence that peak parking demands of each use occur at different times of the day. Mixed use developments on a single parcel which include a residential component do not have to meet this standard.

5. *Off-street loading.* A minimum of one loading space shall be provided for all buildings that receive or ship goods via semi-trailer or trucks larger than 20 feet in length. The space shall not obstruct or otherwise hinder the movement of vehicles and pedestrians and shall be located so as not to be visible from the street.

3.263.F. *Stormwater.* A Master Stormwater Management Plan (Plan) will be developed for the entire Community Redevelopment Area. The Plan will be based upon the most likely build-out scenario for the CRA. A cost estimate and joint stormwater management strategy will be developed based upon the Master Stormwater Management Plan. As an interim measure, stormwater management shall be as provided for article 4, division 9 of the Land Development Regulations, with the exception that parcels within the overlay district may develop a stormwater management plan in conjunction with the adjacent properties. Exfiltration shall be the preferred method of stormwater management.

3.263.G. *Landscaping.* No certificate of occupancy or occupational license shall be granted for any use, structure or development within the Hobe Sound Community Redevelopment Area until all landscaping and buffering requirements as set forth in this section are met to the maximum extent possible, except for the following:

- Remodeling not involving a substantial change in land use;
- Limited removal of understory vegetation for purposes of routine field survey work; and
- Removal of exotic, dead or diseased vegetation.

1. *Required submittals.* Prior to the issuance of a building permit or paving permit, a landscape plan shall be submitted to and approved by the Hobe Sound Neighborhood Advisory Committee, following a recommendation from County staff. The required landscape plan shall be prepared by a qualified professional and indicate the location and type of all existing and proposed:

   a. Property boundaries, right-of-way and easements;

   b. On-site and abutting land uses;

   c. Buildings and structures;

   d. Utilities, including septic drain fields;

   e. Off-street parking and other vehicular use areas;

   f. Surface water bodies and well fields;

   g. Trees, landscaping and other vegetation to be preserved or removed;

   h. Irrigation sources; and

   i. Such other information as may be required, such as the location and acreage of all areas designated for development and preservation.

2. *Landscaping requirements.*

   a. *General requirements.* The following minimum landscaping and tree planting requirements shall apply:

      (1) *Open space.* Open space, if required, may include any landscaped pedestrian environment such as planted courtyards or walkways. Ten percent of the open space requirement may be met by landscaping and permanently maintaining adjacent public space, and permanently establishing the area as a pedestrian environment. Such space shall be designated on site plan.

      (2) *All uses.* All developments shall provide at least one tree per thousand square feet of total site area. This calculation shall exclude any required upland preserve areas.

      (3) *Landscaping in easements.* Landscaping shall be permitted in easements only with the written permission of the easement holder. Written permission shall specify the party responsible for replacing disturbed landscape areas and shall be submitted to the County in a form acceptable to the County Attorney. Written permission to plant within easements shall be filed with the land records applicable to the site.

      (4) Exposed dirt yards are prohibited.

   b. *Vehicular use area and requirements.* The following landscaping requirements shall apply within vehicular use area and along roads:

      (1) *Landscaping.* The landscaping on Bridge Road and A-1-A/Dixie Highway, shall include the planting of native and non-native trees and palms with a minimum height of 16 feet, a four-foot clear trunk, and three-inch caliper diameter at breast height

(dbh) at the time of planting and shall be planted at a maximum of 30-foot intervals. If palms are used, each palm must have a minimum of a 12-foot clear trunk planted at a maximum of 15-foot intervals. In the A-1-A/Dixie Highway Corridor, every 200 feet shall be complemented with a bench and a garbage container set on a solid surface and accessible to the sidewalk. The landscape islands shall have pervious open area sized appropriately to the maximum growth of the tree.

(2) *Perimeter landscaping.* Landscaping shall be provided along the perimeter of vehicular use areas, except vehicular use areas fronting on the A-1-A/Dixie Highway Corridor, in accordance with the following standards:

(a) Native trees and palms shall constitute 75 percent of the trees used;

(b) Trees shall be a minimum of 16 feet in height, with a four-foot clear trunk, and a three-inch dbh at the time of planting and planted at a maximum of 30-foot intervals;

(c) If a parking area abuts a residential property, trees with a minimum height of 18 feet, with a four-foot clear trunk, and four-inch caliper diameter at breast height (dbh); planted at a maximum of 30-foot intervals, shall be required. If palms are used, each palm must have a minimum of a 12-foot clear trunk and shall be planted at a maximum of 15-foot intervals; and

(d) Opaque hedge material, three feet tall at the time of planting, may be used in lieu of an opaque wall or fence.

c. *Visual barriers.* A wall, fence, berm or other durable landscape barrier with a maximum height of three feet between the front of building and the road right-of-way and five feet in height for the remainder of the lot shall be provided. Visual barriers shall provide a continuous solid visual screen along open areas adjacent to sidewalks except open courtyards, walks and driveways. Walls shall have a decorative cap. Walls and landscaping around parking areas shall have one pedestrian access through the buffer for every 50 linear feet in order to provide connection to adjacent development or sidewalks.

d. *Garden wall.* The following material shall be permitted:

(1) Sand and stone blocks.

(2) Wood.

(3) Wrought iron and aluminum.

(4) Picket.

(5) Coral rock.

e. *Fences.*

(1) Plain concrete block and/or barbed and other wire fences are prohibited;

(2) Chain link fences are permitted in rear yards only and shall have vegetative screening covering entire fence where visible from a common area fence; and

(3) A maximum height of three feet between the front of building and the road right-of-way is permitted. A maximum height of five feet is permitted for the remainder of the lot.

f. *Buffer requirements.* To reduce potential incompatible relationships between adjacent land uses, fences or hedges between various uses shall be required.

(1) A minimum five-foot wide landscaped buffer with a five-foot high fence or landscape screen shall be required between nonresidential uses and existing residential uses unless both parties mutually agreed to waive this requirement;

(2) Use of vegetative landscape screens. Where vegetative landscape screens are installed in required areas, they shall be required to form a solid visual screen at the time of planting; and

(3) Existing native vegetation may be used to satisfy buffer requirements upon the approval of the Growth Management Director.

(4) Septic systems, if necessary, may extend into setback areas provided they do not interfere or reduce the required buffer.

g. *Tree size.* At the time of planting, all required trees shall meet the following a minimum requirements:

(1) All areas shall include the planting of native and nonnative trees with a minimum height of 16 feet, with a four-foot clear trunk, and three-inch caliper diameter at breast height (dbh) planted at a maximum of 30-foot intervals unless specified otherwise.

(2) Palm trees must have a minimum of a 12-foot clear trunk and be planted at a maximum of 15-foot intervals.

h. *Tree species.* At least 75 percent of all required trees shall be native species.

i. *Hedges and shrubs.* At the time of planting, hedges and shrubs shall have a minimum height of 24 inches, a minimum spread of ten inches and be spaced not less than 24 inches on center. Spacing may be increased if larger plants are used to create a full appearance among adjacent plants.

j. *Vines.* Vines which have a minimum of three runners 30 inches in length may be used in conjunction with fences, screens or walls to meet buffer requirements. If vines are used in conjunction with fences, screens or walls, their runners shall be attached in a way that encourages proper growth.

k. *Maintenance and protection of required landscaping.* Encroachment into required landscaped areas by vehicles, boats, mobile homes or trailers shall not be permitted, and the following maintenance and protection measures shall be require:

(1) Restricted use. Required landscaped areas shall not be used for the storage or sale of materials or products or the parking of vehicles and equipment;

(2) Hatracking is not permitted;

(3) Railroad ties shall not be considered an acceptable wheel stop; and

(4) During periods of development and construction, the areas within the drip line of preserved trees shall be maintained at their original grade with pervious landscape material. Within these areas, there shall be:

(a) No trenching or cutting roots;

(b) No fill, compaction or removal of soil;

(c) No use of concrete, paint chemicals or other foreign substances; and

(d) Owners are encouraged to preserve existing trees on site. Tree credits will be given for trees preserved.

l. *Installation and maintenance.* All property owners shall be responsible for properly installing and maintaining required landscaping so as to at all times present a healthy, neat and orderly appearance, free of refuse and debris.

3. *Fences, walls, gates, and gate houses.*

a. Construction material for fences and walls must be architecturally compatible with surrounding buildings and design guidelines;

b. Barbed wire, spire tips, or sharp objects are not permitted in conjunction with fencing anywhere within the Hobe Sound Community Redevelopment Area; and

c. Location and height of fences and walls:

(1) Fences and walls may be built at the street right-of-way or building setback line provided the fence or wall does not interfere with the safe movement of pedestrians or vehicles.

(2) Fences or walls built at the street right-of-way or building setback line shall be built to a maximum height of four feet.

4. *Outbuildings.*

a. *Setbacks:* Zero feet if not accessed from alley, six feet if accessed from alleys.

b. *Height:* Shall not exceed 20 feet.

c. *Use:* Accessory uses including, but not limited to, the following, shall be permitted:

(1) Fountains and barbecues.

(2) Pavilions and arbors.

(3) Detached garages and carports.

(4) Garage apartments.

(5) Guest houses and studios.

(6) Workshops and tool houses.

(7) Greenhouse and slat houses.

(8) Dog houses.

(9) Pools and equipment houses.

(10) Playhouses.

(11) Pump house.

(12) Tree house.

(13) Kiosk.

d. *Square feet.* Shall not exceed 850 square feet.

3.263.H. *Architectural design.*

1. Architectural Design Standards shall be as set forth in the Hobe Sound Design Regulations, attached to Ordinance No. 625 as Exhibit A. The Design Regulations shall be applicable to the Bridge Road and A1A Corridors and to all new residential construction within the boundaries of the Hobe Sound Redevelopment Area. [5]

2. Exception for affordable housing. For any residential building that is subject to the Architectural Design Standards set forth in paragraph 1, above, any provision of such standards that would require the elevation of the first floor to a specified minimum height shall be considered voluntary for any residential building that is developed pursuant to an affordable housing program, such as, but not limited to, projects funded by the State Housing Initiative Partnership Program (SHIP) or by nonprofit housing providers such as Habitat for Humanity.

(Ord. No. 599, pt. I, § 3.62, 9-25-2001; Ord. No. 625, pt. 1, § 3.62, 11-5-2002; Ord. No. 663, pt. 2, 2-8-2005)

Sec. 3.264. Rio Redevelopment Overlay District.

3.264.A. *Property development standards and nonpermitted uses.* The property development standards and nonermitted uses for four areas identified as: Industrial District; Western SR 707 District; Eastern SR 707 District; and Town Center District, are provided as shown in figures 1 through 4; and Tables 1 through 4. The four areas are shown on Map 1, and as further described in the Rio CRA Boundary Descriptions. In order to preserve the existing mixed use nature of the Rio Community Redevelopment Area, the Overlay District establishes permitted uses by listing only those uses not allowed within the specified areas. Allowed uses shall be those identified in Tables 3.11.1 through 3.11.3; except as set forth in Tables 1 through 4, of this section. [6]

TABLE 1
WESTERN SR 707 DISTRICT - NONPERMITTED USES [1]

Residential Uses

Mobile homes

Agricultural Uses

No agricultural uses are permitted

Public and Institutional Uses

Correctional facilities
Dredge spoil facilities
Electrical generating plants
Fairgrounds
Hospitals
Public vehicle storage and maintenance
Solid waste disposal areas

Commercial and Business Uses

Adult business
Campgrounds
Commercial amusements, outdoor
Flea markets
Golf courses
Kennels, commercial
New recreational vehicle parks
However; recreational vehicle parks lawfully established prior to the effective date of this section are permitted to the extent of the existing number and configuration of lots and units lawfully established prior to the effective date of this section.
Restaurants, convenience, with drive through facilities
Shooting ranges, indoor
Shooting ranges, outdoor

Transportation, Communication and Utilities

Airstrips
Airports, general aviation

Industrial Uses

Extensive	impact	industries
Mulch/compost		manufacturing
Salvage yards		

Specific Conditions:

(1) A use not otherwise consistent with the future land use designation and zoning district regulation shall be permitted only to the extent authorized by Section 4-4. Goal C.1, of the Martin County Comprehensive Growth Management Plan.

(2) Outdoor storage. Uses requiring outdoor storage shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property. However, sidewalk cafes or sidewalk display of merchandise may be allowed provided they do not interfere with pedestrian or vehicular movements.

(3) Kiosks may be allowed on public property, subject to the approval of the Neighborhood Advisory Committee. Placement of a kiosk on private property will be at the discretion of the property owner or lease holder. Kiosks will be subject to the general design criteria established for the CRA. Operation of a kiosk will be subject to an annual fee. Fees will be determined by the Board of County Commissioners and will be deposited into the Rio CRA Redevelopment Trust Fund account.

(4) Home occupations of up to two employees, not including members of the immediate family, may be employed in a home business provided no other provisions of the General Ordinances or Land Development Regulations are violated.

(5) Accessory uses, including, but not limited to, the following, shall be permitted:

- Detached garages and carports.
- Garage apartments.
- Guest houses and studios.
- Workshops and tool houses.
- Greenhouse and slat houses.
- Pools and equipment houses.
- Pump house.

TABLE 2
EASTERN SR 707 DISTRICT - NONPERMITTED USES [1]

NOTE: These district regulations (Table 2 and Figure 2, as well as Section 3.264.B through I) also apply to the following: Lots 1 and 2, South Jensen Heights 1st Addition; Tracts D, E, F, and H, South Jensen Heights 1st Addition; and Tracts A, B, and C, South Jensen Heights. [7]

Residential Uses

Mobile homes

Agricultural Uses

No agricultural uses are permitted

Public and Institutional Uses

Correctional facilities
Dredge spoil facilities
Electrical generating plants
Fairgrounds
Hospitals
Public vehicle storage and maintenance
Solid waste disposal areas

Commercial and Business Uses

Adult business
Campgrounds
Commercial amusements, outdoor
Flea markets
Golf courses
Kennels, commercial
New recreational vehicle parks. However; recreational vehicle parks lawfully established prior to the effective date of this section are permitted to the extent of the existing number and configuration of lots and units lawfully established prior to the effective date of this section.
Restaurants, convenience, with drive through facilities
Shooting ranges, indoor
Shooting ranges, outdoor

Transportation, Communication and Utilities

Airstrips
Airports, general aviation

Industrial Uses

Extensive impact industries
Mulch/compost manufacturing
Salvage yards

Specific Conditions:

(1) A use not otherwise consistent with the future land use designation and zoning district regulation shall be permitted only to the extent authorized by Section 4-4, Goal C.1., of the Martin County Comprehensive Growth Management Plan.

(2) Outdoor storage. Uses requiring outdoor storage shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property. However, sidewalk cafes or sidewalk display of merchandise may be allowed provided they do not interfere with pedestrian or vehicular movements.

(3) Kiosks may be allowed on public property, subject to the approval of the Neighborhood Advisory Committee. Placement of a kiosk on private property will be at the discretion of the property owner or lease holder. Kiosks will be subject to the general design criteria established for the CRA. Operation of a kiosk will be subject to an annual fee. Fees will be determined by the Board of County Commissioners and will be deposited into the Rio CRA Redevelopment Trust Fund account.

(4) Home occupations of up to two employees, not including members of the immediate family, may be employed in a home business provided no other provisions of the General Ordinances or Land Development Regulations are violated.

(5) Accessory uses, including, but not limited to, the following, shall be permitted:

- Detached garages and carports.
- Garage apartments.
- Guest houses and studios.
- Workshops and tool houses.
- Greenhouse and slat houses.
- Pools and equipment houses.
- Pump house.

TABLE 3
TOWN CENTER DISTRICT - NONPERMITTED USES [1]

Residential Uses

Mobile homes
Duplex dwellings
Zero lot line single-family dwellings

Agricultural Uses

No agricultural uses are permitted

Public and Institutional Uses

Cemeteries, crematory operations and columbaria
Correctional facilities
Dredge spoil facilities
Electrical generating plants
Fairgrounds
New halfway houses. However; existing halfway houses, on lots where such use was lawfully established prior to the effective date of this section are permitted.
Hospitals
Neighborhood assisted residences with six or fewer residents
Nonsecure residential drug and alcohol rehabilitation and treatment facilities
Protective and emergency services
Public vehicle storage and maintenance
Recycling drop-off centers
Residential care facilities
Solid waste disposal areas

Commercial and Business Uses

Adult business
Campgrounds
Commercial amusements, outdoor
Construction industry trades
Construction sales and services
Flea markets
Funeral homes
General retail sales and services

Golf courses
Kennels, commercial
New recreational vehicle parks. However; recreational vehicle parks lawfully established prior to the effective date of this section are permitted to the extent of the existing number and configuration of lots and units lawfully established prior to the effective date of this section.
Residential storage facilities
Restaurants, convenience, with drive through facilities
Shooting ranges, indoor
Shooting ranges, outdoor
Trades and skilled services
Vehicular sales and service
Vehicular service and maintenance
Wholesale trades and services

Transportation, Communication and Utilities

Airstrips
Airports, general aviation

Industrial Uses

No industrial uses are permitted

Specific Conditions:

(1) A use not otherwise consistent with the future land use designation and zoning district regulation shall be permitted only to the extent authorized by Section 4-4, Goal C.1., of the Martin County Comprehensive Growth Management Plan.

(2) Outdoor storage. Uses requiring outdoor storage shall not be permitted to conduct outdoor display or storage of goods or materials, unless completely screened from the street and adjacent property. However, sidewalk cafes or sidewalk display of merchandise may be allowed provided they do not interfere with pedestrian or vehicular movements.

(3) Parking may occur in a structure or parking lots that conform to all development standards and shall be located to the rear of buildings.

(4) All utilities shall be underground from the street to the building. Utilities interior to a site may be above ground.

(5) Kiosks may be allowed on public property, subject to the approval of the Neighborhood Advisory Committee. Placement of a kiosk on private property will be at the discretion of the property owner or lease holder. Kiosks will be subject to the general design criteria established for the CRA. Operation of a kiosk will be subject to an annual fee. Fees will be determined by the Board of County Commissioners and will be deposited into the Rio CRA Redevelopment Trust Fund account.

(6) Home occupations of up to two employees, not including members of the immediate family, may be employed in a home business provided no other provisions of the General Ordinances or Land Development Regulations are violated.

(7) Accessory uses, including, but not limited to, the following, shall be permitted:

- Detached garages and carports.
- Garage apartments.
- Guest houses and studios.

- Workshops and tool houses.
- Greenhouse and slat houses.
- Pools and equipment houses.
- Pump house.

TABLE 4
INDUSTRIAL DISTRICT - NONPERMITTED USES [1]

Residential Uses

Mobile homes
Modular homes
Single-family detached dwellings
Duplex dwellings
Zero lot line family dwellings

Agricultural Uses

Agricultural processing, indoor
Agricultural processing, outdoor
Crop farms
Dairies
Exotic wildlife sanctuaries
Feed lots
Fishing and hunting camps
Orchards and groves
Ranches
Silviculture
Stables, commercial

Public and Institutional Uses

Correctional facilities
Dredge spoil facilities
Electrical generating plants
Fairgrounds
New halfway houses. However; existing halfway houses, on lots where such use was lawfully established prior to the effective date of this section are permitted.
Hospitals
Neighborhood boat launches
Nonsecure residential drug and alcohol rehabilitation and treatment facilities
New residential care facilities. However; existing residential care facilities, where such use was lawfully established prior to the effective date of this section are permitted.
Solid waste disposal areas

Commercial and Business Uses

Adult business
Campgrounds
Restaurants, convenience, with drive through facilities
Shooting ranges, outdoor

Transportation, Communication and Utilities

Airstrips
Airports, general aviation

Industrial Uses

Mining
Mulch/compost manufacturing
Salvage yards

Specific Conditions:

(1) A use not otherwise consistent with the future land use designation and zoning district regulation shall be permitted only to the extent authorized by Section 4-4, Goal C.1., of the Martin County Comprehensive Growth Management Plan.

(2) Accessory uses, including, but not limited to, the following, shall be permitted:

- Fountains and barbecues.
- Pavilions and arbors.
- Workshops and tool houses.
- Greenhouse and slat houses.
- Pump house.
- Kiosk.

3.264.B. *Roadway and street design. roads, streets, lanes and alleys.* All roadways within the Rio Community Redevelopment Area shall comply with the standards of article 4, division 19, section 4.847 Traditional Neighborhood Street Design, Land Development Regulations, Martin County Code.

3.264.C. *Parking.* Parking shall conform with Martin County Ordinance No. 622 (August 27, 2002), unless otherwise specified in this section 3.264.C.

1. *On-site parking requirements.*

a. The required parking may be provided off-site, provided the site is approved by the Rio Neighborhood Advisory Committee.

b. Developers/property owners may, after review and approval from the Rio Neighborhood Advisory Committee, pay a fee in lieu of providing the required spaces. The fee shall be based on the average cost of constructing a parking space in Martin County, as determined by the Building Department. Said fee shall be a one-time payment, to be placed in the redevelopment trust fund and shall be utilized for parking improvements within the Rio Community Redevelopment Area.

c. On-street parking along the corresponding frontage shall count 100% towards the parking requirements.

d. Specific parking space requirements:

(1) *Residential:* Two per residential unit.

(2) *Commercial:* Western SR 707, Eastern SR 707, and Town Center Districts.

(a) Less than 15,000 square feet, a minimum of one space per 500 square feet of net leasable floor area and no spaces for residential units in any mixed use building where residential constitutes 50 percent or less of the use.

(b) More than 15,000 square feet, a minimum of two spaces per 500 square feet of net leasable floor area and one space for each residential unit.

(c) Dock space for waterside uses shall be counted as one dock space equals two parking spaces.

(3) *Industrial district:*

(a) Less than 15,000 square feet, a minimum of one space per 5,000 square feet of net leasable floor area and no spaces for residential units in any mixed use building where residential constitutes 50 percent or less of the use.

(b) More than 15,000 square feet, a minimum of two spaces per 5,000 square feet of net leasable floor area and one space for each residential unit.

e. On-site parking will be restricted according to the development standards in Figures 1 through 4. In the case of side yard parking, the parking area shall be a minimum of five feet behind the front setback line and a street wall or opaque screen shall be provided at the right-of-way line or building setback line, whichever is further removed from the roadway. Such street wall or opaque screen shall not exceed four feet in height.

f. There shall be a minimum ten-foot buffer between parking areas and adjacent residential uses which lie outside the specific overlay district. This buffer may be inclusive of any alley.

2. *Access.*

a. Adjoining public or private parking lots must share ingress/egress points where feasible or legally permitted; and

b. Public or private parking lots may be accessed from alleys provided the alleyways are constructed to County standards.

3. *Location and design, generally.*

a. Parking lots shall be designed in accordance with the adopted landscaping requirements for the Rio Community Redevelopment Area.

b. Recreational vehicles; including, but not limited to, motor homes, campers, travel trailers, off-road vehicles and trailers, personal watercraft, and other vessels, must be screened from view from any roadway, when stored on the property.

4. *Joint use of off-street parking lots.*

a. Joint use of off-street parking lots is encouraged; and

b. Shared parking lots must be located within 500 feet of each use. These lots may be separated from the use(s) by a street, easement, or other right-of-way; and

c. Parking shared by different uses must provide evidence that peak parking demands of each use occur at different times of the day. Mixed use developments, on a single parcel, which include a residential component do not have to meet this standard.

5. *Off-street loading.* A minimum of one loading space must be provided for all buildings that receive or ship goods via semitrailer or trucks larger than 20 feet in length. The space shall not obstruct or otherwise hinder the movement of vehicle and pedestrians and shall be located so as not to be seen from the street.

6. *Approved parking surfaces.*

a. Residential-only development shall provide parking on a paved surface.

b. Commercial, industrial, or mixed use development shall provide the required number of parking spaces on paved surfaces; however, any overflow parking may be provided on a grassed surface.

c. Civic uses may provide parking on grassed surfaces.

d. Parking surfaces prohibited by this Section shall be brought up to the standards of this section, no later than five years from the effective date of this section.

3.264.D. *Stormwater.* A Master Stormwater Management Plan (Plan) will be developed for the Rio Community Redevelopment Area (CRA). The Plan will be based upon the most likely build-out scenario for the CRA. A cost estimate and joint stormwater management strategy will be developed based upon the Plan. In the interim, stormwater management shall be as required by Article 4, Division 9, Land Development Regulations, with the exception that parcels within the overlay areas may develop a stormwater management plan in conjunction with the adjacent properties.

3.264.E. *Landscaping.* No certificate of occupancy or occupational license shall be granted for any use, structure or development within the Rio Community Redevelopment Area until all landscaping and buffering requirements as set forth in this section are met to the maximum extent possible, except for the following:

- Remodeling not involving a substantial change in land use; or
- Limited removal of understory vegetation for purposes of routine field survey work; or
- Removal of exotic, dead or diseased vegetation.

1. *Required submittals.* Prior to the issuance of a building permit, a landscape plan shall be submitted to and approved by the Rio Neighborhood Advisory Committee, following a recommendation from County staff. The required landscape plan shall be prepared by a qualified professional and indicate the location and type of all existing and proposed:

   a. Property boundaries, rights-of-way and easements;

   b. On-site and abutting land uses;

   c. Buildings and structures;

   d. Utilities, including septic drain fields;

   e. Off-street parking and other vehicular use areas;

   f. Surface water bodies and well fields;

   g. Trees, landscaping and other vegetation to be preserved or removed;

   h. Irrigation sources; and

   i. Such other information as may be required, such as the location and acreage of all areas designated for development and preservation.

2. *General requirements.* The following minimum landscaping and tree planting requirements shall apply:

   a. Open space, if required, may include any landscaped pedestrian environment such as planted courtyards or walkways. Ten percent of the open space requirement may be met by landscaping and permanently maintaining adjacent public space, and permanently establishing the area as a pedestrian environment. Such space is to be designated on the site plan.

   b. All developments, except those in the Industrial District, shall provide at least one tree per thousand square feet of total site area. This calculation shall exclude any required upland preserve area.

   c. Landscaping in easements. Landscaping shall be permitted in easements only with the written permission of the easement holder. Written permission shall specify the party responsible for replacing disturbed landscape areas and shall be submitted to the County in a form acceptable to the County Attorney. Written permission to plant within easements shall be filed with the land records applicable to the site.

d. Exposed dirt yards are prohibited.

3. *Vehicular use area and requirements.* The following landscaping requirements shall apply within vehicular use areas and along roads:

a. *Landscaping.* The landscaping on SR 707 shall include native and non-native trees with a minimum height of 16 feet, with a four-foot clear trunk, and three-inch caliper diameter at breast height (dbh) at the time of planting, planted at a maximum of 30-foot intervals. In the SR 707 Corridor, every other block shall be complemented with a bench and a garbage container. The landscape islands shall have pervious open area sized appropriately to the maximum growth of the tree.

b. *Perimeter landscaping.* Landscaping shall be provided along the perimeter of vehicular use areas, except vehicular use areas fronting on SR 707, in accordance with the following standards:

(1) Native trees shall constitute 75 percent of the trees used; and

(2) Trees shall be a minimum of 12 feet in height, four-foot clear trunk, and two inches dbh at the time of planting, planted at a maximum of 50-foot intervals; and

(3) If a parking area abuts a residential property, trees with a minimum height of 16 feet, a four-foot clear trunk, and three-inch caliper dbh at the time of planting, planted at a maximum of 30-foot intervals, shall be required; and

(4) Opaque hedge material, three feet tall at time of planting, may be used in lieu of an opaque wall or fence.

c. *Visual barriers.* A wall, fence, berm or other durable landscape barrier with a maximum height of three feet between the front of the building and the road right-of-way and six feet in height for the remainder of the lot shall be provided. Visual barriers shall provide a continuous solid visual screen along open areas adjacent to sidewalks except open courtyards, walks and driveways. Walls shall have a decorative cap. Walls and landscaping around parking areas shall have one pedestrian access through the buffer for every 50 linear feet in order to provide connection to adjacent development or sidewalks, if access is available.

d. *Garden wall.* The following material shall be permitted:

(1) Sand and stone blocks.

(2) Wood.

(3) Wrought iron.

(4) Picket.

(5) Coral rock.

e. *Fences.*

(1) Plain concrete block and/or barbed wire fences are prohibited along SR 707.

(2) Chain link fences.

(a) Chain link fences are permitted in rear yards only.

(b) In the Industrial area, chain link fencing may be used in any location, but must have vegetative screening on the outside of the fencing where visible from adjacent properties, or along any street frontage.

(3) A maximum fence height of three feet between the front of a building and the road right-of-way is permitted. A maximum fence height of six feet is permitted for the remainder of the lot, and for all fencing within the Industrial area.

4. *Buffer requirements.* To reduce potential incompatible relationships between adjacent land uses, fences or hedges between various uses shall be required.

   a. Six-foot fence or landscaped screen between nonresidential and existing residential uses shall be required unless both parties mutually agreed to waive this requirement.

   b. Use of vegetative landscape screens. Where vegetative landscape screens are installed in required areas, they shall be required to form a solid visual screen at the time of planting.

   c. Existing native vegetation may be used to satisfy screening requirements upon the approval of the Growth Management Department Director.

5. *Tree size.* At the time of planting, all required trees shall meet the following minimum requirements:

   a. Along SR 707, landscaping shall include the planting of native and non-native trees with a minimum height of 16 feet, with a four-foot clear trunk, and three-inch caliper diameter at breast height (dbh) at the time of planting; planted at a maximum of 30-foot intervals.

   b. Outside of the SR 707 corridor trees shall be a minimum height of 12 feet, with a four-foot clear trunk, and two-inch caliper dbh, at the time of planting.

   c. Palm trees shall be a minimum height of 12 feet at the time of planting.

   d. Fruit trees shall be a minimum height of five feet at the time of planting.

6. *Tree species.* At least 75 percent of all trees planted to satisfy the requirements of this section shall be native species.

7. *Hedges and shrubs.* At the time of planting, hedges and shrubs shall have a minimum height of 24 inches, a minimum spread of ten inches and be spaced not less than 24 inches on center. Spacing may be increased if larger plants are used to create a full appearance among adjacent plants.

8. *Vines.* Vines which have a minimum of three runners, 30 inches in length may be used in conjunction with fences, screens or walls to meet barrier requirements. If vines are used in conjunction with fences, screens or walls, their runners shall be attached in a way that encourages proper growth.

9. *Maintenance and protection of required landscaping.* Encroachment into required landscaped areas by vehicles, boats, mobile homes or trailers shall not be permitted, and the following maintenance and protection measures shall be required:

   a. Required landscaped areas shall not be used for the storage or sale of materials, products or the parking of vehicles and equipment;

   b. Hatracking is not permitted; and

   c. Railroad ties shall not be considered an acceptable wheel stop.

10. *Construction periods.* During periods of development and construction, the areas within the drip line of preserved trees shall be maintained at their original grade with pervious landscape material. Within these areas, there shall be:

    a. No trenching or cutting roots;

    b. No fill, compaction or removal of soil; and

    c. No use of concrete, paint, chemicals or other foreign substances.

11. *Installation and maintenance.* All property owners shall be responsible for properly installing and maintaining required landscaping so that the landscaping is installed and maintained in a healthy, neat and orderly appearance; and is free of refuse and debris.

12. *Fences, walls, gates, and gate houses.*

a. Construction material for fences and walls must be architecturally compatible with surrounding buildings.

b. Barbed wire may be used in conjunction with fencing only in the Industrial District. However, spire tips, or sharp objects are not permitted in conjunction with fencing anywhere within the Rio Community Redevelopment Area.

c. The finished side of any fence must face outward.

13. *Location and height of fences and walls.*

a. Fences and walls may be built at the street right-of-way or building setback line, provided the fence or wall does not interfere with the safe movement of pedestrians or vehicles; and

b. Fences or walls built at the street right-of-way or building setback line, may be built to a height of three feet.

3.264.F. *Sign regulations.* Signage shall be as provided for in Division 16, Land Development Regulations, unless otherwise provided below. It shall be unlawful to erect, display or maintain any sign within the Rio Redevelopment Overlay District that does not comply with the following standards and regulations. All signs which are legally permitted signs, as of the effective date of this section, shall be deemed conforming. Such signs shall be afforded the same maintenance privileges as new permitted signs, provided the square footage is not increased.

1. *Temporary signs.* Temporary signs are permitted, subject to compliance with the Florida Building Code and the following requirements:

a. Promotional, special event, grand opening and seasonal sales signs, provided that such signs are:

(1) Not over eight square feet in area; and

(2) No closer than ten feet to any right-of-way line; and

(3) Erected in such a way that they do not interfere with vehicular or pedestrian traffic; and

(4) Permitted for a period not to exceed 60 days for seasonal sales (such as Christmas tree sales) or for a period not to exceed 30 days for promotional sales and nonprofit activities;

(5) Removed immediately upon the expiration of the use or event for which they are granted; and

(6) Limited to one per each 100 feet of street frontage

b. Portable signs, such as sandwich board or A-frame signs, may be used on the premises or on the sidewalk directly in-front of the premises provided:

(1) The sign is placed indoors after business hours; and

(2) If placed on the sidewalk, the portable sign does not exceed 24 inches in width; and

(3) Is not placed streetward of the sidewalk.

c. Banner signs may be erected for a temporary period, not to exceed 21 days. If hung over a right-of-way, they must comply with all applicable FDOT or Martin County regulations. Banner signs shall be used to advertise only redevelopment area events.

2. *Billboards.*

   a. New billboards shall not be allowed in the Rio Community Redevelopment Area.

3. *Point of purchase signs.* The following point of purchase signs are permitted subject to compliance with the Standard Building Code and the following requirements:

   a. *Wall signs.*

      (1) For front wall signs, a maximum square footage of 32 square feet per 50 feet of lineal frontage and a square footage equal to 80 percent of lineal frontage, if lineal frontage is less than 50 feet. For walls other than front walls one-half of the square footage for the front wall signs are permitted;

      (2) The permitted size of wall signs shall be based on a percentage of the wall areas computed by the length times the height in the geometric figures which determine the actual area. The wall length shall be the building, or that portion occupied. The height of the wall for computation purposes shall not exceed 15 feet for one-story structures and 25 feet for two or more story structures. One wall shall be deemed the front wall. Other walls shall be figured on the basis of one-half of the amount allowable for the front wall. Individual signs may not be larger than 32 square feet.

      (3) No wall sign shall cover wholly or partially any required wall opening.

      (4) Murals are permitted, but may not contain advertising.

   b. *Projecting signs.*

      (1) No projecting sign shall have a sign area exceeding 50 percent of the permitted front wall area and in no case shall it exceed 50 percent of the front wall mounted sign area;

      (2) Projecting signs may extend over the right-of-way (sidewalk). The maximum distance, measured perpendicular to the building is the sidewalk less two feet.

   c. *Freestanding signs.*

      (1) There shall be one freestanding sign per building or each 200 lineal feet of property frontage.

      (2) The freestanding sign shall be a pedestal sign with a maximum square footage of 50 square feet per sign face.

   d. *Off-premises signs.*

      (1) Off-premises signs shall be limited to directional signs or signs used for directory purposes.

      (2) Off-premises signs shall not exceed two square feet for each tenant or property.

      (3) The total maximum allowable size shall be 32 square feet;

   e. *Auxiliary signs.*

      (1) Time-and-temperature devices are permitted in association with public service activities only. These signs may be freestanding, projecting or wall signs. Those devices with alternating messages shall display each such message for not less than ten seconds.

   f. *Window signs.*

      (1) Window signs shall not exceed 20 percent of the window area.

4. *Compliance requirements.*

a. Signs prohibited by this section shall be removed immediately upon the effective date of this section.

b. All legal nonconforming signs shall be removed or brought into compliance no later than five years from the effective date of this section.

c. Any sign located within a public right-of-way shall be removed immediately, unless it is permitted elsewhere within this section. The enforcing official is authorized to remove any sign not permitted in the right-of-way under this section at such time as the sign is determined to be in noncompliance.

5. *Maintenance.* Signs shall be kept clean, painted and free from all hazards such as, but not limited to, faulty wiring and loose fastenings. Weeds shall be cut underneath and around the base of ground signs and no rubbish or debris shall be permitted that would constitute a fire hazard or be detrimental to the public health and safety. All signs shall be maintained in a manner which will withstand hurricane wind load requirements.

6. *Permits required.* Signs shall not be erected, constructed, altered or maintained except as provided in section 3.264.F until a permit for same has been issued and the applicable fee paid. A sign permit shall become null and void and the fee forfeited, unless work on the permitted sign is substantially under way within six months after the effective date of the permit.

3.264.G. *Outbuildings.*

1. Accessory uses, including, but not limited to, the following, shall be permitted:

a. Pavilions and arbors.

b. Detached garages and carports.

c. Garage apartments.

d. Guest houses and studios.

e. Workshops and tool houses.

f. Greenhouse and slat houses.

g. Pools and equipment houses.

h. Pump house.

3.264.H. *Miscellaneous provisions.*

1. Exterior lighting shall be shielded to prevent any light trespass onto adjoining property.

2. Painting of structures and repairs.

a. All exterior surfaces of buildings within the Rio Redevelopment Overlay District shall be painted, except when constructed with materials not normally painted, including, but not limited to, such surfaces as vinyl siding or brick.

b. Any repairs to the exterior of any building must be painted to match the balance of the structure.

3. If a structure is boarded-up for any reason, the boarding material must be, at a minimum, exterior grade plywood. If exterior grade plywood is used, it must be painted to match the balance of the structure.

4. Unfinished construction projects.

a. Unfinished construction projects that have an expired building permit shall have 90 days to reinstate the building permit for the project.

b. Owners of unfinished construction projects that have failed to reinstate an expired building permit must remove any unfinished improvements immediately.

3.264.I. *Architectural design.* Architectural design for the Rio zoning overlay districts shall be as set forth in the Design Regulations for Rio. [8]

(Ord. No. 624, pt. 1, § 3.64, 11-5-2002)

Sec. 3.265. Old Palm City Redevelopment Overlay District.

3.265.A. *Property development standards and permitted uses.* The property development standards and permitted uses for the Gateway District on Martin Downs Boulevard, the Town Center District on Mapp Road, and the Boulevard District on Martin Highway are provided as shown in Figures 1 through 3 and Tables 1 through 3. These district boundaries are shown on Maps 1, 2 and 3 and further described in the Old Palm City Redevelopment Overlay District Legal Description attached as Exhibit "A". [9]

TABLE 1
MARTIN DOWNS BOULEVARD: THE GATEWAY DISTRICT - PERMITTED USES

Residential Uses

Apartment	hotels
Multifamily	dwellings
Townhouse dwellings	

Agricultural Uses

Plant nurseries and landscape services

Public and Institutional Uses

Administrative	services,	not-for-profit			(1)
Community					centers
Cultural	or	civic			uses
Educational					institutions
Places		of			worship
Public	parks and	recreation	areas,		active
Public	parks and	recreation	areas,		passive
Utilities (2)					

Commercial and Business Uses

Bed	and	breakfast			inns
Business	and	professional			offices
Commercial		day			care
Construction		industry			trades
Financial					institutions
General	retail	sales	and		service
Hotels		and			motels
Limited	retail	sales	and		service
Medical					services
Parking	lots	and			garages
Restaurants,	convenience;	without	drive	through	facilities
Restaurants,					general

Shooting ranges, indoor
Trades and skilled services
Veterinary medical services

Specific Conditions:

(1) Administrative services must be strictly office use. On site services, such as soup kitchens, are prohibited.

(2) Utilities. All utilities shall be underground.

NOTE: For non mixed use project, subject to Martin County Comprehensive Growth Management Plan Regulations.

TABLE 2
MAPP ROAD: THE TOWN CENTER DISTRICT - PERMITTED USES

Residential Uses

Apartment hotels
Multifamily dwellings
Townhouse dwellings

Public and Institutional Uses

Administrative services, not-for-profit (1)
Community centers
Cultural or civic uses
Educational institutions
Places of worship
Post offices
Public libraries
Public parks and recreation areas, active
Public parks and recreation areas, passive
Utilities (2)

Commercial and Business Uses

Bed and breakfast inns
Business and professional offices
Commercial amusements, indoor
Financial institutions
General retail sales and service
Hotels
Limited retail sales and service
Medical services
Parking lots and garages
Restaurants, convenience; without drive through facilities
Restaurants, general
Trades and skilled services
Veterinary medical services

Specific Conditions:

(1) Administrative services must be strictly administrative in nature. On site services are prohibited.

(2) Utilities. All utilities shall be underground.

NOTE: For non mixed use project, subject to Martin County Comprehensive Growth Management Plan Regulations.

TABLE 3
THE BOULEVARD DISTRICT: SW MARTIN HIGHWAY/CR 714 - PERMITTED USES

Residential Uses

Accessory dwelling units
Apartment hotels
Multifamily dwellings
Single-family detached dwellings
Townhouse dwellings
Zero lot line single-family dwellings (3)

Public and Institutional Uses

Administrative services, not-for-profit (1)
Community centers
Cultural or civic uses
Educational institutions
Neighborhood assisted residences, with six or fewer residents
Places of worship
Post offices
Protective and emergency services
Public libraries
Public parks and recreation areas, active
Public parks and recreation areas, passive
residential care facilities
Utilities (2)

Commercial and Business Uses

Bed and breakfast inns
Business and professional offices
Commercial amusements, indoor
Commercial day care
Construction industry trades
Family day care
Financial institutions
Funeral homes
General retail sales and service
Hotels
Limited impact industries
Limited retail sales and service
Medical services
Residential storage facilities
Restaurants, convenience; without drive through facilities
Restaurants, general
Shooting ranges, indoor
Trades and skilled services
Veterinary medical services

Specific Conditions:

(1) Administrative services must be strictly administrative in nature. On site services are prohibited.

(2) Utilities. All utilities shall be underground.

(3) Zero lot line single-family residence provides that no such dwelling unit is physically attached to another dwelling unit, such as by means of a party wall.

NOTE: For non mixed use project, subject to Martin County Comprehensive Growth Management Plan Regulations.

3.265.B. *Roadway and street design.* All major and minor streets, boulevards and alleys within the Palm City Redevelopment Area shall comply with the Traditional Neighborhood Street design standards of article 4, division 19, section 4.847, Martin County Code, Land Development Regulations (hereafter referenced as MCCLDR).

3.265.C. *Parking.* Parking shall conform with MCCLDR article 4, division 14, sections 4.621 through 4.633, Parking and Loading, unless otherwise specified in this subsection 3.265.C.

1. *On-site parking requirements.*

a. The required parking may be provided off-site, provided the site is approved by the Old Palm City Neighborhood Advisory Committee.

b. Developers/property owners may, after review and approval from the Old Palm City Neighborhood Advisory Committee, pay a fee in lieu of providing the required spaces. The fee shall be based on the average cost of constructing a parking space in Martin County, as determined by the Building Department. Said fee shall be a one-time payment, to be placed in the redevelopment trust fund and shall be utilized for parking improvements within the Old Palm City Community Redevelopment Area.

c. On-street parking along the corresponding frontage shall count 100 percent towards the parking requirements.

d. Specific parking space requirements:

- *Residential:* 1.5 per residential unit.
- *Office:* 2.5 per 1,000 square feet.
- *Commercial:* 3 per 1,000 square feet.
- *Medical office:* 4 per 1,000 square feet.
- *Restaurant:* 5 per 1,000 square feet.
- *Industrial:* In accordance with MCCLDR based on specific industrial use proposed.
- *Mixed use projects (excluding restaurants and medical offices):* Minimum of one space per 500 square feet of net leasable nonresidential floor area and one space for each residential unit in any mixed use building where the residential use constitutes 50 percent or less of the use. Shared parking is allowed (see subsection C.4.).

e. On-site parking will be restricted according to the development standards in Figures 1 through 3. [10] In the case of side yard parking, the parking area shall be a minimum of five feet behind the front setback line and a street wall or opaque screen, shall be provided at the right-of-way line or building setback line, whichever is further removed from the roadway. Such street wall or opaque screen shall not exceed four feet in height.

f. There shall be a minimum ten-foot buffer between parking areas and adjacent residential uses which lie outside the specific overlay district. This buffer may be inclusive of any alley.

g. Each use required to have on-site parking may provide a range of parking stall sizes to accommodate compact and larger vehicles; however, 50 percent of the spaces shall meet the standards specified in MCCLDR article 4, division 14, section 4.631.A and B. The remaining spaces shall meet the following minimum dimensions:

- *Compact spaces:* 15 percent of total parking maximum.

  8.5' x 18', 16 feet with two-foot overhang, maximum.

- *Angled spaces:* 9' x 18', 16 feet with two-foot overhang.
- *Parallel spaces:* 8' x 22'.
- *Drive aisle:* 20 feet two-way, 10 feet one-way.

h. Bicycle racks to be provided in accordance with MCCLDR article 4, division 20, section 4.873.B. (Rack provision may be shared by different businesses within each block.)

2. *Access.*

   a. Adjoining public or private parking lots must share ingress/egress points where feasible or legally permitted; and

   b. Public or private parking lots may be accessed from alleys, provided the alleyways are constructed to Martin County standards.

3. *Location and design, generally.*

   a. Parking lots shall be designed in accordance with the adopted landscaping requirements for the Old Palm City Community Redevelopment Area (see subsection E.).

   b. Recreational vehicles; including, but not limited to, motor homes, campers, travel trailers, personal watercraft, and other vessels, must be screened from view from any roadway, when stored on the property, except when stored in a rear alley.

4. *Joint use of off-street parking lots.*

   a. Joint use of off-street parking lots is encouraged; and

   b. Shared parking lots must be located within 500 feet of each use. These lots may be separated from the use(s) by a street, easement, or other right-of-way; and

   c. Parking shared by different uses must provide evidence that peak parking demands of each use occur at different times of the day. Mixed use developments (excluding restaurants and medical offices), on a single parcel, which include a residential component, do not have to meet this standard.

   d. All parking lots shall interconnect except where the Martin County Comprehensive Growth Management Plan, or existing conditions, prohibit.

5. *Off-street loading.* A minimum of one loading space must be provided for all buildings that receive or ship goods via semi or tractor-trailer. The space shall not obstruct or otherwise hinder the movement of vehicle and pedestrians and shall be located so as not to be seen from the street.

6. *Approved parking surfaces.*

   a. Commercial, industrial, or Mixed-Use Development shall provide the required number of parking spaces on paved surfaces; however, any overflow parking may be provided on a grass surface, or other permeable surfaces upon approval of the Martin County Engineering Department.

   b. Civic uses may provide parking on grass surfaces.

   c. Parking surfaces prohibited by this subsection shall be brought up to the standards of this subsection upon approval of any new or revised site plan.

3.265.D. *Stormwater.* A Master Stormwater Management Plan (Plan) will be developed for the Old Palm City Community Redevelopment Area (CRA). The Plan will be based upon the most likely

build-out scenario for the CRA. A cost estimate and joint stormwater management strategy will be developed based upon the Plan. In the interim, stormwater management shall be as required by MCCLDR article 4, division 9, Stormwater Management and Flood Control, with the exception that parcels within the overlay areas may develop a stormwater management plan in conjunction with the adjacent properties.

3.265.E. *Landscaping.* All landscaping and buffering requirements as set forth in this subsection E. will be met to the maximum extent practicable, with the following three exceptions: remodeling not involving a substantial change in land use, the limited removal of understory vegetation for purposes of routine field survey work, or the removal of exotic, dead or diseased vegetation.

1. *Required submittals.* Prior to the issuance of a building permit, a landscape plan shall be submitted to and approved only by a recommendation of the Martin County Growth Management Department. The required landscape plan shall be prepared by a qualified professional and indicate the location and type of all existing and proposed:

   a. Property boundaries, rights-of-way and easements;

   b. On-site and abutting land uses;

   c. Buildings and structures;

   d. Utilities, including septic drain fields;

   e. Off-street parking and other vehicular use areas;

   f. Surface water bodies and well fields;

   g. Trees, landscaping and other vegetation to be preserved or removed;

   h. Irrigation sources; and

   i. Such other information as may be required, such as the location and acreage of all areas designated for development and preservation.

2. *General requirements.* The following minimum landscaping and tree planting requirements shall apply:

   a. Open space, if required, may include any landscaped pedestrian environment such as planted courtyards or walkways. Ten percent of the open space requirement may be met by landscaping and permanently maintaining adjacent public space, and permanently establishing the area as a pedestrian environment. Such space is to be designated on the site plan.

   b. All developments, except those in the Industrial District, shall provide at least one tree per 1,500 square feet of total site area. This calculation shall exclude any required upland preserve area.

   c. Landscaping in easements. Landscaping shall be permitted in easements only with the written permission of the easement holder. Written permission shall specify the party responsible for replacing disturbed landscape areas and shall be submitted to the County in a form acceptable to the County Attorney. Written permission to plant within easements shall be recorded in the public records.

   d. Exposed dirt yards are prohibited.

3. *Vehicular use area and requirements.* The following landscaping requirements shall apply within vehicular use areas and along roads up to the right-of-way:

   a. *Landscaping.* The landscaping on Mapp Road, Martin Downs Boulevard, and Martin Highway shall include native and non-native trees with a minimum height of 16 feet, with a four-foot clear trunk, and four-inch caliper at the time of planting, planted at a maximum of 30-foot intervals. In the Mapp Road Corridor, every block shall be complemented with a

bench and a garbage container. The landscape islands shall have pervious open area sized appropriately to the maximum growth of the tree.

b. *Perimeter landscaping.* Landscaping shall be provided along the perimeter of vehicular use areas in accordance with the following standards (except vehicular use areas fronting on Mapp Road, Martin Downs Boulevard, and Martin Highway, where size and interval are as indicated above):

(1) Native trees shall constitute 75 percent of the trees used; and

(2) Trees shall be a minimum of 12 feet in height, four-foot clear trunk, and two and one-half inches caliper at the time of planting, planted at a maximum of 50-foot intervals; and

(3) If a parking area abuts a residential property, trees with a minimum height of 16 feet, a four-foot clear trunk, and four-inch caliper at the time of planting, planted at a maximum of 25-foot intervals, shall be required (no palms can count towards this requirement); and

(4) Opaque hedge material, three feet tall at time of planting, may be used in lieu of an opaque wall or fence.

c. *Visual barriers.* A wall, fence, berm or other landscape barrier with a maximum height of three feet between vehicular use areas and rights-of-way shall be provided. Visual barriers shall provide a continuous opaque visual screen along open areas adjacent to sidewalks except open courtyards, walks and driveways. Walls shall have a decorative cap. Walls and landscaping around parking areas shall have one pedestrian access through the buffer for every 50 linear feet in order to provide connection to adjacent development or sidewalks, if access is available.

d. *Garden wall.* The following material shall be permitted:

(1) Sand and stone blocks.

(2) Wood.

(3) Wrought iron.

(4) Picket.

(5) Coral rock.

(6) Painted stucco concrete masonry unit (CMU).

e. *Fences.*

(1) Plain concrete block and/or barbed wire fences are prohibited.

(2) Chain link fences.

(a) Chain link fences are permitted in rear yards only.

(b) In the Industrial area, chain link fencing may be used in any location, but must have vegetative screening on the outside of the fencing where visible from adjacent properties, or along any street frontage.

(3) A maximum fence height of three feet between the front of a building and the road right-of-way is permitted. A maximum fence height of six feet is permitted for the remainder of the lot, and for all fencing within the Industrial area.

4. *Buffer requirements.* To reduce potential incompatible relationships between adjacent land uses, fences or hedges between various uses shall be required.

a. Six-foot fence or landscaped screen between nonresidential and existing residential uses, abutting the overlay boundary, shall be required unless both parties mutually agreed to waive this requirement.

b. Use of vegetative landscape screens. Where vegetative landscape screens are installed in required areas, they shall be required to form a solid visual screen at the time of planting.

c. Existing native vegetation may be used to satisfy screening requirements upon the approval of the Growth Management Department Director.

5. *Tree size.* At the time of planting, all required trees shall meet the following minimum requirements:

a. Along Mapp Road, Martin Downs Blvd., and Martin Hwy., landscaping shall include the planting of native and non-native trees with a minimum height of 16 feet, with a four-foot clear trunk, and four-inch caliper at the time of planting; planted at a maximum of 30-foot intervals.

b. Outside of these corridors, trees shall be a minimum height of 12 feet, with a four-foot clear trunk, and two and one-half inch caliper, at the time of planting.

c. Palm trees shall be a minimum height of 12 feet at the time of planting.

d. Fruit trees shall be a minimum height of five feet at the time of planting.

6. *Tree species.* At least 75 percent of all trees planted to satisfy the requirements of this subsection shall be native species.

7. *Hedges and shrubs.* At the time of planting, hedges and shrubs shall have a minimum height of 24 inches, a minimum spread of 15 inches, and be spaced not less than 24 inches on center. Spacing may be increased if larger plants are used to create a full appearance among adjacent plants.

8. *Vines.* Vines, which have a minimum of three runners, 30 inches in length may be used in conjunction with fences, screens or walls to meet barrier requirements. If vines are used in conjunction with fences, screens or walls, their runners shall be attached in a way that encourages proper growth.

9. *Maintenance and protection of required landscaping.* Encroachment into required landscaped areas by vehicles, boats, mobile homes or trailers shall not be permitted, and the following maintenance and protection measures shall be required:

a. Required landscaped areas shall not be used for the storage or sale of materials, products or the parking of vehicles and equipment.

b. Hatracking is not permitted. (The best-known form of tree abuse is called "hatracking" which involves severing the leading branch or branches of a tree and/or pruning a tree by removing mature wood creating stub branches, which in severe cases resemble a hatrack. (www.ci.coral-springs.fl.us)

c. Railroad ties shall not be considered an acceptable wheel stop.

10. *Construction periods.* During periods of development and construction, the areas within the drip line of preserved trees shall be maintained at their original grade with pervious landscape material. Within these areas, there shall be:

a. No trenching or cutting roots;

b. No fill, compaction or removal of soil; and

c. No use of concrete, paint, chemicals or other foreign substances.

11. *Installation and maintenance.* All property owners shall be responsible for properly installing and maintaining required landscaping so that the landscaping is installed and maintained in a healthy, neat and orderly appearance and is free of refuse and debris.

12. *Fences, walls, gates, and gatehouses.*

    a. Construction material for fences and walls must be architecturally compatible with surrounding buildings.

    b. Barbed wire may be used in conjunction with fencing only in the Industrial District. However, spire tips, or sharp objects are not permitted in conjunction with fencing anywhere within the Old Palm City Community Redevelopment Area.

    c. The finished side of any fence must face outward.

13. *Location and height of fences and walls.*

    a. Fences and walls may be built at the street right-of-way or building setback line, provided the fence or wall does not interfere with the safe movement of pedestrians or vehicles; and

    b. Fences or walls built at the street right-of-way or building setback line may be built to a height of three feet.

14. *Street trees.* Seventy-five percent of all street tree planting to be of the following species:

    Canopy Trees (60 percent minimum):

    1. Live or Laurel Oak
    2. Magnolia
    3. Mahogany
    4. Red Maple
    5. Bald Cypress
    6. Buttonwood
    7. Gumbo Limbo

    Palm Trees:

    1. Medjool or Canary Island Date Palm
    2. Royal Palm
    3. Coconut Palm (2:1 ratio, unless 8 feet grey wood, then 1:1)
    4. Sabal Palm (3:1 ratio)

3.265.F. *Sign regulations.* Signage shall be as provided for in MCCLDR article 4, division 16, Signs, unless otherwise provided below. It shall be unlawful to erect, display or maintain any sign within the Old Palm City Redevelopment Overlay District that does not comply with the following standards and regulations:

1. *Temporary signs.* Temporary signs are permitted, subject to compliance with the following requirements:

    a. Promotional, special event, grand opening and seasonal sales signs, provided that such signs are:

        (1) Not over eight square feet in area; and

        (2) No closer than ten feet to any right-of-way line; and

(3) Erected in such a way that they do not interfere with vehicular or pedestrian traffic; and

(4) Permitted for a period not to exceed 60 days for seasonal sales (such as Christmas tree sales) or for a period not to exceed 30 days for promotional sales and nonprofit activities; and

(5) Removed immediately upon the expiration of the use or event for which they are granted; and

(6) Limited to one per each on 100 feet of street frontage

b. Portable signs, such as sandwich board or "A" frame signs, may be used on the premises or on the sidewalk directly in-front of the premises provided:

(1) The sign is placed indoors after business hours; and

(2) If placed on the sidewalk, the portable sign does not exceed 24 inches in width or 48 inches in height; and

(3) Is not placed streetward of the sidewalk.

(4) No more than one sign per business is allowed, and the sign may only advertise specials, sales events and restaurant menus.

c. Banner signs may be erected for a temporary period, not to exceed 21 days. If hung over a right-of-way, they must comply with all applicable FDOT or Martin County regulations. Banner signs shall be used to advertise only redevelopment area non-profit businesses or events. One banner sign is allowed per point of purchase site, with a maximum size limit of 32 square feet, and maximum height of eight feet.

2. *Billboards.*

a. New billboards shall not be allowed in the Palm City Community Redevelopment Area.

3. *Point of purchase signs.* The following point of purchase signs are permitted subject to compliance with the Standard Building Code and the following requirements:

a. *Wall signs.*

(1) For front wall signs, a maximum square footage of 32 square feet per 50 feet of lineal frontage and a square footage equal to 80 percent of lineal frontage, if lineal frontage is less than 50 feet. For walls other than front walls, 50 percent of the square footage for the front wall signs is permitted.

(2) The permitted size of wall signs shall be based on a percentage of the building wall area computed as length multiplied by height. The wall length shall be the building, or the occupied portion thereof. The height of the wall for computation purposes shall not exceed 15 feet for one-story structures and 25 feet for two or more story structures. One wall shall be deemed the front wall. Other walls shall be figured on the basis of 50 percent of the amount allowable for the front wall. Individual signs may not be larger than 32 square feet.

(3) No wall sign shall cover wholly or partially any required wall opening.

(4) Murals are permitted, but may not contain advertising.

b. *Projecting signs.*

(1) No projecting sign shall have a sign area exceeding 50 percent of the permitted front wall area and in no case shall it exceed 50 percent of the front wall mounted sign area;

(2) Projecting signs may extend over the right-of-way (sidewalk). The maximum distance, measured perpendicular to the building is the sidewalk, less two feet.

c. *Freestanding signs.*

(1) There shall be one freestanding sign per building or each 200 lineal feet of property frontage.

(2) The freestanding sign shall be a pedestal sign with a maximum square footage of 50 square feet per sign face.

(3) Height shall be limited to eight feet.

d. *Off-premises signs.*

(1) Off-premises signs shall be limited to directional signs or signs used for directory purposes.

(2) Off-premises signs shall not exceed two square feet for each tenant or property.

(3) The total maximum allowable size shall be 32 square feet.

e. *Auxiliary signs.*

(1) Time-and-temperature devices are permitted in association with public service activities only. These signs may be freestanding, projecting or wall signs. Those devices with alternating messages shall display each such message for not less than ten seconds.

f. *Window signs.*

(1) Window signs shall not exceed 20 percent of the window area.

4. *Compliance requirements.*

a. All signs that were lawfully established prior to the effective date of this ordinance which are or may become nonconforming shall be permitted until they are either removed or replaced. All replacement and new signs will be brought into compliance.

b. Any sign located within a public right-of-way shall be removed immediately, unless it is permitted elsewhere within this subsection F. The enforcing official is authorized to remove any sign not permitted in the right-of-way under this subsection F. at such time as the sign is determined to be in noncompliance.

5. *Maintenance.* Signs shall be kept clean, painted and free from all hazards such as, but not limited to, faulty wiring and loose fastenings. Weeds shall be cut underneath and around the base of ground signs and no rubbish or debris shall be permitted that would constitute a fire hazard or be detrimental to the public health and safety. All signs shall be maintained in a manner which will withstand hurricane wind load requirements.

6. *Permits required.* Signs shall not be erected, constructed, altered or maintained except as provided in this subsection F. until a building permit for same has been issued and the applicable fee paid. A permit shall become null and void and the fee forfeited, unless work on the permitted sign is substantially under way within six months after the effective date of the permit.

3.265.G. *Outbuildings.*

1. *Accessory uses.* Accessory uses, including, but not limited to, the following, shall be permitted:

a. Pavilions and arbors.

b. Detached garages and carports.

c. Garage apartments.

d. Guest houses and studios.

e. Workshops and tool houses.

f. Greenhouse and slat houses.

g. Pools and equipment houses.

h. Pump house.

3.265.H. *Miscellaneous provisions.*

1. *Exterior lighting.* Exterior lighting shall be so shielded to prevent any light trespass onto adjoining property.

2. *Painting of structures and repairs.*

   a. All exterior surfaces of buildings within the Old Palm City Redevelopment Overlay District shall be painted, except when constructed with materials not normally painted, including, but not limited to, vinyl siding or brick.

   b. Any repairs to the exterior of any building must be painted to match the balance of the structure.

3. *Board-ups.* If a structure is boarded-up for any reason, the boarding material must be, at a minimum, exterior grade plywood. If exterior grade plywood is used, it must be painted to match the balance of the structure, except for temporary boarding in the event of a natural disaster.

4. *Unfinished construction projects.*

   a. Unfinished construction projects that have an expired building permit shall have 90 days to re-instate the building permit for the project.

   b. Owners of unfinished construction projects that have failed to re-instate an expired building permit must remove any unfinished improvements immediately.

3.265.I. *Architectural design.*

1. Architectural design for the Old Palm City Redevelopment Overlay District shall be as set forth in the Design Regulations for Old Palm City attached to Ordinance No. 657 as Exhibit B. [11]

2. Exception for affordable housing. For any residential building that is subject to the Architectural Design Standards set forth in paragraph 1., above, any provision of such standards that would require the elevation of the first floor to a specified minimum height shall be considered voluntary for any residential building that is developed pursuant to an affordable housing program, such as, but not limited to, projects funded by the State Housing Initiative Partnership Program (SHIP) or by nonprofit housing providers such as Habitat for Humanity.

3.265.J. *Alternative compliance.* An applicant for development approval may submit a site, landscape, or architectural plan which varies from the requirements of this ordinance in order to accommodate unique site features or utilize innovative design. An alternative compliance site, landscape or architectural plan shall be approved only by a recommendation of the Martin County Growth Management Department that the alternative fulfills the purpose and intent of the Land Development Regulations, as well as or more efficiently than adherence to the strict requirements of this ordinance. In evaluating proposed alternative compliance for site, landscape or architectural plans, consideration shall be given to proposals which:

1. Improve pedestrian connectivity.

2. Minimize conflict between pedestrian and vehicle.

3. Are consistent with the adopted design regulations.

4. Preserve native vegetation and use xeriscape and other low water use landscape design principles.
5. Utilize existing site characteristics of topography, existing vegetative communities, and any unique environmental feature in the design of structures and other improvements.
6. Comply to the maximum extent practicable relative to the configuration of the development that existed prior to the effective date of the Commercial Design Regulations, July 9, 2002.
7. Improve or provide integration of proposed development into the surrounding off-site development.
8. Provide additional desirable features that mitigate the removal of the items required.
9. Adjust parking through methods already described in subsection C.1.a. and b., 4.a., and 6.a.; or, alternatively, through the appropriately authorized method for a parking adjustment (increase or decrease) of 20 percent or more.

(Ord. No. 657, pt. 1, 11-16-2004; Ord. No. 663, pt. 3, 2-8-2005)

Sec. 3.266. Indiantown Redevelopment Overlay District.

3.266.A. *Property development standards and permitted uses.* The property development standards and permitted uses for the Town Center District; Martin Luther King Jr. Boulevard District; Martin Luther King Jr. Boulevard South District; Warfield Boulevard North District; Warfield South Boulevard District; Canal District and Neighborhood Center District; are provided as shown in figures 1 through 7 and Tables 1 through 7. These areas, except for the Neighborhood Center District, are shown separately on Maps 1 through 6 and further described in the Indiantown Overlay District Legal Description attached as Exhibit A. Because of the mixed use nature of the Town Center District, Martin Luther King Jr. Boulevard District, Martin Luther King Jr. Boulevard South District, Warfield North Boulevard District, Warfield South Boulevard District, and the Canal District, the zoning overlay has been developed with consistency to the adopted Mixed Use Text Amendment ordinance. [12]

TABLE 1
THE TOWN CENTER DISTRICT - PERMITTED USES AND SPECIFIC CONDITIONS

Residential Uses

Apartment	hotels
Multifamily	dwellings
Townhouse dwellings	

Public and Institutional Uses

Community	centers
Educational	institutions
Neighborhood assisted residences with six or fewer	residents
Places of	worship
Public	libraries
Public parks and recreation areas,	active
Public parks and recreation areas,	passive
Utilities	(1)
Administrative services,	not-for-profit
Cultural or civic	centers
Hospitals	
Post	offices
Residential care facilities	

Commercial and Business Uses

Commercial day care
Family day care
Business and professional offices
Commercial amusements, indoor
Commercial amusements, outdoor
Financial institutions
Funeral homes
General retail sales and service
Hotels and motels
Limited retail sales and service
Medical services
Parking lots and garages
Restaurants, convenience, with drive through facilities
Restaurants, convenience, without drive through facilities
Restaurants, general
Trades and skilled services
Veterinary medical services (2)
Bed and breakfast inns

Specific Conditions:

(1) Utilities. All utilities shall be underground and provided by the developer.

(2) No outdoor boarding of animals.

NOTE: All non mixed use projects shall be subject to the Martin County Comprehensive Growth Management Plan regulations.

TABLE 2
THE MARTIN LUTHER KING JR. BOULEVARD DISTRICT - PERMITTED USES AND SPECIFIC CONDITIONS

Residential Uses

Modular homes
Multifamily dwellings
Single-family detached dwellings
Townhouse dwellings
Duplex dwellings
Zero lot line single-family dwellings
Apartment hotels

Public and Institutional Uses

Neighborhood assisted residences with six or fewer residents
Residential care facilities
Community centers
Educational institutions
Places of worship
Protective and emergency services
Public libraries
Public parks and recreation areas, active
Public parks and recreation areas, passive
Utilities (2)

Administrative services, not-for-profit
Cultural or civic centers
Recycling drop-off centers (1)

Commercial and Business Uses

Bed and breakfast inns
Family day care
Commercial day care
Business and professional offices
Commercial amusements, indoor
Financial institutions
Funeral homes
General retail sales and service
Limited retail sales and service
Medical services
Parking lots and garages
Restaurants, convenience, with drive through facilities
Restaurants, convenience, without drive through facilities
Restaurants, general
Trades and skilled services
Veterinary medical services (3)

Specific Conditions:

(1) Recycling drop-off centers. All recycling drop-off centers shall be enclosed with concrete walls or fencing on three sides between six and eight feet in height. No storage shall take place outside of the recycling recepticals and all recepticals shall have lid coverings.

(2) Utilities. All utilities shall be underground and provided by the developer.

(3) No outdoor boarding of animals.

NOTE: All non mixed use projects shall be subject to the Martin County Comprehensive Growth Management Plan regulations.

TABLE 3
MARTIN LUTHER KING JR. BOULEVARD SOUTH DISTRICT - PERMITTED USES AND SPECIFIC CONDITIONS

Residential Uses

Modular homes
Single-family detached dwellings
Multifamily dwellings
Townhouses dwellings
Duplex dwellings
Zero lot line single-family dwellings

Public and Institutional Uses

Community centers
Educational institutions
Neighborhood assisted residences with six or fewer residents
Neighborhood boat launches
Places of worship
Protective and emergency services

Public libraries
Public parks and recreation areas, active
Public parks and recreation areas, passive
Recycling drop-off centers (1)
Utilities (2)
Residential care facilities

Commercial and Business Uses

Bed and breakfast inns
Commercial day care
Family day care
Golf courses

Specific Conditions:

(1) Recycling drop-off centers. All recycling drop-off centers shall be enclosed with concrete walls or fencing on three sides between six and eight feet in height. No storage shall take place outside of the recycling recepticals and all recepticals shall have lid coverings.

(2) Utilities. All utilities shall be underground and provided by the developer.

NOTE: All non mixed use projects shall be subject to the Martin County Comprehensive Growth Management Plan regulations.

TABLE 4
THE WARFIELD BOULEVARD NORTH DISTRICT - PERMITTED USES

Residential Uses

Apartment hotels

Public and Institutional Uses

Community centers
Educational institutions
Places of worship
Protective and emergency services
Public libraries
Public parks and recreation areas, active
Public parks and recreation areas, passive
Utilities (2)
Administrative services, not-for-profit
Cultural or civic centers
Hospitals
Post offices
Recycling drop-off centers (1)
Residential care facilities

Commercial and Business Uses

Commercial day care
Business and professional offices
Commercial amusements, indoor
Commercial amusements, outdoor
Financial institutions
Funeral homes

General retail sales and service
Golf driving ranges
Hotels and motels
Kennels, commercial (3)
Limited retail sales and service
Medical services
Parking lots and garages
Restaurants, convenience, with drive through facilities
Restaurants, convenience, without drive through facilities
Restaurants, general
Trades and skilled services
Vehicular sales and service (4)
Vehicular services and maintenance (4)
Veterinary medical services
Wholesale trades and services

Specific Conditions:

(1) Recycling drop-off centers. All recycling drop-off centers shall be enclosed with concrete walls or fencing on three sides between six and eight feet in height. No storage shall take place outside of the recycling recepticals and all recepticals shall have lid coverings.

(2) Utilities. All utilities shall be underground and provided by the developer.

(3) No outdoor boarding of animals.

(4) No only used vehicular sales, this doesn't prohibit the sale of a single vehicle on a private residential lot.

NOTE: All non mixed use projects shall be subject to the Martin County Comprehensive Growth Management Plan regulations.

TABLE 5
THE WARFIELD BOULEVARD SOUTH DISTRICT - PERMITTED USES

Residential Uses

Townhouse dwellings
Apartment hotels

Public and Institutional Uses

Community centers
Educational institutions
Places of worship
Protective and emergency services
Public libraries
Public parks and recreation areas, active
Public parks and recreation areas, passive
Recycling drop off centers (1)
Residential care facilities
Utilities (2)
Administrative services, non-for-profit
Cultural or civic uses
Hospitals
Post offices

Agricultural Uses

Plant nurseries and landscape service

Commercial and Business Uses

Bed and breakfast inns
Commercial day care
Family day care
Business and professional offices
Commercial amusements, indoor
Commercial amusements, outdoor
Financial institutions
Funeral homes
General retail sales and service
Hotels and motels
Kennels, commercial (3)
Limited retail sales and service
Marinas, commercial
Medical services
Parking lots and garages
Residential storage facilities
Restaurants, convenience, with drive through facilities
Restaurants, convenience, without drive through facilities
Restaurants, general
Trades and skilled services
Vehicular sales and service (4)
Vehicular services and maintenance (4)
Veterinary medical services (3)
Wholesale trades and services (Limit Size Box)
Ancillary retail use
Construction industry trades
Construction sales and services
Industrial uses
Limited impact industries

Specific Conditions:

(1) Recycling drop-off centers. All recycling drop-off centers shall be enclosed with concrete walls or fencing on three sides between six and eight feet in height. No storage shall take place outside of the recycling recepticals and all recepticals shall have lid coverings.

(2) Utilities. All utilities shall be underground and provided by the developer.

(3) No outdoor boarding of animals.

(4) No only used vehicular sales, this doesn't prohibit the sale of a single vehicle on a private residential lot.

NOTE: All non mixed use projects shall be subject to the Martin County Comprehensive Growth Management Plan regulations.

TABLE 6
THE CANAL DISTRICT - PERMITTED USES

Residential Uses

Accessory dwelling units
Apartment hotels
Modular homes
Multifamily dwelling
Single-family detached dwellings
Townhouse dwellings
Duplex dwellings
Zero lot line single-family dwellings

Agricultural Uses

Aquaculture
Plant nurseries and landscape services

Public and Institutional Uses

Community centers
Educational institutions
Neighborhood assisted residences with six or fewer residents
Places of worship
Protective and emergency services
Public parks and recreation areas, active
Public parks and recreation areas, passive
Utilities (2)
Administrative services, not-for-profit
Cultural or civic centers
Recycling drop-off centers (1)
Post office
Public library
Hospital

Commercial and Business Uses

Bed and breakfast inns
Commercial day care
Business and professional offices
Commercial amusements, indoor
Commercial amusements, outdoor
Hotel and motels
Limited retail sales and services
Marinas, commercial
Marine education and research
Restaurants, convenience, without drive through facilities
Restaurants, general
Trades and skilled services
Wholesale trades and services
Construction industry trades
Financial institutions
Funeral homes
Medical services
Parking lots and garages
Residential storage facilities
Veterinary medical services (3)
Construction sales and services
General retail sales and services

Flea market
Kennels, commercial
Restaurants, convenience, with drive through facilities
Vehicular sales and services
Vehicular service and maintenance

Specific Conditions:

(1) Recycling drop-off centers. All recycling drop-off centers shall be enclosed with concrete walls or fencing on three sides between six and eight feet in height. No storage shall take place outside of the recycling recepticals and all recepticals shall have lid coverings.

(2) Utilities. All utilities shall be underground and provided by the developer.

(3) No outdoor boarding of animals.

NOTE: All non mixed use projects shall be subject to the Martin County Comprehensive Growth Management Plan regulations.

The following regulations apply to all projects within the overlay zoning district, unless other wise specified within these regulations.

3.266.B. *Roadway and street design.* All major and minor streets, boulevards and alleys within the Indiantown Redevelopment Area shall comply with the traditional neighborhood street design standards of section 4.847, Land Development Regulations, Martin County Code (hereafter referenced as LDRMCC).

3.266.C. *Parking.* Parking shall conform with LDRMCC Article 4, Division 14, sections 4.621 through 4.633, Parking and Loading, unless otherwise specified in this subsection 3.266.C.

1. *On-site parking requirements.*

   a. The required parking may be provided off-site, provided the site is approved by the Indiantown Neighborhood Advisory Committee.

   b. Developers/property owners may, after review and approval from the Indiantown Neighborhood Advisory Committee, pay a fee in lieu of providing the required spaces. The fee shall be based on the average cost of constructing a parking space in Martin County, as determined by the Building Department. Said fee shall be a one-time payment, to be placed in the redevelopment trust fund and shall be utilized for parking improvements within the Indiantown Community Redevelopment Area.

   c. On-street parking along the corresponding frontage shall count 100 percent towards the parking requirements.

   d. Specific parking space requirements:

      - Residential: 1.5 per residential unit.
      - Office: 2.5 per 1,000 square feet.
      - Commercial: 3 per 1,000 square feet.
      - Medical office: 4 per 1,000 square feet.
      - Restaurant: 5 per 1,000 square feet.
      - Industrial district: In accordance with MCCLDR based on specific industrial use proposed.
      - Mixed use projects (excluding restaurants and medical offices): Minimum of one space per 500 square feet of net leasable nonresidential floor area and one space for each

residential unit in any mixed use building where the residential use constitutes 50 percent or less of the use. Shared parking is allowed (see subsection 3.266.C.4.).

e. On-site parking will be restricted according to the development standards in figures 1 through 3. In the case of side yard parking, the parking area shall be a minimum of five feet behind the front setback line and a street wall or opaque screen, shall be provided at the right-of-way line or building setback line, whichever is further removed from the roadway. Such street wall or opaque screen shall not exceed four feet in height. [13]

f. There shall be a minimum ten-foot buffer between parking areas and adjacent residential uses which lie outside the specific overlay district. This buffer may be inclusive of any alley.

g. Each use required to have on-site parking may provide a range of parking stall sizes to accommodate compact and larger vehicles; however, 50 percent of the spaces shall meet the standards specified in section 4.631.A. and B., LDRMCC. The remaining spaces shall meet the following minimum dimensions:

- Compact spaces: 15 percent of total parking maximum 8.5' × 18', 16 feet with two-foot overhang, maximum.
- Angled spaces: 9' × 18', 16 feet with two-foot overhang.
- Parallel spaces: 8' × 22'.
- Drive aisle: 20 feet two-way, 10 feet one-way.

h. Bicycle racks to be provided in accordance with section 4.873.B., LDRMCC. (Rack provision may be shared by different businesses within each block).

2. *Access.*

a. Adjoining public or private parking lots must share ingress/egress points where feasible or legally permitted; and

b. Public or private parking lots may be accessed from alleys provided the alleyways are constructed to County standards.

3. *Location and design, generally.*

a. Parking lots shall be designed in accordance with the adopted landscaping requirements for the Indiantown Community Redevelopment Area.

b. Recreational vehicles; including, but not limited to, motor homes, campers, travel trailers, off-road vehicles and trailers, personal watercraft, and other vessels, must be screened from view from any roadway, when stored on the property, except when stored in rear alley.

4. *Joint use of off-street parking lots.*

a. Joint use of off-street parking lots is encouraged; and

b. Shared parking lots must be located within 500 feet of each use. These lots may be separated from the use(s) by a street, easement, or other right-of-way; and

c. Parking shared by different uses must provide evidence that peak parking demands of each use occur at different times of the day. Mixed use developments, on a single parcel, which include a residential component do not have to meet this standard.

5. *Off-street loading.* A minimum of one loading space must be provided for all buildings that receive or ship goods via semi-trailer. The space shall not obstruct or otherwise hinder the movement of vehicle and pedestrians and shall be located so as not to be seen from the street.

6. *Approved parking surfaces.*

a. Commercial, industrial, or Mixed-Use Development shall provide the required number of parking spaces on paved surfaces; however, any overflow parking may be provided on a grass surface, or other permeable surfaces upon approval of the Martin County Engineering Department.

b. Civic uses may provide parking on grass surfaces.

c. Parking surfaces prohibited by this Subsection shall be brought up to the standards of this Subsection upon approval of any new or revised site plan.

d. Residential-only development shall provide parking on a paved surface.

3.266.D. *Stormwater.* A Master Stormwater Management Plan (Plan) will be developed for the Indiantown Community Redevelopment Area (CRA). The Plan will be based upon the most likely build-out scenario for the CRA. A cost estimate and joint stormwater management strategy will be developed based upon the Plan. In the interim, stormwater management shall be as required by Article 4, Division 9, Land Development Regulations, Martin County Code, with the exception that parcels within the overlay areas may develop a stormwater management plan in conjunction with the adjacent properties.

3.266.E. *Landscaping.* All landscaping and buffering requirements as set forth in this subsection E will be met to the maximum extent practicable, with the following three exceptions: remodeling not involving a substantial change in land use, the limited removal of understory vegetation for purposes of routine field survey work, or the removal of exotic, dead or diseased vegetation.

1. *Required submittals.* Prior to the issuance of a building permit, a landscape plan shall be submitted to and approved only by a recommendation of the Martin County Growth Management Department. The required landscape plan shall be prepared by a qualified professional and indicate the location and type of all existing and proposed:

   a. Property boundaries, rights-of-way and easements;

   b. On-site and abutting land uses;

   c. Buildings and structures;

   d. Utilities, including septic drain fields;

   e. Off-street parking and other vehicular use areas;

   f. Surface water bodies and well fields;

   g. Trees, landscaping and other vegetation to be preserved or removed;

   h. Irrigation sources; and

   i. Such other information as may be required, such as the location and acreage of all areas designated for development and preservation.

2. *General requirements.* The following minimum landscaping and tree planting requirements shall apply:

   a. Open space, if required, may include any landscaped pedestrian environment such as planted courtyards or walkways. Ten percent of the open space requirement may be met by landscaping and permanently maintaining adjacent public space, and permanently establishing the area as a pedestrian environment. Such space is to be designated on the site plan.

   b. All developments, except those with an industrial landuse designation, shall provide at least one tree per 1,500 square feet of total site area. This calculation shall exclude any required upland preserve area.

c. Landscaping in easements. Landscaping shall be permitted in easements only with the written permission of the easement holder. Written permission shall specify the party responsible for replacing disturbed landscape areas and shall be submitted to the County in a form acceptable to the County Attorney. Written permission to plant within easements shall be filed with the land records applicable to the site.

d. Exposed dirt yards are prohibited.

3. *Vehicular use area and requirements.* The following landscaping requirements shall apply within vehicular use areas and along roads:

a. *Landscaping.* The landscaping on Warfield Boulevard, Dr. Martin Luther King Jr. Boulevard, and Citrus Boulevard shall include native and nonnative trees with a minimum height of 16 feet, with a four-foot clear trunk, and four-inch caliper at the time of planting, planted at a maximum of 30-foot intervals. In the Warfield Boulevard Corridor, every block shall be complemented with a bench and a garbage container. The landscape islands shall have pervious open area sized appropriately to the maximum growth of the tree.

b. *Perimeter landscaping.* Landscaping shall be provided along the perimeter of vehicular use areas in accordance with the following standards (except vehicular use areas fronting on Warfield Boulevard, Dr. Martin Luther King Jr. Boulevard, and Citrus Boulevard, where size and interval are as indicated above):

(1) Native trees shall constitute 75 percent of the trees used; and

(2) Trees shall be a minimum of 12 feet in height, four-foot clear trunk, and two and one-half-inch caliper at the time of planting, planted at a maximum of 50-foot intervals; and

(3) If a parking area abuts a residential property, trees with a minimum height of 16 feet, a four-foot clear trunk, and four-inch caliper at the time of planting, planted at a maximum of 25-foot intervals, shall be required (no palms can count towards this requirement); and

(4) Opaque hedge material, three feet tall at time of planting, may be used in lieu of an opaque wall or fence.

c. *Visual barriers.* A wall, fence, berm or other landscape barrier with a maximum height of three feet between vehicular use areas and rights-of-way shall be provided. Visual barriers shall provide a continuous solid visual screen along open areas adjacent to sidewalks except open courtyards, walks and driveways. Walls shall have a decorative cap. Walls and landscaping around parking areas shall have one pedestrian access through the buffer for every 50 linear feet in order to provide connection to adjacent development or sidewalks, if access is available.

d. *Garden wall.* The following material shall be permitted:

(1) Sand and stone blocks.

(2) Wood.

(3) Wrought iron.

(4) Picket.

(5) Coral rock.

(6) Painted stucco concrete masonry unit (CMU).

e. *Fences.*

(1) Plain concrete block and/or barbed wire fences are prohibited.

(2) Chain link fences.

(a) Chain link fences are permitted in rear yards only.

(b) In industrial land use designated areas, chain link fencing may be used in any location, but must have vegetative screening on the outside of the fencing where visible from adjacent properties, or along any street frontage.

(3) A maximum fence height of three feet between the front of a building and the road right-of-way is permitted. A maximum fence height of six feet is permitted for the remainder of the lot, and for all fencing within the industrial area.

4. *Buffer requirements.* To reduce potential incompatible relationships between adjacent land uses, fences or hedges between varied uses shall be required.

   a. Six-foot fence or landscaped screen between nonresidential and existing residential uses shall be required unless both parties mutually agreed to waive this requirement.

   b. Use of vegetative landscape screens. Where vegetative landscape screens are installed in required areas, they shall be required to form a solid visual screen at the time of planting.

   c. Existing native vegetation may be used to satisfy screening requirements upon the approval of the Growth Management Department Director.

5. *Tree size.* At the time of planting, all required trees shall meet the following minimum requirements:

   a. Along Warfield Boulevard, Dr. Martin Luther King Jr. Boulevard, and Citrus Boulevard, landscaping shall include the planting of native and nonnative trees with a minimum height of 16 feet, with a four-foot clear trunk, and four-inch caliper at the time of planting; planted at a maximum of 30-foot intervals.

   b. Outside of these corridors, trees shall be a minimum height of 12 feet, with a four-foot clear trunk, and two and one-half-inch caliper, at the time of planting.

   c. Palm trees shall be a minimum height of 12 feet at the time of planting.

   d. Fruit trees shall be a minimum height of five feet at the time of planting.

6. *Tree species.* At least 75 percent of all trees planted to satisfy the requirements of this section shall be native species.

7. *Hedges and shrubs.* At the time of planting, hedges and shrubs shall have a minimum height of 24 inches, a minimum spread of ten (15) inches and be spaced not less than 24 inches on center. Spacing may be increased if larger plants are used to create a full appearance among adjacent plants.

8. *Vines.* Vines, which have a minimum of three runners, 30 inches in length may be used in conjunction with fences, screens or walls to meet barrier requirements. If vines are used in conjunction with fences, screens or walls, their runners shall be attached in a way that encourages proper growth.

9. *Maintenance and protection of required landscaping.* Encroachment into required landscaped areas by vehicles, boats, mobile homes or trailers shall not be permitted, and the following maintenance and protection measures shall be required:

   a. Required landscaped areas shall not be used for the storage or sale of materials, products or the parking of vehicles and equipment.

   b. Hatracking is not permitted. (The best-known form of tree abuse is called "hatracking" which involves severing the leading branch or branches of a tree and/or pruning a tree by removing mature wood creating stub branches, which in severe cases resemble a hatrack.)

   c. Railroad ties shall not be considered an acceptable wheel stop.

10. *Construction periods.* During periods of development and construction, the areas within the drip line of preserved trees shall be maintained at their original grade with pervious landscape material. Within these areas, there shall be:

    a. No trenching or cutting roots;

    b. No fill, compaction or removal of soil; and

    c. No use of concrete, paint, chemicals or other foreign substances.

11. *Installation and maintenance.* All property owners shall be responsible for properly installing and maintaining required landscaping so that the landscaping is installed and maintained in a healthy, neat and orderly appearance; and is free of refuse and debris.

12. *Fences, walls, gates, and gate houses.*

    a. Construction material for fences and walls must be architecturally compatible with surrounding buildings.

    b. Barbed wire may be used in conjunction with fencing only in industrial landuse designated areas. However, spire tips, or sharp objects are not permitted in conjunction with fencing anywhere within the Indiantown Community Redevelopment Area.

    c. The finished side of any fence must face outward.

13. *Location and height of fences and walls.*

    a. Fences and walls may be built at the street right-of-way or building setback line, provided the fence or wall does not interfere with the safe movement of pedestrians or vehicles; and

    b. Fences or walls built at the street right-of-way or building setback line, may be built to a height of three feet.

14. *Street trees.* Seventy-five percent of all street tree planting to be of the following species:

    Canopy trees (60 percent minimum):

    1. Live or Laurel Oak
    2. Magnolia
    3. Drake Elm
    4. Red Maple
    5. Bald Cypress
    6. Buttonwood
    7. Gumbo Limbo

    Palm Trees:

    1. Medjool or Canary Island Date Palm
    2. Royal Palm
    3. Coconut Palm (2:1 ratio, unless 8 feet grey wood, then 1:1)
    4. Sabal Palm (3:1 ratio)

3.266.F. *Sign Regulations.* Signage shall be as provided for in Article 4, Division 16, Signs, LDRMCC, unless otherwise provided below. It shall be unlawful to erect, display or maintain any sign within the Indiantown Community Redevelopment Area that does not comply with the following standards and regulations:

1. *Temporary signs.* Temporary signs are permitted, subject to compliance with the Florida Building Code and the following requirements:

   a. Promotional, special event, grand opening and seasonal sales signs, provided that such signs are:

      (1) Not over eight square feet in area; and

      (2) No closer than ten feet to any right-of-way line; and

      (3) Erected in such a way that they do not interfere with vehicular or pedestrian traffic; and

      (4) Permitted for a period not to exceed 60 days for seasonal sales (such as Christmas tree sales) or for a period not to exceed 30 days for promotional sales and nonprofit activities;

      (5) Removed immediately upon the expiration of the use or event for which they are granted; and

      (6) Limited to one per each 100 feet of street frontage.

   b. Portable signs, such as sandwich board or "A" frame signs, may be used on the premises or on the sidewalk directly in-front of the premises provided:

      (1) The sign is placed indoors after business hours; and

      (2) If placed on the sidewalk, the portable sign does not exceed 24 inches in width, or maximum ten square feet in area; and

      (3) Is not placed streetward of the sidewalk.

   c. Banner signs may be erected for a temporary period, not to exceed 21 days. If hung over a right-of-way, they must comply with all applicable FDOT or Martin County regulations. Banner signs shall be used to advertise only redevelopment area nonprofit businesses or events. One banner sign is allowed per point of purchase site, with a maximum size limit of 32 square feet, and maximum height of eight feet.

2. *Billboards.*

   a. New billboards shall not be allowed in the Indiantown Community Redevelopment Area.

3. *Point of purchase signs.* The following point of purchase signs are permitted subject to compliance with the Florida Building Code and the following requirements:

   a. *Wall signs.*

      (1) For front wall signs, a maximum square footage of 32 square feet per 50 feet of lineal frontage and a square footage equal to 80 percent of lineal frontage, if lineal frontage is less than 50 feet. For walls other than front walls 50 percent of the square footage for the front wall signs is permitted.

      (2) The permitted size of wall signs shall be based on a percentage of the wall areas computed by the length times the height in the geometric figures which determine the actual area. The wall length shall be the building, or that portion occupied. The height of the wall for computation purposes shall not exceed 15 feet for one-story structures and 25 feet for two or more story structures. One wall shall be deemed the front wall. Other walls shall be figured on the basis of 50 percent of the amount allowable for the front wall. Individual signs may not be larger than 32 square feet.

      (3) No wall sign shall cover wholly or partially any required wall opening.

      (4) Murals are permitted, but may not contain advertising.

b. *Projecting signs.*

(1) No projecting sign shall have a sign area exceeding 50 percent of the permitted front wall area and in no case shall it exceed 50 percent of the front wall mounted sign area;

(2) Projecting signs may extend over the right-of-way (sidewalk). The maximum distance, measured perpendicular to the building is the sidewalk less two feet.

c. *Freestanding signs.*

(1) There shall be one freestanding sign per building or each 200 lineal feet of property frontage.

(2) The freestanding sign shall be a pedestal sign with a maximum square footage of 50 square feet per sign face.

(3) Height shall be limited to eight feet.

d. *Off-premises signs.*

(1) Off-premises signs shall be limited to directional signs or signs used for directory purposes.

(2) Off-premises signs shall not exceed two square feet for each tenant or property.

(3) The total maximum allowable size shall be 28 square feet;

e. *Auxiliary signs.*

(1) Time-and-temperature devices are permitted in association with public service activities only. These signs may be freestanding, projecting or wall signs. Those devices with alternating messages shall display each such message for not less than ten seconds.

f. *Window signs.*

(1) Window signs shall not exceed 20 percent of the window area.

4. *Compliance requirements.*

a. All signs that were lawfully established prior to the effective date of this ordinance which are or may become nonconforming shall be permitted until they are either removed or replaced. All replacement and new signs will be brought into compliance.

b. Any sign located within a public right-of-way shall be removed immediately, unless it is permitted elsewhere within this subsection 3.266.F. The enforcing official is authorized to remove any sign not permitted in the right-of-way under this subsection 3.266.F at such time as the sign is determined to be in noncompliance.

5. *Maintenance.* Signs shall be kept clean, painted and free from all hazards such as, but not limited to, faulty wiring and loose fastenings. Weeds shall be cut underneath and around the base of ground signs and no rubbish or debris shall be permitted that would constitute a fire hazard or be detrimental to the public health and safety. All signs shall be maintained in a manner, which will withstand hurricane wind load requirements.

6. *Permits required.* Signs shall not be erected, constructed, altered or maintained except as provided in this subsection 3.266.F until a permit for same has been issued and the applicable fee paid. A sign permit shall become null and void and the fee forfeited, unless work on the permitted sign is substantially under way within six months after the effective date of the permit.

3.266.G. *Outbuildings.*

1. *Accessory uses.* Accessory uses, including, but not limited to, the following, shall be permitted:

a. Pavilions and arbors.

b. Detached garages and carports.

c. Garage apartments.

d. Guest houses and studios.

e. Workshops and tool houses.

f. Greenhouse and slat houses.

g. Pools and equipment houses.

h. Pump house.

3.266.H. *Miscellaneous provisions.*

1. *Exterior lighting.* Exterior lighting shall be so shielded to prevent any light trespass onto adjoining property.

2. *Painting of structures and repairs.*

   a. All exterior surfaces of buildings within the Indiantown Community Redevelopment Area shall be painted, except when constructed with materials not normally painted, including, but not limited to, such surfaces as vinyl siding or brick.

   b. Any repairs to the exterior of any building must be painted to match the balance of the structure.

3. *Board-ups.* If a structure is boarded-up for any reason, the boarding material must be, at a minimum, exterior grade plywood. If exterior grade plywood is used, it must be painted to match the balance of the structure, except for temporary boarding in the event of a natural disaster.

4. *Unfinished construction projects.*

   a. Unfinished construction projects that have an expired building permit shall have 90 days to reinstate the building permit for the project.

   b. Owners of unfinished construction projects that have failed to reinstate an expired building permit must remove any unfinished improvements immediately.

3.266.I. *Architectural design.* Architectural design for the Indiantown Community Redevelopment Area shall be as set forth in the Design Regulations for Indiantown, attached to Ordinance No. 664. [14]

3.266.J. *Alternative compliance.* An applicant for development approval may submit a site, landscape, or architectural plan which varies from the requirements of this ordinance in order to accommodate unique site features or utilize innovative design. An alternative compliance site, landscape or architectural plan shall be approved only upon a recommendation of the Martin County Growth Management Department that the alternative fulfills the purpose and intent of the Land Development Regulations, as well as or more efficiently than adherence to the strict requirements of this ordinance. In evaluating proposed alternative compliance for site, landscape or architectural plans, consideration shall be given to proposals which:

1. Improve pedestrian connectivity.

2. Minimize conflict between pedestrian and vehicle.

3. Are consistent with the adopted design regulations.

4. Preserve nature vegetation and use xeriscape and other low water use landscape design principles.

5. Utilize existing site characteristics of topography, existing vegetative communities, and any unique environmental feature in the design of structures and other improvements.

6. Comply to the maximum extent practicable relative to the configuration of the development that existed prior to the effective date of the Commercial Design Regulations, July 9, 2002.

7. Improve or provide integration of proposed development into the surrounding off-site development.

8. Provide additional desirable features that mitigate the removal of the items required.

9. Adjust parking through methods already described in subsection 3.266.C.1.a. and b., 4.a., and 6.a.; or alternatively, through the appropriately authorized method for a parking adjustment (increase or decrease) of 20 percent or more.

3.266.K. *Commercial day care.* Commercial day care facilities shall be permitted on any paved public roadway within the Indiantown Community Redevelopment Area Boundary. These commercial day care facilities must comply with the Martin County Comprehensive Growth Management Plan, Land Development Regulations, and General Ordinances.

(Ord. No. 664, pt. 1, 2-8-05)

Sec. 3.267. Golden Gate Redevelopment Overlay Districts.

3.267.A. *Permitted uses and property development standards.* The permitted uses and property development standards for the five redevelopment overlay districts within the Golden Gate Community Redevelopment Area shall be as set forth in this section. The boundaries of these five redevelopment overlay districts shall be as shown in Exhibit "A". [15] The provisions of sections 3.267.B through 3.267.J of this section 3.267 shall apply to all five redevelopment overlay districts unless otherwise noted.

1. Urban Corridor (UC) District, permitted uses and development standards.

a. *Permitted uses and specific conditions.*

URBAN CORRIDOR PERMITTED USES

Residential Uses

Residential as part of a Mixed Use Project (3)

Public and Institutional Uses

Administrative Services, Not-for-Profit
Community Centers
Cultural or Civic Uses
Educational Institutions
Hospitals
Places of Worship
Post Offices
Protective and Emergency Services
Public Libraries
Public Parks and Recreation Areas, Active
Public Parks and Recreation Areas, Passive
Recycling Drop Off Centers
Utilities

Commercial and Business Uses

Business and Professional Offices (3)
Commercial Amusements, Indoor (3)
Commercial Day Care (3)
Construction Industry Trades (3)
Construction Sales and Services (3)
Financial Institutions (3)
Funeral Homes (3)
General Retail Services (3)
Hotels and Motels (3)
Kennels, Commercial (3)
Limited Retail Sales and Service (3)
Medical Services (3)
Parking Lots and Garages
Residential Storage Facilities (3)
Restaurants, Convenience (3)
Restaurants, General
Trades and Skilled Services
Vehicular Sales and Service (2)
Vehicular Services and Maintenance (2, 3)
Veterinary Medical Services (3)
Wholesale Trades and Services (3)

Industrial Uses (1)

Specific Conditions:

(1) Any industrial use permitted in the Limited Industrial (LI) zoning district shall be allowed on lands designated "Industrial" on the Future Land Use Map, provided that such use must comply with the performance standards of article 3, divisions 2, 3, 4 and 7 and with the requirements of this section 3.267. In the case of any conflict among the standards, the more stringent provision shall prevail. Extensive Impact Industries shall be allowed on lands designated "Industrial" on the Future Land Use Map, provided that such use shall comply with the performance standards of article 3, divisions 2, 3, 4 and 7 and with the requirements of this section 3.267, and provided that all outdoor work areas, outdoor storage areas and areas used for the parking of commercial vehicles are screened from view from public streets and from nonindustrial uses by an opaque fence, wall or hedge at least six feet in height.

(2) Any outdoor repair areas, outdoor storage areas and areas used for the parking of more than four commercial vehicles shall be screened from view from public streets and from adjacent lots by an opaque fence, wall or hedge at least six feet in height.

(3) Permitted only in areas designated "Industrial" on the Future Land Use Map.

b. *Development standards for all projects.*

Minimum lot size:	6,250 square feet.
Minimum lot frontage on public street:	100 feet.
Maximum lot coverage:	80 percent.

Minimum building frontage:	80 percent of lot width.
Build-to-Line:	Principal building must be built 5 feet from the front property line.
Minimum side setback:	0 feet from interior lot lines when developed in conjunction with neighboring property, otherwise 5 feet; 5 feet from any side lot line that abuts a public street.
Minimum rear setback:	5 feet.
Maximum building height:	3 stories or 35 feet, whichever is less.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in section 3.267.G.

d. *Non-mixed use projects.* Non-mixed use projects (projects that are not designed pursuant to the standards set forth in section 3.267.G) shall comply with the standards set forth in paragraphs a. and b., above, and with the following standards, with the more stringent provision prevailing in the event of any conflict:

(1) Lands designated Industrial on the Future Land Use Map and used for limited impact industries:

(a) Minimum lot size: 15,000 square feet.

(b) Maximum building coverage: 40 percent.

(c) Minimum open space: 20 percent.

(d) Maximum building height: 30 feet.

(2) Lands designated "Industrial" on the Future Land Use Map and used for extensive impact industries:

(a) Minimum lot size: 30,000 square feet.

(b) Maximum building coverage: 50 percent.

(c) Minimum open space: 20 percent.

(3) Lands designated "Institutional-General" on the Future Land Use Map:

(a) Maximum building coverage: 45 percent.

(b) Minimum open space: 40 percent.

2. Neighborhood Center (NC) District, permitted uses and development standards.

a. *Permitted uses and specific conditions.*

NEIGHBORHOOD CENTER PERMITTED USES

Residential Uses

Single-Family Detached Dwellings (2)
Townhouse dwellings (2)
Multifamily Dwellings (2)
Residential as part of a Mixed Use Project

Public and Institutional Uses

Administrative Services, Not-for-Profit
Community Centers
Cultural or Civic Uses
Educational Institutions
Hospitals (3)
Residential Care Facilities
Places of Worship
Post Offices (3)
Protective and Emergency Services
Public Libraries
Public Parks and Recreation Areas, Active
Public Parks and Recreation Areas, Passive
Recycling Drop Off Centers
Utilities

Commercial and Business Uses

Bed and Breakfasts
Business and Professional Offices (3)
Commercial Amusements, Indoor (3)
Commercial Day Care (3)
Financial Institutions (3)
General Retail Services (3)
Hotels and Motels (3)
Limited Retail Sales and Service (3)
Medical Services (3)
Parking Lots and Garages (3)
Restaurants, General (3)
Trades and Skilled Services (3)
Veterinary Medical Services (3)
Wholesale Trades and Services (3)

Industrial Uses (1)

Specific Conditions:

(1) Any industrial use permitted in the Limited Industrial (LI) zoning district shall be allowed on lands designated "Industrial" on the Future Land Use Map, provided that such use must comply with the performance standards of article 3, divisions 2, 3, 4 and 7 and with the requirements of this section 3.267. In the case of any conflict among the standards, the more stringent provision shall prevail. Extensive impact industries shall be allowed on lands designated "Industrial" on the Future Land Use Map, provided that such use shall comply with the performance standards of article 3, divisions 2, 3, 4 and 7 and with the requirements of this section 3.267, and provided that all outdoor work areas, outdoor storage areas and areas used for the parking of commercial vehicles are screened from view from public streets and from nonindustrial uses by an opaque fence, wall or hedge at least six feet in height.

(2) Permitted only in areas designated "Medium Density" on the Future Land Use Map.

(3) Permitted only in areas designated "General Commercial" or "Industrial" on the Future Land Use Map, or as part of a Mixed Use Project in accordance with section 3.267.G.

b. *Development requirements.*

Minimum lot size:	6,250 square feet.
Minimum lot frontage on public street:	100 feet.
Maximum lot coverage:	80 percent.
Minimum building frontage:	70 percent of lot width (not applicable to residential uses).
Build-to-Line:	Principal building must be built 5 feet from the front property line.
Minimum side setback:	0 feet from interior lot lines when developed in conjunction with neighboring property, otherwise 5 feet. 5 feet from any side lot line that abuts a public street.
Minimum rear setback:	10 feet.
Maximum building height:	3 stories or 35 feet, whichever is less.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in section 3.267.G.

d. *Non-mixed use projects.* Non-mixed use projects (projects that are not designed pursuant to the standards set forth in section 3.267.G) shall comply with the standards set forth in paragraphs a. and b., above, and with the following standards, with the more stringent provision prevailing in the event of any conflict:

(1) Lands designated "Industrial" on the Future Land Use Map and used for Limited Impact Industries:

(a) Minimum lot size: 15,000 square feet.

(b) Maximum building coverage: 40 percent.

(c) Minimum open space: 20 percent.

(d) Maximum building height: 30 feet.

(2) Lands designated "Industrial" on the Future Land Use Map and used for Extensive Impact Industries:

(a) Minimum lot size: 30,000 square feet.

(b) Maximum building coverage: 50 percent

(c) Minimum open space: 20 percent.

(d) Maximum building height: 40 feet.

(3) Lands designated "General Commercial" on the Future Land Use Map:

(a) Minimum lot size: 10,000 square feet.

(b) Maximum building coverage: 60 percent.

(c) Minimum open space: 20 percent.

(d) Maximum hotel/motel density: 20 upa.

(4) Lands designated "Medium Density" on the Future Land Use Map:

(a) Minimum open space: 50 percent.

(b) Maximum residential density: 8 upa.

(5) Lands designated "Institutional-General" on the Future Land Use Map:

(a) Maximum building coverage: 45 percent.

(b) Minimum open space: 40 percent.

3. Neighborhood Urban (NU) District, permitted uses and development standards.

a. *Permitted uses and specific conditions.*

NEIGHBORHOOD URBAN PERMITTED USES

Residential Uses

Single-Family Detached Dwellings	(2)
Duplex Dwellings	(2)
Triplex Dwellings	(2)
Four-Plex Dwellings	(2)
Townhouse Dwellings	(2)
Multifamily Dwellings	(2)
Residential as part of a Mixed Use Project	

Public and Institutional Uses

Community Centers	
Educational Institutions	
Neighborhood Assisted Residences with six or fewer residents	
Public Parks and Recreation Areas, Active	
Public Parks and Recreation Areas, Passive	
Residential Care Facilities	
Utilities	

Commercial and Business Uses

Day Care Fronting Lamar Howard Park	
Business and Professional Offices	(1)
Bed and Breakfasts	(1)
Business and Professional Offices	(1)
Commercial Amusements, Indoor	(1)

Commercial Day Care (1)
Financial Institutions (1)
General Retail Services (1)
Hotels and Motels (1)
Limited Retail Sales and Service (1)
Medical Services (1)
Parking Lots and Garages (1)
Restaurants, General (1)
Trades and Skilled Services (1)
Veterinary Medical Services (1)
Wholesale Trades and Services (1)

Specific Conditions:

(1) Permitted only in areas designated "General Commercial" on the Future Land Use Map, or as part of a Mixed Use Project in accordance with section 3.267.G.

(2) Permitted only in areas designated "Medium Density Residential" on the Future Land Use Map.

b. *Development requirements.*

Minimum lot size:	6,250 square feet.
Minimum lot frontage on public street:	50 feet.
Maximum lot coverage:	70 percent.
Minimum open space:	In Medium Density Future Land Use areas: 50 percent. In General Commercial Future Land Use areas: 20 percent.
Minimum gross floor area per residential unit:	900 square feet.
Minimum building frontage:	60 percent of lot width not applicable to residential uses).
Required front setback:	Not less than 10 feet and not more than 20 feet.
Allowed front setback encroachment for front porch:	Up to 5 feet for open porches on first or second floor, provided that there is no habitable floor space above.
Minimum side setback:	For residential development: 6 feet for 1 story, 10 feet for 2 stories or 15 feet for 3 stories. For all other development: 0 feet when developed in conjunction with

	neighboring property, otherwise 5 feet.
Allowed side setback encroachment:	Up to 5 feet for open porches, carports or other open-sided structures on first or second floor, provided that there is no habitable floor space above.
Minimum rear setback:	20 feet for principal building. 5 feet for accessory building.
Maximum building height:	3 stories or 35 feet, whichever is less.

c. *Mixed use projects.* In addition to the standards set forth in paragraphs a. and b., above, mixed use projects must also comply with the standards set forth in section 3.267.G.

d. *Non-mixed use projects.* Non-mixed use projects (projects that are not designed pursuant to the standards set forth in section 3.267.G) shall comply with the standards set forth in paragraphs a. and b., above, and with the following standards, with the more stringent provision prevailing in the event of any conflict:

(1) Lands designated "General Commercial" on the Future Land Use Map:

(a) Minimum lot size: 10,000 square feet.

(b) Maximum building coverage: 60 percent.

(c) Minimum open space: 20 percent.

(d) Maximum hotel/motel density: 20 upa.

(2) Lands designated "Medium Density" on the Future Land Use Map:

(a) Minimum open space: 50 percent.

(b) Maximum residential density: 8 upa.

4. Neighborhood General (NG) District, permitted uses and development standards.

a. *Permitted uses and specific conditions.*

NEIGHBORHOOD GENERAL PERMITTED USES

Residential Uses

Single-Family	Detached	Dwellings
Duplex		Dwellings
Triplex		Dwellings
Four-Plex Dwellings		

Public and Institutional Uses

Community	Centers
Educational	Institutions

Neighborhood Assisted Residences with six or fewer residents
Public Parks and Recreation Areas, Active
Public Parks and Recreation Areas, Passive
Utilities

Commercial and Business Uses

Day Care Fronting Lamar Howard Park

b. *Development requirements.*

Minimum lot frontage:	Single-Family: 50 feet. Duplex: 75 feet. Triplex or Four-Plex: 100 feet.
Minimum lot size:	Single-Family Dwelling: 5,500 square feet. Duplex, Triplex or Four-Plex: Lot must be sized to meet density requirements of the Comprehensive Growth Management Plan.
Maximum lot coverage:	50 percent.
Minimum open space:	In Medium Density Future Land Use areas: 50 percent. In Institutional-Recreation Future Land Use areas: 40 percent.
Minimum gross floor area:	900 square feet.
Required front setback:	Not less than 15 feet and not more than 25 feet.
Allowed front setback encroachment:	Front porch, up to 5 feet into minimum front setback, provided that no enclosed floor space is within the setback.
Minimum side setback:	6 feet for 1 story or 10 feet for 2 stories.
Minimum rear setback:	25 feet for principal building, 5 feet for accessory building or garage.
Allowed side setback encroachment:	Up to 5 feet for open porches, carports or other open-sided structures on first or second floor, provided that there is no habitable floor space above.
Maximum building height:	2 stories or 25 feet, whichever is less.

5. Neighborhood Residential (NR) District, permitted uses and development standards.

a. *Permitted uses and specific conditions.*

NEIGHBORHOOD RESIDENTIAL PERMITTED USES

Residential Uses

Single-Family Detached Dwellings
(See section 3.267.K. regarding other residential unit types)

Public and Institutional Uses

Neighborhood Assisted Residences with six or fewer residents
Public Parks and Recreation Areas, Active
Public Parks and Recreation Areas, Passive
Utilities

b. *Development requirements.*

Minimum lot size:	5,500 square feet.
Minimum lot width and minimum lot frontage on dedicated right-of-way:	50 feet.
Maximum lot coverage:	50 percent.
Minimum open space:	In Medium and High Density Future Land Use areas: 50 percent. In Institutional-General Future Land Use areas: 40 percent.
Minimum gross floor area:	900 square feet.
Required front setback:	not less than 15 feet and not more than 25 feet.
Allowed front setback encroachment:	Front porch up to 5 feet into min. front setback, provided that no enclosed floor area is included.
Minimum side setback:	For interior lots: 7½ feet, or 5 feet one side and 10 feet other side for driveway. For corner lots: 5 feet on interior side and 10 feet on cross street side.
Minimum rear setback:	25 feet for principal building, 5 feet for accessory building or

	garage and 10 feet for a pool.
Allowed side setback encroachment for porte cochere:	Up to 5 feet for open porches, carports or other open-sided structures on first or second floor, provided that there is no habitable floor space above.
Maximum building height:	2 stories or 25 feet, whichever is less.

3.267.B. *Roadway and street design.*

1. All streets within the Golden Gate Community Redevelopment Area shall comply with section 4.847, Traditional Neighborhood Street Design, of the Land Development Regulations.
2. Alleys. Redevelopment shall, to the maximum extent practicable, provide vehicular access via alleys at the rear of lots at mid-block, either by using existing platted alleys or by dedicating and improving new alleys. Alleys should be used to encourage parking at the rear of the lot and to discourage curb cuts through the lot frontage. New alleys shall have a minimum right-of-way width of 20 feet and a maximum of 24 feet.

3.267.C. *Parking.* Parking shall conform with article 4, division 14, Parking and Loading, of the Land Development Regulations unless otherwise specified in this section 3.267.C.

1. On-street parking spaces abutting a lot may be used to satisfy the on-site parking requirement for a development provided that such on-street parking spaces are developed to current County standards.
2. Off-site parking other than on-street parking may be used to satisfy the on-site parking requirement provided that the parking arrangement is approved by the Golden Gate Neighborhood Advisory Committee.
3. On-site parking shall be located only in a rear or side yard. When located in a side yard, the parking area shall be located behind the street facade line. Parking spaces shall be screened from view from the front street right-of-way by a fence, wall or vegetative screen of at least three feet in height. The requirements of this paragraph 3. shall not apply to single-family, duplex or tri-plex residential lots where six or fewer parking spaces are provided.
4. Where a parking area for a nonresidential use would otherwise be visible to a residential use located in a different redevelopment overlay district, such parking areas shall include a minimum ten-foot wide landscaped buffer.
5. Detached garages shall be located at least 15 feet behind the front building line. Carports and porte cocheres shall be located behind the front building line.

3.267.D. *Stormwater.* A Master Stormwater Management Plan (Plan) will be developed for the Golden Gate Community Redevelopment Area (CRA). The Plan will be based upon the most likely build-out scenario for the CRA. A cost estimate and joint stormwater management strategy will be developed based upon the Plan. In the interim, stormwater management shall be as required by article 4, division 9, Stormwater Management and Flood Control, of the Land Development Regulations, with the exception that parcels within the overlay areas may develop a stormwater management plan in conjunction with the adjacent properties.

3.267.E. *Landscaping.* Landscaping shall be provided in accordance with article 4, division 15 of the Land Development Regulations, except as provided for in this section 3.267.E:

1. *Yard trees.* Single-family and duplex development shall provide at least one tree for every 1,500 square feet of lot area.

2. *Vehicular use areas.* For purposes of section 4.663.A.4., a mixed use development shall be considered nonresidential for purposes of determining the vehicular use area requirements.

3. *Bufferyards.* The bufferyard requirements of section 4.663.B shall not apply within the UC, NC or NU districts except where a mixed use or nonresidential development would face an NR or NG district.

4. *Landscaping of adjacent public space.*

   a. Up to ten percent of the open space requirement may be met by landscaping adjacent public space, such as, but not limited to, landscaped islands between on-street parking spaces. Such spaces shall be designated on the site plan and shall be permanently maintained by the landowner (see examples in Figure 14 [16]).

   b. Street trees required shall be provided as follows:

      (1) Street trees from the following list are planted at a maximum of 30-foot intervals along the right-of-way:

      Canopy Trees (60 percent minimum):

      1. Live or Laurel Oak.
      2. Magnolia.
      3. Mahogany.
      4. Red Maple.
      5. Bald Cypress.
      6. Buttonwood.
      7. Gumbo Limbo.

      Palm Trees:

      1. Medjool or Canary Island Date Palm.
      2. Royal Palm.
      3. Coconut Palm (2:1 ratio, unless eight feet grey wood, then 1:1).
      4. Sabal Palm (3:1 ratio).

      (2) Trees shall include native and non-native trees with a minimum height of 16 feet, with a four-foot clear trunk and four-inch caliper at the time of planting.

      (3) Street trees may be incorporated into landscaped islands associated with on-street parking or to provide shade for pedestrian areas. Landscaped islands and other street tree planting areas shall be sized to support the maximum growth of the tree and may include shrubs and appropriate ground cover plants.

      (4) Along Dixie Highway and Indian Street, street trees shall be a minimum height of 16 feet, with a four-foot clear trunk, and four-inch caliper at the time of planting. Along all other streets, street trees shall be a minimum height of 12 feet, with a four-foot clear trunk and two and one-half-inch caliper, at the time of planting.

3.267.F. *Signs.* Signs shall be regulated pursuant to article 4, division 15 of the Land Development Regulations, except as provided for in this section 3.267.F.

1. *Building signage.* The developer of a building may give the building a name, or the major tenant of the building may place its name on the building, according to the following specifications:

   a. *Where permitted:*

      (1) Neighborhood Center (NC).

      (2) Urban Corridor (UC).

      (3) Neighborhood General (NG).

      (4) Neighborhood Urban (NU).

   b. *Placement:*

      (1) Near top of the building.

      (2) Above upper floor windows.

      (3) Directly on wall surface/background must be building wall.

      (4) Must face public street.

      (5) Placed on maximum of two building sides.

      (6) May be cut or carved.

      (7) No roof signs are permitted.

   c. *Dimensions:*

      (1) Maximum of 50 square feet for each sign permitted.

      (2) Lettering may be a maximum of 18 inches.

      (3) May include a logo, which will be counted toward total square feet.

   d. *Letter materials:* Metal, stone, wood, paint, carved, plaster. No plastic letters permitted.

   e. *Lighting:* Front lit, back lit, opaque lighting. No channel cut lighting permitted (channel cut is a method of illumination that illuminates only the lettering or logo and the remaining face of the sign is not illuminated or opaque in any manner, also known as stencil-cut).

   f. *Design:* Consistency with building architectural style is preferred.

   g. *Other provisions:*

      (1) No neon signs permitted.

      (2) No moving message signs permitted.

2. *Sign band.* This type of sign is intended primarily for retail uses at street level to draw the attention of pedestrians and drivers.

   a. *Where permitted:*

      (1) Neighborhood Center.

      (2) Urban Corridor.

   b. *Placement:*

      (1) On building face between first and second floor window openings.

      (2) Must be integrated with composition of the facade.

(3) Background may be building wall or "backboard".

(4) Minimum of ten feet above sidewalk.

c. *Dimensions:*

(1) Backboard and overall band width limited to 12 square feet.

(2) Backboard may have a maximum height of 30 inches.

(3) Letters may have a maximum height of 24 inches.

d. *Letter or backboard materials:* Metal, stone, wood, paint, carved, plaster, plastic. Cabinet signs are permitted.

e. *Lighting:* Front lit and back lit permitted, channel cut is not permitted.

f. *Design:* Consistency with building architectural style is preferred.

g. *Other provisions:*

(1) No neon signs permitted.

(2) Consistency of the sign bands in a single building is required.

3. *Post signs.* These may be used on front lawns but not on County right-of-way.

a. *Where permitted:*

(1) Neighborhood General (NG).

(2) Neighborhood Center (NC).

(3) Urban Corridor (UC).

(4) Neighborhood Urban (NU).

b. *Placement:*

(1) Perpendicular to the ground, near entrance to the property, but not on County right-of-way.

(2) May be parallel or perpendicular to front facade.

c. *Configuration:*

(1) Double post with framed panel.

(2) Offset single post with bracketed or suspended panel.

(3) Double-sided signs are permitted.

(4) Single post with centered panel is not permitted.

(5) Sign must be essentially two-dimensional. Small structures or kiosk type designs are not permitted.

d. *Dimensions:*

(1) Sign panel is limited to a maximum of six square feet.

(2) Overall sign is limited to a maximum height of four feet above grade.

e. *Materials:* Metal, wood.

f. *Lighting:*

(1) Externally projected ground lighting is permitted.

(2) Internally illuminated signs or signs incorporating lighting elements (including neon) are not permitted.

g. *Design:*

(1) Sign panel is limited to a two-dimensional graphic layout.

(2) A logo may be included on the face of the sign.

4. *Bracket signs.* These may be used in place of a sign band if located in an arcade. Bracket signs may include symbols such as barber poles.

a. *Where permitted:*

(1) Neighborhood Center (NC).

(2) Urban Corridor (UC).

b. *Placement:*

(1) Perpendicular to principal building facade.

(2) May be held by brackets, cantilevered, or suspended under a soffitt.

(3) Must allow a minimum sidewalk height clearance of eight feet.

c. *Dimensions:*

(1) Maximum of six square feet.

(2) Bracketed signs may project a maximum of 48 inches from the building face.

(3) Double-sided signs are permitted.

(4) Letters may have a maximum height of ten inches.

(5) Logos or Artwork may be a maximum of 18 inches in any dimension.

d. *Materials:* Metal, wood.

e. *Lighting:* Externally projected lighting is permitted.

f. *Design:* A logo may be included on the face of the sign.

g. *Other provisions:* No neon signs permitted.

5. *Window signs.* These signs are intended for the pedestrian. They include applied graphics such as name, hours of operation, telephone numbers, and street numbers. "Open/closed" hanging signs are permitted.

a. *Where permitted:*

(1) Neighborhood Center (NC).

(2) Urban Corridor (UC).

(3) Neighborhood General (NG). Applies only to institutional and civic uses.

(4) Neighborhood Urban (NU). Applies only to institutional and civic uses.

b. *Placement:*

(1) On storefront windows and doors.

(2) May be applied to interior surface of glass only.

(3) May not substantially obscure visibility through the window.

c. *Dimensions:*

(1) Window graphics are limited to five percent of total glass area of the storefront.

(2) Lettering size may be a maximum of six inches.

d. *Letter materials:* Vinyl, gold leaf, painted, stick-on plastic.

e. *Lighting:* Not permitted.

f. *Design:*

(1) Consistency with architectural style is required.

(2) Promotional graphics must be tasteful and understated.

g. *Other provisions:* No neon signs permitted, but neon may be used as an accent or architectural feature.

6. *Monument and pole signs.* A monument sign is a ground-mounted, wall-like structure with applied graphics. Backboards may be applied to the monument structure. Pole signs are not permitted.

a. *Where permitted:*

(1) Neighborhood Center (NC).

(2) Urban Corridor (UC).

(3) Neighborhood General (NG). Monument signs allowed only for institutional and civic uses.

(4) Neighborhood Urban (NU). Monument signs allowed only for institutional and civic uses.

b. *Placement:*

(1) Must be perpendicular to public road with identical graphics on each face.

(2) Must form a 45 percent angle to the street intersection at street corners.

(3) Must be set back at least two feet from the public right-of-way.

c. *Dimensions:*

(1) Height of the monument sign may not exceed five feet.

(2) Graphic area of the monument must not exceed 40 square feet.

d. *Materials:*

(1) Substantial materials such as stone, concrete, brick, stucco, wood, steel, and aluminum are required.

(2) Letter or backboard materials: metal, stone, wood, paint, carved, plaster, plastic.

e. *Lighting:* External lighting only permitted.

f. *Design:*

(1) Consistent with the architectural style preferred.

(2) May introduce logos, standard colors, or thematic details that are repeated within the community to help establish consistency and visual cohesion.

(3) May be integrated into a planting bed.

g. *Other provisions:* Neon signs not permitted.

7. *Sidewalk signs.* This type of sign includes movable sandwich boards and menu cases. A menu case is a wall-mounted or sidewalk-placed display featuring the actual menu contained within a shallow glass-fronted case. Sidewalk signs are limited to one movable board or menu case per business.

   a. *Where permitted:*

      (1) Neighborhood Center (NC).

      (2) Urban Corridor (UC).

   b. *Placement:*

      (1) Sidewalk subject to space availability.

      (2) Private or patio courtyards within 20 feet of main entrance to business.

      (3) Must not interfere with pedestrian or vehicular movement.

      (4) Movable board must be removed at the end of the business day after normal hours of operation.

   c. *Dimensions:*

      (1) Menu case must not exceed a total area of two square feet.

      (2) Sandwich board must not exceed eight square feet per face and must be no taller than four feet in height and two and one-half feet in width.

   d. *Materials:*

      (1) Menu case must be a shallow glass-fronted case.

      (2) Sandwich board must be wood, chalkboard, or finished metal.

   e. *Lighting:* Menu case may be externally lighted.

8. *Signs not permitted.*

   a. Large or illuminated signs behind the glass storefront that advertise on a permanent basis.

   b. Applied window signs, such as cardboard panels, are not permitted.

   c. Trailer signs are not permitted.

   d. Banners for commercial or private use are not permitted.

   e. Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for traditional barber poles, are not permitted.

   f. Signs with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary in intensity or color are not permitted.

   g. Strings of light bulbs used on commercially developed parcels for commercial purposes, other than traditional holiday decorations, are not permitted.

   h. Signs, commonly referred to as wind signs, consisting of one or more banners, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind, are not permitted.

   i. Signs that incorporate projected images, emit any sound that is intended to attract attention, or involve the use of live animals, is not permitted.

   j. Signs that emit audible sound, odor or visible matter such as smoke or steam are not permitted.

9. *Temporary signage.* Permitted temporary signage types include:
   a. Seasonal signs.
   b. Promotional and sale signs.
   c. Announcement signs.
   d. Event signs.
   e. Real estate signs.
   f. Political campaign signs.
   g. Future or ongoing construction
   h. Pennants and Banners are not permitted.
10. *Seasonal, promotional, sale, announcement, and event signs.*
   a. Retail tenants may advertise special promotions and sales.
   b. Signage is limited to the display windows and must be located inside the glass.
11. *Real estate signs.*
   a. On residential properties, real estate signs are limited to the standard two-faced ground signs of no more than three square feet in area.
   b. No more than one rider, i.e., "Sale Pending" or similar message, may be added.
   c. Real estate signs must be promptly removed once the sale is closed.
12. *Construction signs.*
   a. Construction signs that primarily advertise the builder must be no larger than six square feet in area.
   b. Larger commercial or civic projects that include a professional rendering of the project may use signs as large as four feet by eight feet. The illustration must occupy at least 40 percent of the total area, with the balance reserved for information about the architect, contractor, etc.
   c. Construction signs must be promptly removed at the end of construction.

3.267.G. *Mixed-use projects.*

1. *Mixed use project, defined.* A "mixed-use project" is a development with one or more buildings, containing more than one land use type, including both a residential and nonresidential component, where the various land uses are in close proximity to one another, are planned as a unified, complementary whole and are functionally integrated for the use of shared infrastructure.
2. *Locations.* Mixed use projects are permitted in the UC, NC and NU districts only.
3. *Maximum density and intensity.*
   a. Mixed use projects shall have a minimum of 20 percent residential use and a maximum of 75 percent residential use based on the total project building square footage.
   b. Residential densities shall range from a minimum of two units per acre to a maximum of 15 units per acre pursuant to the methodology set forth in section 3.13 of the Land Development Regulations.
   c. The allowable number of residential dwelling units in a mixed use project shall be calculated according to the following formula:

$$[(RB/TP) \times PA \times MD] = TU$$

Where:
RB = Residential Building (or unit) square footage
TP = Total Project building square footage
PA = Project Acreage
MD = Maximum Density (15)
TU = Total Maximum Dwelling Units

By way of illustration, if a project acreage (PA) is two and one-half acres with residential building square footage (RBSF) proposed of 30,000 square feet and total project building square footage (TPSF) of 50,000 square feet with the maximum density (MD) of 15 units per acre then, the total dwelling units (TU) is 30,000/50,000 × 2.5 ;tomes; 15 = 22.5 units.

(1) When the result of the calculation ends in 0.5 or higher, the total unit count shall be rounded up.

(2) When the result of the calculation is less than one, the total unit count shall be rounded up to ensure that at least one residential dwelling unit is allowed.

(3) When calculating the number of units in a mixed use project on lot sizes of one-half acre or less, units of 800 square feet or less of gross floor area shall be counted as one-half dwelling unit.

4. *Parking.* Where more than 200 parking spaces are provided on-site, such parking shall be distributed such that no more than 50 percent of the spaces are grouped in a single area of the parcel. Methods of distributing parking areas may include locating parking adjacent to the rear or sides of a building or by physically separating parking areas with other buildings or landscaped areas.

5. *Landscape buffers and residential transitioning.*

a. Despite any provision to the contrary within article 4, division 15 of the Land Development Regulations, Martin County Code, the bufferyard requirements of section 3.663.B of the Land Development Regulations, Martin County Code, shall not apply to any disparate land uses that may occur:

(1) Within the interior of a mixed use project.

(2) Between mixed use projects or other developments that are located entirely within a Mixed Use Overlay.

b. Despite any provision to the contrary within sections 3.83.1 or 3.402 [of] the Land Development Regulations, Martin County Code, "residential transitioning" requirements shall not apply:

(1) Within the interior of a mixed use project.

(2) Between mixed use projects or other developments that are located entirely within a Mixed Use Overlay.

6. *Vertical mix of uses.* For multistory buildings, the use of each story shall be limited as follows:

First floor: Nonresidential uses.

Second floor: Office or residential uses.

Third floor: Residential uses only.

3.267.H. *Architectural design.*

1. *Graphic examples.* Exhibit "B" [17] provides graphic examples of the site design, building types and architecture required or recommended by this section 3.267. Where there is any conflict between the graphic examples and the text of this section 3.267, the text shall prevail.

2. *Commercial design.* Regardless of the future land use designation in which they may be located, nonresidential and mixed use buildings located within any of Golden Gate Redevelopment Overlay Districts shall be required to comply with the provisions of article 4, division 20, Commercial Design, of the Land Development Regulations except that alternative compliance shall be governed by section 3.260.C rather than section 4.874. Architectural design requirements set forth in this section 3.267.H shall be in addition to the requirements of article 4, division 20.

3. *Arcades.* Arcades may be permitted over public street right-of-ways within the UC and NC districts, provided that:

   a. There is no habitable space above the arcade.

   b. The arcade has a minimum clear height of 12 feet from the lowest point of the ceiling and a minimum clear width of ten feet in the UC district and eight feet in the NC district.

   c. The arcade remains open to the public at all times.

   d. The side of the arcade running parallel to the building to which it is attached is open from four feet above grade to its roof, except for necessary vertical supports.

   e. Restaurant seating and the display of merchandise is permitted in the arcade provided that a public passageway of at least six feet in width is maintained for pedestrian circulation.

   f. The design is approved by both the Growth Management Director and the County Engineer.

4. *Building additions.* The exterior appearance of additions to an existing building should be compatible with the overall building type. For example, exterior walls should be of the same or compatible materials and finished in the same manner as the existing structure. Windows should also be of the same type or be complementary with the existing windows.

5. *Balconies.* Balconies shall conform to the following requirements:

   a. A balcony may extend over a public sidewalk but may not be designed or used as a means of building ingress or egress above a public right-of-way.

   b. A balcony shall have a minimum depth of three feet and a minimum clear height of ten feet at ground level when placed above a public sidewalk.

3.267.I. *Miscellaneous development standards.* The standards of article 3, division 4, Miscellaneous Development Standards, of the Land Development Regulations, shall apply to all of the Golden Gate Redevelopment Overlay Districts except as otherwise provided for in this section 3.267.I.

1. *Exterior finish.* The exterior surface of all buildings shall be painted except for surfaces constructed of materials not normally painted, such as vinyl siding and brick.

2. *Board-ups.* If a structure is boarded-up for any reason, the boarding material must be, at a minimum, exterior grade plywood. If exterior grade plywood is used, it must be painted to match the balance of the structure, except for temporary boarding in the event of a natural disaster.

3. *Clothes lines.* Clothes lines and other clothes drying apparatus shall be restricted to the rear yard, behind the rear building line.

4. *Electrical meters.* Electrical meters shall be screened from view of any public street by landscaping, lattice or similar means.

5. *Air-conditioning equipment.* Air-conditioning equipment, excluding window units, shall be screened from view of any public street by landscaping, lattice or similar means. Where a residential dwelling is outfitted with central air conditioning, any additional window units shall

also be screened from view of any public street by landscaping, lattice or similar means. Where airflow is required for proper operation of equipment, lattice or similar screening of at least 50 percent opacity shall be sufficient to meet this screening requirement.

6. *Parking surfaces.* The use of dirt, grass or other unpaved, unstabilized areas of a lot for the parking of vehicles shall be prohibited, except where such parking areas are specifically approved by the County Engineer.

7. *Landscaping required.* Exposed dirt yards shall be prohibited.

3.267.J. *Nonconformities.*

1. *In general.* Buildings, structures and uses of land that were lawfully established prior to the effective date of this section 3.267 that do not conform with the requirements of this section 3.267 shall be governed by article 8, Nonconformities, of the Land Development Regulations except as otherwise provided in this section 3.267.J.

2. *Definitions.* For purposes of this section 3.267.J, the following terms shall have the meanings set forth below.

   a. *Change of use.* Any change from one permitted use category to another permitted use category which increases the demand for parking, creates additional impervious area, or increases the traffic-generating capacity of the development.

   b. *Substantial improvement.* Any repair, reconstruction, extension or other improvement to a building or structure, including such work conducted over a period of time, the cost of which equals or exceeds 50 percent of the assessed value of such building or structure either before the improvement is commenced or, if the property has been damaged and is being restored, before the damage occurred. For purposes of this definition, assessed value shall mean the assessed value of a structure for the current year as determined by the Martin County Property Appraiser.

   c. *Substantial renovation of building exterior.* A substantial renovation of the building exterior is one in which the appearance of the building materially changes, such as by the installation or modification of facade features, but not including painting or cleaning that is simply intended to restore the exterior to its previous condition. The replacement of roofing material, even if it changes the appearance of the building, shall not be considered a substantial renovation of the building exterior provided that the new roofing material is not otherwise prohibited by this section 3.267.

3. *Schedule of compliance.*

   a. Within one year of the effective date of this section, all parcels within any of the Golden Gate redevelopment overlay districts shall comply with section 3.267.I, Miscellaneous Provisions.

   b. Where change of use or substantial renovation of building exterior is proposed, such parcel shall comply with all applicable requirements for landscaping, signs and screening.

   c. Where a substantial improvement is proposed, such parcel shall comply with all requirements of this section 3.267 in the same manner as new development.

4. *Exceptions.*

   a. Despite any provision to the contrary in section 3.267.A, where residential use is otherwise consistent with the Comprehensive Growth Management Plan, residential buildings that were lawfully established prior to the effective date of this section shall be considered permitted uses in the districts in which they are located. For example, despite the fact that duplex dwelling units are not shown as a permitted use within the Neighborhood Residential District, a duplex building lawfully established prior to the effective date of this

section shall nonetheless be considered a conforming use within the Neighborhood Residential District.

b. Despite any provision to the contrary in section 3.267.A, developments lawfully established prior to the effective date of this section which do not comply with the requirements for minimum building frontage shall not be considered nonconforming and may be substantially improved without complying with such requirements.

c. Despite any provision to the contrary in section 3.267.A, lots which were lawfully created prior to the effective date of this section shall not be considered nonconforming with requirements for minimum lot frontage on a public street provided that such lot frontage is not further reduced.

(Ord. No. 698, pt. 1, 3-21-2006; Ord. No. 705, pt. 1, 7-11-2006)

Secs. 3.268—3.400. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 633, adopted Sept. 2, 2003, amended Div. 6 by reserving §§ 3.260—3.264. Per the County's instructions, said sections have been retained, as it was not the intent to remove the provisions which had been codified herein. (Back)

--- (**2**) ---

Editor's note— The figures cited in this section are not set out herein but are on file in the Growth Management Department. (Back)

--- (**3**) ---

Editor's note— Ord. No. 1044, pt. 1, adopted December 12, 2017, in effect, repealed § 3.262 and enacted a new § 3.262 as set out herein. Former § 3.262 pertained to similar subject matter and derived from Ord. No. 596, adopted August 21, 2001; Ord. No. 626, adopted November 12, 2002; and Ord. No. 663, adopted February 8, 2005. (Back)

--- (**4**) ---

Editor's note— The figures, map and legal description cited above are not set out herein but are on file in the Growth Management Department. (Back)

--- (**5**) ---

Editor's note— The design regulations cited above are not set out herein but are on file in the Growth Management Department. (Back)

--- (6) ---

Editor's note— The figures, map and boundary description cited above are not set out herein but are on file in the Growth Management Department. (Back)

--- (7) ---

Editor's note— The figure cited above is not set out herein but is on file in the Growth Management Department. (Back)

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--- (11) ---

Editor's note— The design regulations cited above are not set out herein but are on file in the Growth Management Department. (Back)

--- (12) ---

Editor's note— The figures, maps and Exhibit A cited above are not set out herein but are on file in the Growth Management Department. (Back)

--- (13) ---

Editor's note— The figures cited above are not set out herein but are on file in the Growth Management Department. (Back)

--- (14) ---

Editor's note— The design regulations cited above are not set out herein but are on file in the Growth Management Department. (Back)

--- (15) ---

Editor's note— Exhibit "A" cited above is not set out herein but is on file in the Growth Management Department. (Back)

--- (16) ---

Editor's note— Figure 14 cited above is not set out herein but is on file in the Growth Management Department. (Back)

--- (17) ---

Editor's note— Exhibit "B" cited above is not set out herein but is on file in the Growth Management Department. (Back)

DIVISION 7. CATEGORY "C" ZONING DISTRICT STANDARDS

Sec. 3.401. Applicability.

The Category "C" zoning districts are a subset of those that were originally adopted pursuant to Resolution 05-09-67 (previously codified in Chapter 33 of the Martin County Code of Laws and Ordinances). Lands zoned pursuant to Category "C" districts shall be subject to the requirements of this division and shall comply with the requirements of division 4.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002)

Sec. 3.402. Consistency with future land use designation.

In order to ensure that all development is consistent with the Comprehensive Growth Management Plan, no new development shall be approved within any Category "C" zoning district unless the Future Land Use Designation of the parcel is as shown in Column 2 of the following table and the proposed development does not involve uses listed in Column 3, provided that:

3.402.A. This section shall not prohibit the approval of residential dwellings, together with their accessory uses and structures, on any lot of record so existing as of March 29, 2002, provided that such development is otherwise allowed within the zoning district and is consistent with the Comprehensive Growth Management Plan. Residential dwellings permitted by this section shall comply with the dwellings requirements in Division 3.

3.402.B. This section shall not prohibit the approval of development orders on lands governed by a community redevelopment overlay district where such development would otherwise be consistent with the Comprehensive Growth Management Plan.

Category "C" Zoning District	Future Land Use Designation	Prohibited Uses
HR-2	Low Density Residential Medium Density Residential High Density Residential	1. Where a multifamily project is proposed adjacent to an existing single-family subdivision a transition zone shall be established between the two use types. The transition zone shall comply with the requirements set forth in Section 4.5.A.2.b. and any other applicable policies of the Comprehensive Growth Management Plan.
HR-2A	Commercial Waterfront	1. If the Future Land Use Designation is Commercial Office/Residential, freestanding retail sales and service uses shall be

	Commercial Office/Residential	prohibited. 2. If the Future Land Use designation is Commercial Waterfront, all nonresidential uses shall be either water dependent or water related. 3. Where a multifamily project is proposed adjacent to an existing single-family subdivision a transition zone shall be established between the two use types. The transition zone shall comply with the requirements set forth in Section 4.5.A.2.b. and any other applicable policies of the Comprehensive Growth Management Plan.
R-2A	Medium Density Residential High Density Residential	
R-3	Commercial Waterfront Commercial Office/Residential	1. If the Future Land Use Designation is Commercial Office/Residential, freestanding retail sales and service uses shall be prohibited. 2. If the Future Land Use designation is Commercial Waterfront, all nonresidential uses shall be either water dependent or water related. 3. Where a multifamily project is proposed adjacent to an existing single-family subdivision a transition zone shall be established between the two use types. The transition zone shall comply with the requirements set forth in Section 4.5.A.2.b. and any other applicable policies of the Comprehensive Growth Management Plan. 4. Recreational vehicle parks. 5. Commercial amusements.
R-3A	Commercial Waterfront Commercial Office/Residential	1. If the Future Land Use Designation is Commercial Office/Residential, freestanding retail sales and service uses shall be prohibited. 2. The development of new mobile home sites. 3. If the Future Land Use designation is Commercial Waterfront, all nonresidential uses shall be either water dependent or water related. 4. Where a multifamily project is proposed adjacent to an existing single-family subdivision a transition zone shall be established between the two use types. The transition zone shall comply with the requirements set forth in Section 4.5.A.2.b. and any other applicable policies of the Comprehensive Growth Management Plan. 5. Recreational vehicle parks.

		6. Commercial amusements. 7. Truck stop/travel center.
R-3B	Commercial Waterfront Commercial Office/Residential	1. If the Future Land Use Designation is Commercial Office/Residential, freestanding retail sales and service uses shall be prohibited. 2. Where a multifamily project is proposed adjacent to an existing single-family subdivision a transition zone shall be established between the two use types. The transition zone shall comply with the requirements set forth in Section 4.5.A.2.b. and any other applicable policies of the Comprehensive Growth Management Plan. 3. Recreational vehicle parks. 4. Commercial amusements.
R-4	High Density Residential	Where a multifamily project is proposed adjacent to an existing single-family subdivision a transition zone shall be established between the two use types. The transition zone shall comply with the requirements set forth in Section 4.5.A.2.b. and any other applicable policies of the Comprehensive Growth Management Plan.
R-5	Medium Density Residential	Where a multifamily project is proposed adjacent to an existing single-family subdivision a transition zone shall be established between the two use types. The transition zone shall comply with the requirements set forth in Section 4.5.A.2.b. and any other applicable policies of the Comprehensive Growth Management Plan.
A-1A	Agricultural Ranchette	Any use involving the creation of lots less than five gross acres in size.
A-1	Agricultural Ranchette	Any use involving the creation of lots less than five gross acres in size.
A-2	Agricultural	Any use involving the creation of lots less than 20 gross acres in size.
A-3	Any Future Land Use Designation	No development order shall be issued (land must be rezoned to a Category "A" district).
HB-1A	Commercial Office/Residential	If the Future Land Use Designation is Commercial Office/Residential, freestanding retail sales and service uses shall be prohibited.

	Commercial Waterfront	If the Future Land Use designation is Commercial Waterfront, all nonresidential uses shall be either water dependent or water related. 1. Recreational vehicle parks. 2. Commercial amusements.
HB-1AA	Commercial Office/Residential Commercial Waterfront	If the Future Land Use Designation is Commercial Office/Residential, freestanding retail sales and service uses shall be prohibited. If the Future Land Use designation is Commercial Waterfront, all nonresidential uses shall be either water dependent or water related. 1. Recreational vehicle parks. 2. Commercial amusements.
HB-1	Limited Commercial	1. Recreational vehicle parks. 2. Commercial amusements.
B-1	General Commercial	1. Recreational vehicle parks. 2. Commercial amusements. 3. Truck stop/travel center.
B-2	General Commercial or Industrial	1. Recreational vehicle parks. 2. Commercial amusements. 3. Truck stop/travel center. 4. Biofuel facility.
B-3	Industrial	1. Recreational vehicle parks. 2. Commercial amusements. 3. Truck stop/travel center.
M-1	Industrial	1. Recreational vehicle parks. 2. Commercial amusements. 3. Truck stop/travel center. 4. Biofuel facility.
M-2	Industrial	1. Recreational vehicle parks. 2. Commercial amusements. 3. Truck stop/travel center. 4. Biofuel facility.
M-3	Industrial	1. Recreational vehicle parks.

		2. Commercial amusements. 3. Truck stop/travel center. 4. Biofuel facility.
PS	Institutional General Institutional Recreation Institutional Public Conservation	—
SY	Industrial	—
IZ	Any Future Land Use Designation	No development order shall be issued (land must be rezoned to a Category "A" district).

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 696, pt. 1, 2-14-2006; Ord. No. 970, pt. 1, 4-7-2015; Ord. No. 983, pt. 1, 9-1-2015; Ord. No. 1014, pt. 5, 12-6-2016)

Sec. 3.403. Terms defined.

For the purposes of this division, the following words, terms and phrases shall have the meanings as set forth below:

Accessory building: A subordinate building or portion of the main building, the use of which is incidental to that of the main building.

Alley: A roadway dedicated to pubic use which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration: Any change in the arrangement of a building, including work affecting the structural parts of a building or any change in occupancy.

Apartment hotel: An apartment building, under resident supervision, which maintains an inner lobby through which all tenants must pass to again access to the apartments.

Apartment house: Any building or part thereof where separate accommodations for more than two families living independently of each other are supplied to transient or permanent guests or tenants.

Assembly hall: A permanent structure, the design and/or use of which complies with applicable requirements and limitations of the County building code relating to assembly occupancy.

Awning: A light, protective appurtenance entirely supported by, but not permanently attached to a building, which does not exceed ten feet in length.

Barbecue pit or building: An enclosed or open pit for fireplace or an open or enclosed structure used primarily for cooking food in the "barbecue style."

Barbecue stand: A refreshment place where space is provided or allowance is made for automobiles to gather for the primary purpose of serving barbecued food to occupants thereof.

Basement: A story partly underground and having at least one-half of its height below the level of the contacting grade.

Biofuel facility. An industrial plant engaged in the collection, storage, processing or refining of vegetable oil or other non-petroleum based fats, oils and grease, for the purpose of converting such materials into fuel. "Biofuel facility" does not include restaurants or other sources of the raw materials used by a biofuel facility to produce fuel.

Boardinghouse: A rooming house where meals are served.

Body shop: Any enclosed structure used for the alteration, repairs, restoration and refinishing of the body parts or appurtenances of an automotive vehicle body.

Building: Any structure having a roof supported by columns or walls.

Building height: The vertical distance between (1) the average elevation of the finished grade of a building along the front thereof and (2) either the highest point of the coping of a flat roof, the deck line of a mansard roof, or the mean height level between eaves and ridge or gable, hip and gambrel roofs. For buildings placed along the oceanfront, the oceanside of the building may be considered the front for height measurement purposes, provided that any building space below the average building elevation shall be used only for parking and storage purposes.

Child: A person less than 18 years of age.

Child care: The care, protection and supervision of a child on a regular basis which supplements for the child, in accordance with his individual needs, daily care, enrichment opportunities, and health supervisions and where a payment, fee or grant is made for care.

Child care facility: Includes any child center or child care arrangement that provides child care for more than five children unrelated to the operator and which receives a payment, fee or grant for any of the children receiving care, wherever operated, and whether or not operated for profit, except that the following are not included: Public schools and nonpublic schools which are in compliance with the compulsory school attendance law, F.S. ch. 232; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods. The provisions of this act shall not apply to a child care facility which is an integral part of a church or parochial schools conducting regularly scheduled classes or courses of study.

Church: Any structure and/or site legally approved for and used upon a permanent basis by a society of persons as a place where such persons regularly assemble primarily for public worship.

Clinic, private: Any structure or premises used as an establishment for medical, dental or surgical examination and/or treatment of persons classed as outpatients when maintained and/or operated by any licensed person or organization of persons other than governmental organizations.

Clinic, public: Any structure or premises used as an establishment for medical, dental or surgical examination and/or operated by any governmental, licensed ecclesiastical or charitable organization for the benefit of the general public.

Club, private: A property owned or leased and operated by a group or an association of persons and maintained and operated solely by and for the members of such group or association and there guests and not available for unrestricted public access or use.

Cottage court: A series of detached single-family rental units which are located on one tract of land under single ownership.

Court: An open, unobstructed, unoccupied space, other than a yard, on the same premises on which the building is located. A court entirely surrounded by the building is an inner court. A court bounded on

three sides by the building and on the fourth side by any lot line is a lot line court. A court with at least one side opened to a yard, alley or street is an outer court.

Crawl space. The area between the slab, or finished grade where there is no slab, and the base of any structure elevated above that slab or finished grade.

Designated through-traffic highway: Designated through-traffic highway is any road so designated by the planning and zoning commission.

Drive-in business: Any place of business or premise which serves, sells or otherwise makes available its services to patrons situated in automobiles.

Drive-in theatre: A place of outdoor assembly used for the showing of plays, operas, motion pictures and similar forms of entertainment, in which the viewing audience views the performance from self-propelled vehicles parked within the theatre enclosure.

Dwelling, multiple: A building or portion thereof designed as a residence for three or more families living independently or each other.

Dwelling, single-family: A detached building designed for or occupied exclusively by one family.

Dwelling, two-family (duplex): A detached building designed for or occupied exclusively by two families living independently of each other.

Excavations: Removal of earth material for purposes other than that incidental to and on the site of authorized construction.

Family: Any number of individuals related by blood, marriage or legal adoption, and not more than four persons not so related living together as a single housekeeping unit.

Filling station: Same as "service station."

Fishing and hunting camps. Recreational facilities established for the purpose of hunting and/or fishing which may provide overnight accommodations, food, transportation, guides and other customary accessory uses and facilities as set forth in section 3.412.A.

Frontage: All the property abutting on one side of a street between two intersecting streets measured along the street line.

Funeral home: A premises, structure or site used as a commercial establishment for the preparation of deceased humans for burial and/or for the conduction of funeral services prior to burial or other disposition of deceased human remains. Such a premises, structure or site shall not be used for the burial, prolonged storage or permanent disposition of deceased human remains.

Garage, mechanical: Any enclosed structure used for the storage, care, repair, refinishing or equipping for operation of motor vehicles, or where automotive mechanical service is provided.

Garage, private: A structure solely for the private use of the owner or occupant of the principal building on a lot or his family or domestic employees, for the storage of noncommercial motor vehicles and which has no public shop or mechanical service in connection therewith.

Garage, public: Any building, except those described as a private or storage garage, used for the storage or care of motor vehicles, or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

Garage, storage: Any building or premises, other than a public or private garage, used exclusively for the parking or storage of motor vehicles.

Gasoline station: Same as "service station."

Guesthouse: A single-family dwelling located on the same lot as a principal residence, but not exceeding in area 50 percent of the area of the principal residence and which is not occupied year-round except by members of the family, but which is used as a temporary residence only. Such a dwelling shall

conform to the requirements for accessory buildings, except that sanitary and cooking facilities may be provided.

Home occupations: Occupations carried on entirely within a dwelling and only by members of the family permanently living therein, where products are not offered for sale from the premises and no commercial vehicles are kept on the premises or parked overnight on the premises.

Hospital, private: Any structure or premises used as an establishment for the residential, medical or surgical care of ill, injured or disabled persons on a temporary or permanent basis, as a commercial enterprise, by any licensed person or organization of persons other than governmental organizations.

Hospital, public: Any structure or premises used as an establishment for the residential, medical or surgical care of ill, injured or disabled persons by any governmental, licensed ecclesiastical or charitable organization for the primary benefit of the general public.

Hospital, veterinary, general: Any structure or premises used primarily and essentially for the medical or surgical care of ill, injured or disabled animals.

Hotels: Every building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, in which ten or more rooms are furnished for the accommodation of such guests and having one or more dining rooms or cafes where meals or lunches are served to such transient or permanent guests, such sleeping accommodations and dining rooms or cafes being conducted in the same building or buildings in connection therewith.

Junk: Materials considered as valueless refuse or worthless scrap.

Loading space: A space which provides for the loading of delivery vehicles.

Lot: A parcel of land which is or may be equipped with a building or structure and accessory buildings or structures, including the open spaces required under this section:

Corner lot: A lot abutting upon two or more streets at their intersections.

Interior lot: Any lot which is not a corner lot.

Through lot: Any lot having frontage on two parallel or approximately parallel streets or highways.

Lot lines: The lines abounding a lot as defined herein:

Front lot line: The line dividing a lot from a street. On a corner lot only one street line shall be considered as a front line; provided, where the length of a shorter street line is less than 90 percent of the length of the longer street lot line, the shorter line shall be considered the front lot line.

Rear lot line: The lot line opposite the front lot line. In case of an irregular, triangular or gore-shaped lot, it shall mean a line within the lot, ten feet long, parallel to and at the maximum distance from the front lot line.

Side lot line; Any lot line which is not a front lot line or rear lot line.

Mobile home: A manufactured detached, transportable in one or more sections, single-family dwelling unit designed for long-term occupancy, having a minimum living area of 400 square feet and arriving at the site where it is to be occupied as a complete dwelling unit, containing conveniences and facilities with plumbing and electrical connections provided for attachment to approved utility systems, to include any and all accessory structures, attached or detached.

Mobile home park: A plot of ground upon which two or more trailers or mobile homes are parked or located for the purpose of sleeping or dwelling.

Mobile home site: A lot or space or plot of ground within a mobile home park or trailer park, designated for the accommodation of not more than one mobile home or trailer coach.

Modular home: A structure transportable in one or more sections, with or without a permanent chassis, which is designed for and used as a residential dwelling unit when connected to a foundation and the required utilities. Fabrication of such units shall comply with F.S. Ch. 553 and the Florida Building Code. A modular home does not include manufactured units meeting the criteria contained in the definition of a mobile home and does not include park trailers contained in the definition of recreational vehicles.

Morgue: A structure or place where bodies of known or unidentified dead persons are kept and exposed for identification or until they are claimed and removed by their relatives or friends.

Mortuary: Same as "funeral home."

Neighborhood: A surrounding or adjoining district, not dependent upon an arbitrary rule of distance or topography, but one in which one use is predominate.

Frontage. A building permit for a dwelling shall not be issued unless a lot abuts for at least 30 feet on a street, and only one single-family dwelling may be constructed on such frontage.

Nursery, plant: Any lot, structure or premises used as a commercial enterprise for the purpose of growing or keeping or plants for sale or resale.

Nursing home, private: Any approved structure or premises used for the residential care of aged, convalescent, destitute or infirm persons, as a commercial enterprise, by any licensed person or organization of persons.

Nursing home, public: Any approved structure or premises used for the residential care of aged, convalescent, destitute or infirm persons by any governmental, licensed ecclesiastical or charitable organization for the primary benefit of the general public.

Outdoor theatres: A place of outdoor assembly used for the showing of plays, operas, motion pictures and similar forms of entertainment.

Owner: A person, firm or corporation (including duly authorized agent, attorney, guardian, conservator or trustee) who or which owns or controls property, or, in case of a leased premises, the legal holder of the lease, contract or his legal representative, assign or successor.

Parking lot: An area or plot of ground used solely for the storage or parking of motor vehicles.

Perimeter enclosure. A perimeter enclosure is a requirement for screening crawl space created by the elevation of a dwelling built on a pier foundation. The perimeter enclosure must be on all four sides of the dwelling and meet the requirements in Section 3.68.2.A., Dwellings.

Porch: A roofed, open structure projecting from the front, side or rear wall of a building and having no enclosed features of glass, wood or other materials more than 30 inches above the floor thereof, except awnings or screening or necessary columns to support the roof.

Public platted right-of-way: A public thoroughfare which has been dedicated either to the general public or the sovereign for public use.

Public utility: Any organization, either private or governmental, which owns and/or operates facilities for the rendering of services to the general public, such as electric, gas, communications, transportation, water supply, sewage disposal, water conservation and drainage and garbage or refuse disposal.

Restaurant: Every building or other structure and all outbuildings in connection therewith and any room or rooms within any building or structure or any place or location kept, used, maintained and advertised as or held out to the public to be a place where meals, lunches or sandwiches are prepared or served, either gratuitously or for pay.

Rooming house: Every house or motor court, motel or other structure or any place or location kept, used, maintained, advertised or held out to the public to be a place where living quarters, sleeping or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings.

Salvage: The meaning of the work salvage, as used in this chapter, shall be construed to define any material thing subject to discard because it is no longer desired for the original purpose for which it came into being. Salvage may have some use, either in whole or in part, therefore, it differs from junk in that salvage might have some value.

Salvage yard: An area set aside for the collection, deposit, destruction or obliteration of junk or salvage.

School, accredited private: Any structure, site or premises where instruction in any branch of knowledge is conducted as a commercial enterprise by any person or organization of persons, whose instructors and/or curricula are approved by the state department of education

School, accredited public: Any structure, site or premises where instruction in any branch of knowledge is conducted as a noncommercial enterprise, for the benefit of the general public, by any governmental or ecclesiastical or charitable organization, whose instructors and/or curricula are approved by the state department of education.

Service station: A commercial enterprise established for the purpose of retail sale or supply to motor vehicles of fuel, lubrication, minor repairs to tires, minor accessories, and including the customary space and facilities for the installation of such commodities on or in vehicles, but not including space or facilities for storage, painting, repair, refinishing, body work, extensive mechanical work on or other servicing of motor vehicles.

Setback: Setback shall be synonymous with the work "yard."

Shopping center: A grouping of retail stores erected upon a parcel, lot or contiguous lots.

Stable, breeding: A stable with a capacity of not more than one horse for each one-half acre of lot area whereon such stable is located, and where such horses are owned by the owners or occupants of the premises and are kept by such owners or occupants for the purpose of breeding, raising, nurturing, rearing and training. No horses on said premises shall be kept for hire or remuneration and the owners and/or occupants, cumulatively, shall in no case sell or in any way transfer for a consideration more than 50 of the aforesaid horses per year.

Stable, private: A stable with a capacity of not more than one horse for each 3,500 square feet of lot area whereon such stable is located, and where such horses are owned by the owners or occupants of the premises and are not kept for remuneration, hire or sale.

Stable, public: A stable other than a private stable.

Story: That part of a building contained between any floor and the floor or roof next above.

Street: A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, road and other thoroughfares, except an alley.

Structure: Anything constructed or erected, the use of which requires, more or less, permanent location on the land or attachment to something having a permanent location on the land.

Tourist camp: A site on which tents, tent houses or camp cottages are located and offered by a person, association of persons or municipality for sleeping or eating accommodations, most generally to the traveling public, and where there is a direct remuneration in money, goods or services to the owner or indirect benefit to the owner in connection with a related business.

Trailer: A residence and any devise on wheels, rollers or skids or designed to have the same added so as to be movable, not basically designed to be structurally anchored to a foundation, propelled by an attached vehicle, animal or other propelling apparatus

Trailer park: A plot of ground upon which two or more trailers or mobile homes are parked or located for the purpose of sleeping or dwelling.

Trailer site: A lot or space or plot of ground within a mobile home park or trailer park, designated for the accommodation of not more than one mobile home or trailer coach.

Truck stop/travel center: An establishment engaged primarily in the fueling, servicing, repair, and short-term parking of tractor trucks, tractor-trailers, semi-trailers or similar heavy commercial vehicles, including but not limited to the sale of accessories and equipment for such vehicles. It may also include overnight accommodations, showers, and restaurant facilities primarily for the use of truck crews. This use shall be considered an extensive impact industry.

Used car junk lot: A lot or group of contiguous lots used for the dismantling or wrecking of used automobiles or the storage, sale or dumping of dismantled or wrecked cars or their parts.

Waterfront property: The term waterfront or water frontage as used herein shall apply only to property abutting on the ocean, bays, bayous, navigable streams and on man created canals, lakes or impounded reservoirs, provided that such man-created canals, lakes or reservoirs have a minimum dry weather water surface of 75 feet, measured perpendicular to the water frontage of the abutting property, and provide a minimum water depth of three feet during dry weather.

Yard: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by tree or shrubbery or as otherwise provided herein.

Yard, front: A yard across the full width of the lot extending from the nearest part of the structure to the front line of the lot.

Yard, rear: A yard extending across the full width of the lot and measured between the rear line of the lot and the nearest part of the rear of the main building

Yard, side: An open unoccupied space, on the same lot with a building, between the building and the side line of the lot extending through from the front yard to the rear yard or to the rear line of the lot where no rear yard is required.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 833, pt. 3, 11-17-2009; Ord. No. 970, pt. 1, 4-7-2015; Ord. No. 983, pt. 1, 9-1-2015; Ord. No. 1014, pt. 5, 12-6-2016)

Sec. 3.404. HR-2 Multiple-Family Residential District.

3.404.A. *Uses permitted.* In this district, a building, structure, land or water shall be used only for the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in the HR-1 Single-Family Dwelling District.
2. Multiple-family dwelling structures.
3. Accessory uses customarily incident to the respective dwelling structure uses.
4. Yacht clubs and marinas, for the sole use of members and their guests, after site and structure plans have been approved by the zoning board.

3.404.B. *Building height regulations.* The maximum building height in this district shall be four stories or 40 feet.

3.404.C. *Building site area regulations.*

1. For single-family structures, the same as required in the HR-1 Single-Family Residential District.
2. For two-family structures to four-family structures inclusive, the minimum building site shall not be less than 15,000 square feet, with a minimum width of 100 feet measured at the front building line.

3. For each additional apartment unit, 2,600 square feet of property shall be added to the required building site. A maximum density of 15 apartment units may be permitted per gross acre depending on available community services and capital improvements.

4. Percentage of land coverage:

   a. One- to four-story dwelling structures and accessory structures shall not occupy more than 30 percent of the building site required.

3.404.D. *Minimum yards required.* The following minimum front, rear and side yards shall be required, measured from the front, rear and side walls of structures to the road or street right-of-way line, rear or side lines of the lot or parcel of land, respectively:

1. *Front yard:*

   a. For structures of two stories or less, there shall be a front yard of not less than 50 feet measured from the street line or right-of-way to the front of the structure.

   b. For structures in excess of two stories in height, ten feet shall be added to the required front yard for each additional story.

2. *Rear yard:*

   a. For structures of two stories or less, 25 feet shall be required, measured from the rear property line to the nearest side of the structure.

3. *Side yard:* For structures of two stories or less, 20 feet shall be required on each side of the structure. For structures in excess of two stories in height, the side yards shall be increased ten feet for each additional story.

4. *[Structure distance from right-of-way:]* No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.

5. *[Structure distance from through-traffic highway:]* No structure shall be built within 65 feet of the center line of a designated through-traffic highway.

6. *[Minimum setback or yard:]* A minimum setback or yard of 20 feet shall be required adjacent to water frontage.

3.404.E. *Minimum ground floor area.*

1. For single-family dwelling structures, the same as required in the HR-1 Single-Family Dwelling District

2. For two-family dwelling structures, exclusive of breezeways, carports, patios or terraces, 2,000 square feet.

3. For structures in excess of two dwelling units, the floor area for efficiencies shall be 580 square feet; for one-bedroom apartments, 650 square feet; and for two-bedroom apartments, 800 square feet; and for three-bedroom apartments or in excess thereof, 850 square feet.

4. The floor area of each unit of a motel shall not be less than 250 square feet.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.405. HR-2A Multiple-Family Dwelling District.

3.405.A. *Uses permitted.* In this district, buildings, structures, land or water shall be used only for the following purposes subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in the HR-1A Single-Family Dwelling District.

2. Multiple-family dwelling structures.

3. Accessory uses customarily incident to the respective dwelling structure uses.

4. Motels located on the west side of and immediately adjacent to the A-1A district and to the A-1A district extended southward, after the site plans therefor have been reviewed and approved by the planning and zoning board.

5. Yacht clubs and marinas, for the sole use of members and their guests, after the site and structure plans have been approved by the planning and zoning board.

3.405.B. *Building height regulations.* The maximum building height in this district shall be four stories or 40 feet,

3.405.C. *Building site area regulations.*

1. For single-family structures, the same as required in the HR-1 Single-Family Residential District.

2. For two-family structures to four-family structures inclusive, the minimum building site shall not be less than 15,000 square feet, with a minimum width of 100 feet measured at the front building line.

3. For each additional apartment unit, two thousand 2,600 square feet of property shall be added to the required building site. A maximum density of 15 apartment units shall permitted per gross acre depending on available community services and capital improvements.

4. Percentage of land coverage:

   a. One- to four-story dwelling structures and accessory structures shall not occupy more than 30 percent of the building site required.

3.405.D. *Front, rear and side yards.* The following minimum front, rear and side yards shall be required, measured from the front, rear and side walls of structures to the road or street right-of-way line, rear or side lines of the lot or parcel of land, respectively:

1. *Front yard:*

   a. For structures of two stories or less there shall be a front yard of not less than 50 feet measured from the street line or right-of-way to the front of the structure.

   b. For structures in excess of two stories in height, ten feet shall be added to the required front yard for each additional story.

2. *Rear yard:*

   a. For structures of two stories or less, 25 feet shall be required, measured from the rear property line to the nearest side of the structure.

   b. For structures in excess of two stories in height, the rear yard shall be increased ten feet for each additional story.

3. *Side yard:* For structures of two stories or less, 20 feet shall be required on each side of the structure. For structures in excess of two stories in height, the side yard shall be increased ten feet for each additional story.

3.405.E. *Minimum ground floor area.*

1. For single-family dwelling structures, the minimum main ground floor area of the dwelling structure, exclusive of breezeways, carports, patios or terraces, shall be 1,250 square feet.

2. For two-family dwelling structures, exclusive of breezeways, carports, patios or terraces, 2,000 square feet.

3. For structures in excess of two dwelling units, the floor area per dwelling unit shall not be less than 850 square feet. Efficiencies of not less than 580 square feet shall be permitted at a 1:4 ratio.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.405.1. R-2A Two-Family Residential District.

3.405.1.A. *Uses permitted.* In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in the R-1, R-2 and R-2B Single-Family Residential Districts.
2. Two-family dwellings, duplexes, but in no case accommodation for more than two families.

3.405.1.B. *Required lot area, width, front, side and rear yards and building height limits.* Lots in the R-2A Two-Family Residential District shall have an area of not less than 7,500 square feet, with a minimum width of 60 feet measured along the front property line. The maximum height of buildings or structures shall not exceed three stories or 30 feet, and not more than 35 percent of the lot area shall be occupied by structures or buildings. The minimum floor area of each one-bedroom unit shall be 600 square feet, exclusive of carports, breezeways or utility rooms. The minimum floor area of a dwelling unit in a two-family dwelling shall be 400 square feet, exclusive of carports, breezeways or utility rooms.

3.405.1.C. *Minimum yards required.*

1. *Front:* 20 feet.
2. *Rear and side:*

1	story:	6	feet.
2	stories:	8	feet.

3 stories and over: 10 feet.

3. No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.
4. No structure shall be built within 65 feet of the center line of a designated through-traffic highway.
5. A minimum setback or yard of 20 feet shall be required adjacent to water frontage.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.406. R-3 Multiple-Family Residential District.

3.406.A. *Uses permitted.* In this district, a building, structure or land shall be used for only the following purposes subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in the HR-1, R-1, R-1A, R-1B, R-2, R-2B, R-2A and HR-2 Districts.
2. Multiple-family dwellings.
3. Apartments, hotels, motels, cottage courts.
4. Rooming houses and boardinghouses.
5. Clinics, except animal hospitals.

6. Hospitals and sanitariums, except mental hospitals.
7. Tourist homes.
8. Colleges, clubs, lodges, social and community center buildings and/or structures.
9. Restaurants, not the drive-in type, with an enclosed seating capacity of 40 persons or more.
10. Commercial television receiving towers and antennas. Commercial radio and/or television transmitting station towers, poles, masts, antennas, power plants and other incidental and usual structures pertaining to such stations. All structures and attachments thereto and appurtenances thereof shall comply with all applicable requirements of the Federal Communications Commission and the Civil Aeronautics Board and/or Authority. Towers, poles, masts and antennas shall be designed and stamped by a registered engineer or architect to assure the structure, masts, etc., will withstand hurricane force winds.
11. Signs appertaining to the above uses.
12. Boat docks and service facilities generally used in connection with sport fishing, excluding any major overhaul or repairs.
13. Funeral homes, mortuaries and morgues.

3.406.B. *Required lot area and width.* Lots or building sites shall have an area of not less than 7,500 square feet, with a minimum width of 60 feet measured at the building line:

1. *Single-family structures:* The minimum lot size shall be the same as above. A minimum of 600 square feet of living area shall be required, exclusive of carports, breezeways or utility rooms.
2. *Two-family structures:* The minimum lot size shall be 7,500 square feet, with a minimum width of 75 feet and a minimum of 800 square feet of living area per two-family structure shall be required, exclusive of carports, breezeways or utility rooms.
3. *Apartment buildings:* The minimum building site shall be 15,000 square feet, with a minimum width of 100 feet measured at the building line for the first four apartment units. For each additional apartment unit, 2,600 square feet shall be added to the required minimum building site and an additional five feet shall be added to the required minimum width at the building line. A maximum density of 15 apartment units may be permitted per acre depending on available community services and capital improvements. There shall be a minimum of 325 square feet of living area in each apartment unit.
4. *Triplex structures:* The minimum lot size shall be 11,250 square feet, with a minimum width of 88 feet; a minimum of 1,200 square feet of living area per three-family structure shall be required, exclusive of any carports, breezeways or utility rooms.

3.406.C. *Minimum yards required.*

1. *Front:*

   1 story: 20 feet.
   2 stories: 25 feet.

2. *Sides and rear:*

   1 story: 6 feet.
   2 stories: 10 feet.

3. For structures in excess of two stories, five feet shall be added to the required yards per story.
4. No structure shall be built within 50 feet of the center line of any public platted right-of-way not designated through-traffic highway.
5. No structure shall be built within 65 feet of the center line of designated through-traffic highway.

6. A minimum setback or yard of 20 feet shall be required adjacent to water frontage.

3.406.D. *Building height regulations.* The maximum building height in this district shall be four stories or 40 feet.

3.406.E. *Percentage of land coverage.*

1. One- to four-story dwelling structures and accessory structures shall not occupy more than 30 percent of the building site required.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.407. R-3A Liberal Multiple-Family District.

3.407.A. *Uses permitted.* In this district, a building or structure or land shall be used for only the following purposes subject to any additional limitations pursuant to section 3.402:

1. Any uses permitted in the R-3 Multiple-Family Residential District.
2. Restaurants and/or lunchrooms, not the drive-in type, with an enclosed seating capacity of ten persons or more.
3. Beauty parlors and barbershops.
4. Dry cleaning and laundry pickup stations.
5. Fire stations.
6. Boat docks and dry and wet storage facilities under cover, and facilities for maintenance and repairs of boats or yachts, upon submission of plans for review and approval of the planning and zoning board.
7. Mobile home and travel trailer sales.
8. Gasoline or other motor fuel stations, provided all structures and buildings, except principal use signs, and including storage tanks shall be placed not less than 25 feet from any side or rear property lines.
9. Professional and business offices.
10. Retail stores.

3.407.B. *Required lot area and width.* Lots or building sites shall have an area of not less than 7,500 square feet, with a minimum width of 60 feet measured at the building line:

1. *Single-family structures:* The minimum lot size shall be the same as above. A minimum of 600 square feet of living area shall be required, exclusive of carports, breezeways or utility rooms.
2. *Two-family structures:* The minimum lot size shall be 7,500 square feet, with a minimum width of 75 feet a minimum of 800 square feet of living area per two-family structure shall be required, exclusive of carports, breezeways or utility rooms.
3. *Apartment buildings:* There shall be a minimum building site of 15,000 square feet with a minimum width of 100 feet measured at the building line for the first four apartment units. For each additional apartment unit, 2,600 square feet shall be added to the required minimum building site and an additional five feet shall be added to the required minimum width at the building line. A maximum density of 15 apartment units may be permitted per acre depending on available community services and capital improvements. There shall be a minimum of 325 square feet of living area in each apartment unit.

4. *Triplex structures:* The minimum lot size shall be 11,250 square feet, with a minimum width of 88 feet; a minimum of 1,200 square feet of living area per three-family structure shall be required, exclusive of carports, breezeways or utility rooms.

3.407.C. *Minimum yards required.*

1. *Front:*

1 story: 20 feet.
2 stories: 25 feet.

2. *Sides and rear:*

1 story: 6 feet.
2 stories: 10 feet.

3. For structures in excess of two stories, five feet shall be added to the required yards per story.

4. No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.

5. No structure shall be built within 65 feet of the center line of a designated through-traffic highway.

6. No setback or yard shall be required adjacent to water frontage.

3.407.D. *Building height regulations.*

1. The maximum building height in this district shall be four stories or 40 feet.

3.407.E. *Percentage of land coverage.*

1. One- to four-story dwelling structures and accessory structures shall not occupy more than 30 percent of the building site required.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-02)

Sec. 3.408. R-3B Multiple-Family Residential District.

3.408.A. *Uses permitted.* In this district, a building, structure or land shall be used for only the following purposes subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in the HR-1, R-1, R-1A, R-1B, R-2, R-2B and R-2A Districts.

2. Multiple-family dwellings.

3. Detached single-family residences, multiple dwellings, apartments, motels, hotels and garage apartments shall be permitted in this section, provided such principal detached single-family residences, multiple dwellings, apartment buildings, motels and hotels shall be completed before a permit for garage apartments shall be issued. Multiple dwellings, apartment buildings and garage apartments shall contain not less than 480 square feet of living area per family, exclusive of porches, carports, garages, etc.

4. Buildings shall be used for residential purposes only.

5. Signs appertaining to the above uses.

6. Boat docks and service facilities generally used in connection with sport fishing, excluding any major overhaul or repairs.

3.408.B. *Required lot area and width.* Lots or building sites shall have an area of not less than 7,500 square feet, with a minimum width of 60 feet measured at the building line:

1. *Single-family structures:* The minimum lot size shall be the same as above. A minimum of 600 square feet of living area shall be required, exclusive of any carport, breezeway or utility room.
2. *Two-family structures:* The minimum lot size shall be 7,500 square feet, with a minimum width of 75 feet; a minimum of 800 square feet of living area per two-family structure shall be required, exclusive of any carport, breezeway or utility room.
3. *Apartment buildings:* There shall be a minimum building site of 15,000 square feet, with a minimum width of 100 feet measured at the building line for the first four apartment units. For each additional apartment unit, 2,600 square feet shall be added to the required minimum building site and an additional five feet shall be added to the required minimum width at the building line. A maximum density of 15 apartment units may be permitted per acre depending on available community service and capital improvements. There shall be a minimum of 325 square feet of living area in each apartment unit.
4. *Triplex structures:* The minimum lot size shall be 11,250 square feet, with a minimum width of 88 feet; a minimum of 1,200 square feet of living area per three-family structure shall be required, exclusive of any carport, breezeway or utility room.

3.408.C. *Minimum yards required.*

1. *Front:*

1	story:	20	feet.

2 stories: 25 feet.

2. *Sides and rear:*

1	story:	6	feet.

2 stories: 10 feet.

3. For structures in excess of 2 stories, 5 feet shall be added to the required yards per story.
4. No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.
5. No structure shall be built within 65 feet of the center line of a designated through-traffic highway.
6. A minimum setback or yard of 20 feet shall be required adjacent to water frontage.

3.408.D. *Building height regulations.* The maximum building height in this district shall be four stories or 40 feet.

3.408.E. *Percentage of land coverage.*

1. One- to four-story dwelling structures and accessory structures shall not occupy more than 30 percent of the building site required.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.409. R-4 Multiple-Family Residential District.

3.409.A. *Uses permitted.* In this district, buildings or structures or land or water shall be used only for the following purposes subject to any additional limitations pursuant to section 3.402:

1. Single-family dwelling structures.
2. Multiple-family dwelling structures.
3. Accessory uses customarily incident to the respective dwelling structure uses.

4. Clubs and marinas with restaurants and overnight accommodations for the sole use of members and their guests, after site and structure plans have been approved by the zoning board.

5. Public, parochial, and accredited private schools shall be permitted in this district only upon application to the planning and zoning commission and after public hearing before the planning and zoning commission. Subsequent to such public hearing, the planning and zoning commission shall make its report and recommendation to the Board of County Commissioners for its action thereon. If the application is approved by the Board of County Commissioners, a permit shall be obtained from the zoning director prior to the establishment of these uses and/or structures upon any premises within this district.

3.409.B. *Building height regulations.* The maximum building height in this district shall be four stories or 40 feet.

3.409.C. *Building site area regulations.*

1. For single-family structures, the same as required in the HR-1 Single-Family Residential District.

2. For two-family structures to four-family structures, the minimum building site shall not be less than 15,000 square feet, with a minimum width of 100 feet measured at the front building line.

3. For each additional apartment unit, 2,600 square feet of property shall be added to the required building site. A maximum density of 15 apartment units may be permitted per gross acre depending on available community services and capital improvements.

4. Percentage of land coverage:

   a. One- to four-story dwelling structures and accessory structures shall not occupy more than 30 percent of the building site required.

3.409.D. *Minimum yards required.*

1. *Front:* 20 feet.

2. *Rear and sides:*

1	story:	6	feet.
2	stories:	8	feet.

3 stories and over: 10 feet.

3. No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.

4. No structure shall be built within 65 feet of the center line of a designated through-traffic highway.

5. A minimum setback or yard of 20 feet shall be required adjacent to water frontage.

3.409.E. *Minimum floor area.*

1. For single-family dwelling structures, 1,000 square feet, exclusive of breezeways, carports, patios or terraces.

2. For two-family dwelling structures, exclusive of breezeways, carports, patios or terraces, 1,600 square feet.

3. For structures in excess of two dwelling units, the floor area for efficiencies shall be 580 square feet; for a one-bedroom apartment, 800 square feet; and for a three-bedroom apartment or in excess thereof, 850 square feet.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.410. R-5 Multiple-Family (Medium Density) Residential District.

3.410.A. *Intent.* It shall be the intent of this zoning district to set forth requirements and regulations to govern a medium density residential use zone with the maximum allowable number of units per acre being eight.

3.410.B. *Uses permitted.* In this district, buildings or structures or land or water shall be used only for the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Single-family dwelling structures.
2. Two-family dwelling structures.
3. Multiple-family dwelling structures.
4. Accessory uses customarily incident to the respective dwelling structure uses including club houses and marinas for the sole use of the property owners and guests.
5. Churches and schools, either public or parochial, shall be permitted in this district only upon application to the planning and zoning commission and after public hearing before the planning and zoning commission. Subsequent to such public hearing, the planning and zoning commission shall make its report and recommendation to the Board of County Commissioners for its action thereon. If the application is approved by the Board of County Commissioners, a permit shall be obtained from the zoning director prior to the establishment of these uses and/or structures upon any premises within this district.

3.410.C. *Building height regulations.* The maximum building height in this district shall be four stories or 40 feet.

3.410.D. *Building site area regulations.*

1. For single-family structures, minimum building site shall not be less than 10,000 square feet, with a minimum width of 100 feet frontage measured along the front building line.
2. For two-family structures, the minimum site shall not be less than 10,000 square feet, with a minimum width of 100 feet measured along the front building line.
3. For each additional unit, in excess of the initial 10,000 square feet, 4,500 square feet of property shall be added to the required building site. A maximum of eight units shall be permitted per gross acre.
4. Percentage of land coverage. Dwelling structures and accessory structures shall not occupy more than 30 percent of the building site required.

3.410.E. *Minimum yards required.*

1. *Front:* 25 feet.
2. *Rear and side:*

	Rear	Side
1 story	20	10
2 stories	20	12
3 stories and over	20	15

3. Platted right-of-way not a designated through-traffic highway.

4. No structure shall be built within 65 feet of the center line of a designated through-traffic highway.

5. A minimum setback or yard of 25 feet shall be required adjacent to water frontage.

6. Where this zoning district adjoins a single-family residential district, there will be no building of over 25 in height built within 100 feet of said property line.

3.410.F. *Minimum floor area.*

1. For single-family dwelling structures, 1,000 square feet, exclusive of breezeways, carports, patios, terraces or garages.

2. For two-family dwelling structures, exclusive of breezeways, carports, patios, terraces or garages, one thousand six hundred (1,600) square feet (minimum of 800 square feet per unit).

3. For structures in excess of two dwelling units, the floor area of efficiencies shall be 580 square feet; and for a one bedroom apartment, 800 square feet; and for each bedroom in excess thereof, an additional 100 square feet.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.411. A-1A Agricultural District.

3.411.A. *Uses permitted.* In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in the R-2A Two-Family Residential District.

2. Flower farms, nurseries, groves and greenhouses.

3. Packing houses and other accessory buildings necessary for the operation of flower farms and nurseries, excluding labor quarters, except those complying with R-3 zoning.

4. Any sales incidental to flowers or nursery business, wholesale or retail.

5. Private stables, as an accessory use to a residence.

6. Trailers. The minimum lot size for a trailer shall be 20 acres and there shall be no more than one trailer on any lot. The trailer shall not be located within 100 feet of any property line. The trailer shall be permitted to remain only so long as the principal use of the property is agricultural. The trailer shall only be used as a residence. The trailer shall be screened from view of abutting lots and public streets to a height of six feet, for example, by means of an opaque fence or landscape buffer.

7. Farmer's markets, as defined in Division 2 and pursuant to the requirements set forth in section 3.71.1 of the Land Development Regulations.

3.411.B. *Required lot area.* The required lot area shall not be less than two acres.

3.411.C. *Minimum yards required.*

1. *Front:* 25 feet.

2. *Rear and side:* 25 feet.

3. No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.
4. No structure shall be built within 65 feet of the center line of a designated through-traffic highway.
5. No setback or yard shall be required adjacent to water frontage.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 669, pt. 1, 6-28-2005)

Sec. 3.411.1. A-1 Small Farms District.

3.411.1.A. *Uses permitted.*

1. In this district, a building or structure or land shall be used for only the following purposes:
2. Any use permitted in the R-2A Two-Family Residential District.
3. Barns, dairies, greenhouses, guesthouse, servants' quarters and other accessory buildings.
4. Truck farming, fruit growing, poultry raising, nurseries and field crops.
5. Roadside stands for the sale of fruit, vegetables and other products produced on the premises thereof.
6. Drive-in theatres, private stables.
7. Commercial radio and/or television transmitting stations, towers, poles, masts, antennas, power plants and the other incidental and usual structures pertaining to such stations. All structures and attachments thereto and appurtenances thereof shall comply with all of the applicable requirements of the Federal Communications Commission and the Civil Aeronautics Board and/or authority. Towers, poles, masts and antennas shall be designed and stamped by a registered engineer or architect to assure the structure, masts, etc., will withstand hurricane force winds.
8. Trailers. The minimum lot size for a trailer shall be 20 acres and there shall be no more than one trailer on any lot. The trailer shall not be located within 100 feet of any property line. The trailer shall be permitted to remain only so long as the principal use of the property is agricultural. The trailer shall only be used as a residence. The trailer shall be screened from view of abutting lots and public streets to a height of six feet, for example, by means of an opaque fence or landscape buffer.
9. Farmer's markets, as defined in Division 2 and pursuant to the requirements set forth in section 3.71.1 of the Land Development Regulations.

3.411.1.B. *Required lot area.* The required lot area shall not be less than two acres.

3.411.1.C. *Minimum yards required.*

1. *Front:* 25 feet.
2. *Rear and side:* 25 feet.
3. No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.
4. No structure shall be built within 65 feet of the center line of a designated through-traffic highway.
5. A minimum setback or yard of 20 feet shall be required adjacent to water frontage.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 623, pt. 1, 11-5-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 669, pt. 1, 6-28-2005)

Sec. 3.412. A-2 Agricultural District.

3.412.A. *Uses permitted.* In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in the A-1 and A-1A Districts.
2. Airports and landing fields. Airplane landing fields and accessory facilities for private or public use, including flight strips, provided runways and flight patterns are so oriented as not to constitute a nuisance to any established or planned residential areas as delineated in the comprehensive plan of the County.
3. Cemeteries, crematories and mausoleums. Graves shall not be closer than 25 feet from the property line.
4. Stock raising, stables and dog kennels; provided stables, kennels and dog runways are not less than 50 feet to the property line.
5. Agricultural packinghouses, sawmills and planning mills, turpentine stills and other operations utilizing the natural resources of the region; provided, however, no such operation shall be established or conducted within 600 feet of the nearest highway right-of-way or within 50 feet of the property line.
6. Public works projects, public stormwater management projects, and public utility facilities and service facilities, and any ancillary uses associated with the foregoing, including excavations; rock, stone, or gravel crushing facilities; and ready mix concrete plants.
7. Fishing camps.
8. Hunting camps subject to the following requirements:
   a. Any licensee with a Hunting Preserve License issued by the Florida Fish and Wildlife Conservation Commission which is valid as of November 17, 2009, located on land zoned A-2 within Martin County may establish one hunting camp.
   b. The minimum lot size shall be 20 acres.
   c. Kennels for hunting dogs kept at the hunting camp shall not be located within 200 feet of any property line unless completely enclosed and soundproofed and shall be designed and maintained for secure, humane confinement. Animal wastes from the kennels shall be managed in such a manner as to prevent odors from being carried beyond the property boundary.
   d. Overnight accommodations shall be limited to no more than six guest rooms. The length of stay for any guest shall not exceed 14 consecutive nights.
   e. Meals may be served only to customers of the hunting camp. Freestanding restaurants open to the general public are not permitted.
   f. Overnight camping of a duration not to exceed five nights is permitted. No permanent structures shall be constructed for the purpose of overnight camping.
   g. Shooting ranges as defined in section 3.3 are not permitted within a hunting camp.
   h. The sale and/or rental of hunting accessories to customers of a hunting camp are permitted. Retail sales of hunting accessories to the general public are not permitted.
9. Public structures owned and operated by governmental agencies and used for public purposes.

10. Trailers. The minimum lot size for a trailer shall be 20 acres and there shall be no more than one trailer on any lot. The trailer shall not be located within 100 feet of any property line. The trailer shall be permitted to remain only so long as the principal use of the property is agricultural. The trailer shall only be used as a residence. The trailer shall be screened from view of abutting lots and public streets to a height of six feet, for example, by means of an opaque fence or landscape buffer.

11. Farmer's markets, as defined in division 2 and pursuant to the requirements set forth in section 3.71.1 of the Land Development Regulations.

12. Solar energy facilities, provided however, no such operation shall be established or conducted within 50 feet of the property line.

3.412.B. *Required lot area.* The required lot area shall not be less than five acres; provided, however, that in the old recorded subdivisions known as Palm City Farms (Plat Book 6, page 42, Palm Beach County), St. Lucie Inlet Farms (Plat Book 1, page 98, Palm Beach County), and St. Lucie Gardens (Plat Book 1, page 35, St. Lucie County), each full (as opposed to fractional) tract shown on said plats shall for purposes of lot area requirements be considered to be ten acres, and one-half of any such tract shall for purposes of lot area requirements be considered to be five acres; and provided further, however, that the existence of road rights-of-way and road easements (other than that of the Sunshine State Parkway, also known as Florida Turnpike) shall be disregarded for purposes of lot area requirements.

3.412.C. *Minimum yards required.*

1. *Front:* 25 feet.

2. *Rear and side:* 25 feet.

3. No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.

4. No structure shall be built within 65 feet of the center line of a designated through-traffic highway.

5. No setback or yard shall be required adjacent to water frontage.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003; Ord. No. 669, pt. 1, 6-28-2005; Ord. No. 833, pt. 4, 11-17-2009; Ord. No. 1043, pt. 1, 12-12-2017)

Sec. 3.413. A-3 Conservation District.

3.413.A. *Purpose; determination of boundaries.* This district is created to protect the public health and to reduce the financial burdens imposed upon the public, the County and other governmental agencies which may result from the improper use of lands having excessively high water tables, or which are subject to periodic floods and is subject to any additional limitations pursuant to section 3.402. The boundaries of areas zoned under this district shall be determined by drainage and soil surveys and other engineering data.

3.413.B. *Uses permitted.*

1. General agricultural operations. This shall not permit the disposal of garbage, except in area designated as sanitary landfills and operated by County or city government agencies or their duly appointed agents, nor shall it permit any use which might be obnoxious to a residence 300 feet distant.

2. Public parks.

3. Forestry.

4. Reservoir for public or private water supply.

5. Trailers. The minimum lot size for a trailer shall be 20 acres and there shall be no more than one trailer on any lot. The trailer shall not be located within 100 feet of any property line. The trailer shall be permitted to remain only so long as the principal use of the property is agricultural. The trailer shall only be used as a residence. The trailer shall be screened from view of abutting lots and public streets to a height of six feet, for example, by means of an opaque fence or landscape buffer.

3.413.C. *Reclassification.* Any area zoned in this district may be reclassified for zoning into a district or districts deemed to be compatible with the area involved and adjoining areas and the overall requirements of the comprehensive plan whenever drainage development has been accomplished in a manner and to an extent necessary to overcome the circumstances considered when the area was initially zoned in this district. Upon reclassification to a use district, other than A-1 or A-2, trailers shall be remove.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.414. HB-1A Hotel and Motel District.

3.414.A. *Uses permitted.* In this district, buildings, structures, land or water shall be used only for the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Hotels and motels that conform to the regulations of the state division of health and the site and structure plans of which have been examined and approved by the zoning board, especially as they relate to open spaces, height, bulk and methods of ingress and egress.

2. Restaurants, when conducted as an integral part of the hotel or motel.

3. Retail specialty shops included within the hotel or motel and having entrances thereto within the structure, provided such hotel or motel has 70 or more guest rooms.

4. Multiple-family dwelling structures, specifically apartments of the cooperative or condominium type.

5. Single-family residences.

3.414.B. *Conditional uses.* Marinas shall be permitted in the HB-1-A Hotel and Motel District where, after review of the application, the planning and zoning commission finds as a fact that the proposed marina or marinas are consistent with the general plan and in the public interest. No marina shall conduct a business of repairing or painting boats, have dry docks or be equipped with houses for the storage or sale of bait. They shall primarily be servicing facilities for the storage of boats in slips, sale of fuel, establishments for the sale of marine hardware, fishing tackle, boats and restaurants.

3.414.C. *Building height area regulations.* The maximum building height in this district shall be four stories or 40 feet .

3.414.D. *Building site area regulations.*

1. For single-family structures, the same as required in the HR-1 Single-Family Residential District.

2. For two-family structures to four-family structures inclusive, the minimum building site shall not be less than 15,000 square feet, with a minimum width of 100 feet measured at the front building line.

3. For each additional apartment unit, 2,600 square feet of property shall be added to the required building site. A maximum density of 15 apartment units may be permitted per gross acre depending on available community services and capital improvements.

4. Percentage of land coverage:

   a. One- to four-story dwelling structures and accessory structures shall not occupy more than 30 percent of the building site required.

3.414.E. *Front, rear and side yards.* The following minimum front, rear and side yards shall be required, measured from the front, rear and side walls of structures to the road or street right-of-way line, rear or side lines of the lot or parcel of land, respectively:

1. *Front yard:*

   a. For structures of two stories or less there shall be a front yard of not less than 50 feet measured from the street line or right-of-way to the front of the structure.

   b. For structures in excess of two stories in height, ten feet shall be added to the required front yard for each additional story.

2. *Rear yard:*

   a. For structures of two stories or less, 25 feet shall be required, measured from the rear property line to the nearest side of the structure.

   b. For structures in excess of two stories in height, the rear yard shall be increased ten feet for each additional story.

3. *Side yard:*

   a. For structures of two stories or less, 20 feet shall be required on each side of the structure.

   b. For structures in excess of two stories in height, the side yard shall be increased ten feet for each additional story.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.415. HB-1AA Hotel and Motel District.

3.415.A. *Uses permitted.* In this district, buildings, structures, land or water shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Hotels and motels that conform to regulations of the state hotel commission and state division of health and the site and structure plans of which have been examined and approved by the planning and zoning board, especially as they relate to open spaces, height, bulk and methods of ingress and egress.
2. Restaurants when conducted as an integral part of the hotel or motel.
3. Retail specialty shops include within the hotel or motel and having entrances thereto within the structure, provided such hotel or motel has 70 or more guest rooms.
4. Cooperative apartments.
5. Single-family dwelling structures.
6. Multiple-family dwelling structures, including apartments.

3.415.B. *Conditional uses.* Marinas shall be permitted in the HB-1AA Hotel and Motel District where, after review of the application, the planning and zoning commission finds as fact that the proposed marina or marinas are consistent with the general plan and in the public interest. No marina shall conduct a business of repairing or painting boats, have dry docks or be equipped with houses for the storage or sale of bait. They shall primarily be servicing facilities for the storage of boats in slips, sale of fuel, establishments for the sale of marine hardware, fishing tackle, boats and restaurants.

3.415.C. *Building site area regulations.*

1. For single-family structures, the same as required in the HR-1 Single-Family Residential District.
2. For two-family structures to four-family structures inclusive, the minimum building site shall not be less than 15,000 square feet, with a minimum width of 100 feet measured at the front building line.
3. For each additional apartment unit, 2,600 square feet of property shall be added to the required building site. A maximum density of 15 apartment units may be permitted per gross acre depending on available community services and capital improvements.
4. Percentage of land coverage:
   a. One- to four-story dwelling structures and accessory structures shall not occupy more than 30 percent of the building site required.

3.415.D. *Front, rear and side yards.* The following minimum front, rear and side yards shall be required, measured from the front, rear and side walls of structures to the road or street right-of-way lines of the lot or parcel of land, respectively:

1. *Front yard:*
   a. For structures of two stories or less there shall be a front yard of not less than 50 feet measured from the street line or right-of-way to the front of the structure.
   b. For structures in excess of two stories in height, ten feet shall be added to the required front yard for each additional story.
2. *Rear yard:*
   a. For structures of two stories or less, 25 feet shall be required, measured from the rear property line to the nearest side of the structure.
   b. For structures in excess of two stories in height, the rear yard shall be increased ten feet for each additional story.
3. *Side yard:*
   a. For structures of two stories or less, 20 feet shall be required on each side of the structure.
   b. For structures in excess of two stories in height, the side yard shall be increased ten feet for each additional story.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.416. HB-1 Limited Business District.

3.416.A. *Uses permitted.* In this district, buildings, structures, land or water shall be used only for the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Appliance stores including radio and television service.
2. Art and antique shops.
3. Banks or drive-in banks.
4. Bakeries.
5. Barber and beauty shops.
6. Book, stationery, camera or photographic supplies.

7. Cafes or restaurants, but excluding drive-in restaurants.
8. Clothing, shoes, millineries, dry goods and notions.
9. Furniture and home furnishings, including office furniture and equipment.
10. Florists, nurseries or gift shops.
11. Gasoline stations, subject to the approval of the planning and zoning board and the County commission after public hearing, as not creating traffic or safety hazards and as being in accordance with the spirit and purpose of this chapter.
12. Groceries, fruit, vegetables, meat markets, delicatessens, catering and supermarkets.
13. Hardware and paints.
14. Jewelry stores.
15. Laundry and dry cleaning pickup stations and self-service laundries.
16. Professional Offices; medical, dental; real estate; lawyer; engineer, architect; tax consultant; veterinary clinics, provided no animals are boarded or kept overnight. No animals shall be permitted outside of the walls of the main structure.
17. Shoe repair shops.
18. Storage garages or private automobile parking.
19. Theatres, but excluding drive-in theatres.

3.416.B. *Building height regulations.* No building or structure shall exceed 35 feet in height.

3.416.C. *Building site area regulations.* No structure erected for business or service shall have a floor area of less than 1,000 square feet and a height of less than 12 feet.

3.416.D. *Front, rear and side yard regulations.*

1. A minimum front yard, measured from the road or street right-of-way line to the main wall of structure, of 20 feet.
2. A rear yard, measured from the rear lot line to the rear wall of the structure, of not less than 20 feet.
3. A side yard shall not be required, except where a HB-1 Limited Business District abuts a residential district, then a side yard of ten feet shall be provided.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.417. B-1 Business District.

3.417.A. *Uses permitted.* In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in a HB-1 Limited Business District.
2. Churches or schools may be constructed on property presently owned and held for such purposes, if such construction is commenced within five years from the date of September 14, 1965.
3. Offices, banks, theatres (not drive-ins), beauty parlors, bars and nightclubs, photograph studios, dry cleaning and laundry pickup stations, barbershops, florists, automobile salesrooms, used car lots, parking lots and storage garages, telephone exchanges, restaurants and lunchrooms, police and fire stations, motels and hotels, golf driving ranges and putt-putt golf.

4. Mechanical garages and gasoline and other motor fuel stations, so long as such work is confined within a building, and vehicles awaiting repair shall be screened from view on the street and abutting property.

5. Signs appertaining to the above uses.

6. Refuse and storage areas, which shall be screened from view.

3.417.B. *Required lot area and width.* Lots or building sites shall have an area of not less than 7,500 square feet, with a minimum width of 60 feet measured along the front property line. Structures in this district shall be limited to 35 feet. Motels and hotels shall comply with the minimum requirements of the HR-2 Multiple-Family Residential District.

3.417.C. *Minimum yards required.*

1. *Front:* 20 feet.

2. *Rear:* 20 feet.

3. *Side:* None, except where a B-1 District lies adjacent to a residential district or is separated only by a road, no building shall be built within 20 feet of a common property line, and a landscaped buffer strip shall be provided between the two uses with an evergreen hedge, uniformly colored masonry wall or board fence six feet high. Such screen shall be located on the sides and rear of the property:

   a. No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.

   b. No structure shall be built with 65 feet of the center line of a designated through-traffic highway.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.418. B-2 Business-Wholesale Business District.

3.418.A. *Uses permitted.* In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Any uses permitted in the B-1 Business District.

2. Retail, wholesale and distributing businesses, including warehouses and storage yards. Refuse and storage areas shall be screened from the street and abutting property.

3. Veterinary hospitals, bottling works, repair shops, storage and sale of fertilizer and feeds, laundries, dry cleaning establishments, woodworking shops.

4. Drive-in theatres.

5. Boat yards and ways on waterfront lots.

3.418.B. *Required lot area, width, front, side and rear yards and building height limits.* Lots or building sites in the B-2 District shall have an area of not less than 7,500 square feet, with a minimum of 60 feet measured along the front line. There shall be no limitation upon height or area covered, so long as the remaining provisions of this chapter are complied with. Where a B-2 District lies adjacent to a residential district or is separated only by a road, no building shall be built within 40 feet of a common property line, and a landscaped buffer strip shall be provided with a 50 percent opaque green hedge, uniformly colored masonry wall or board fence six feet high. Such screen shall be located on the sides and rear of the property.

3.418.C. *Minimum yards required.*

1. *Front:* 20 feet.
2. *Rear:* 20 feet.
3. *Side:* None.
4. No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.
5. No structure shall be built within 65 feet of the center line of a designated through-traffic highway.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.419. B-3 Rural Business District.

3.419.A. *Uses permitted.*

1. In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402.
   a. Agriculture implements, automobiles, mobile homes or trailer sales.
   b. Building material sales yards.
   c. Farm and contractors' equipment, storage yards or plants or rental equipment yards.
   d. Creameries or ice cream manufacturing.
   e. Restaurants, food stores, drive-in businesses, where persons are served in automobiles from refreshment stands.
   f. Drive-in theatres.
   g. Golf driving ranges or tees.
   h. Skeet, trap or pistol ranges may be permitted in this district only upon application to the planning and zoning commission and after public hearing before the planning and zoning commission. Subsequent to such public hearing, the planning and zoning commission shall make its report and recommendation to the Board of County Commissioners for its action thereon. If the application is approved by the Board of County Commissioners, a permit shall be obtained from the zoning director prior to the establishment of either a skeet, trap or pistol range.
   i. Funeral homes, when not located on a designated through-traffic highway.
   j. Motels.
   k. Assembly halls or stadiums, when not located on a designated through-traffic highway.
   l. Outdoor advertising displays which advertise only commodities or service or activities available or for sale on the property occupied.
   m. Commercial horse riding stables.
   n. Public utility service yards or electrical receiving, distributing or transforming stations.
   o. Amusement enterprises, including billiard or pool halls, bowling alleys, boxing arenas, dance halls, skating rinks and the like.
   p. Bottling works.
   q. Circus quarters, when not located on a designated through-traffic highway.

r. Transient enterprises, when not located on a designated through-traffic highway, may be operated in this district, for not to exceed 30 consecutive days, only after compliance with the following requirements has been demonstrated to the zoning director. Written waivers of objection for the specific use and length of time that the transient enterprise will remain in the location are obtained from all property owners within 500 feet of the area to be occupied; or written waivers of objection are obtained from 80 percent of the owners or tenants of residential structures within 1,000 feet of the extremities of the area to be occupied.

2. Where adjacent to residential areas, all businesses shall provide for an evergreen hedge, uniformly colored masonry wall or board fence six feet high. Such screen shall be located on the sides and rear of the property.

3.419.B. *Required lot area, width, front, side and rear yards and building height limits.*

1. Building sites in this district shall have a minimum of 15,000 square feet in areas not served by a sanitary sewerage system and 10,000 square feet in areas served by sewers.
2. Minimum width along front property lines shall be 100 feet.
3. There shall be no limit on the maximum height, except where adjacent to a residential district, in which case the maximum height is limited to three stories.
4. The height of any structure shall not be such so as to intrude into a gliding angle where adjacent to air fields.
5. When located upon streets or highways carrying a large volume of traffic, tracts located in this district shall provide for a marginal access road with a minimum of access and egress points. There shall be a ten-foot planter strip between such access road, the right-of-way of the street or highway, and parking areas within the tract shall be accessible only from the marginal access road.

3.419.C. *Minimum yards required.*

1. *Front:* 30 feet.
2. *Rear and side:*

1	story:	10	feet.
2	stories:	12	feet.

3 stories and over: 15 feet.

3. No structure shall be built within 50 feet of the center line of any public platted right-of-way not a designated through-traffic highway.
4. No structure shall be built within 65 feet of the center line of a designated through-traffic highway.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.420. M-1 Industrial District.

3.420.A. *Uses permitted.* In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in the B-2 Business-Wholesale Business District that meets the standards prescribed in subsections (2)(a) through (j) of this subsection.
2. Light manufacturing plants that meet the following standards:

a. All operations shall be conducted and all materials and products shall be stored within the buildings of the plant. All waste materials shall be stored while on the premises in a screened enclosure, which shall be counted as a part of the area allowed for occupation by buildings and structures.

b. All machine tools and other machinery shall be electric powered. No forging, drop pressing, riveting or other processes involving impacts from other than nonpowered hand tools, or processes producing high frequency vibrations shall be permitted.

c. No processes which result in the creation of smoke from the burning of fuels shall be permitted.

d. No processes which emit an odor nuisance beyond the real property boundary shall be permitted. Where odors are produced and provisions for eradication within a building are provided, the burden of successful elimination of the odors shall rest on the manufacturer.

e. Dust and dirt shall be confined within the buildings of the plant. Ventilating and filtering devices shall be provided, such being determined necessary by the building inspector.

f. No processes which result in the escape of noxious gases or fumes in concentrations dangerous to plant or animal life or damaging to property shall be permitted.

g. Operations creating glare shall be so shielded that the glare cannot be seen from outside the real property boundary.

h. Buildings and fences shall be painted, unless the materials are naturally or artificially colored.

3. *Manufacture of the following:*

Brooms and brushes
Candy
Cigars, cigarettes or snuff
Cosmetics and toiletries, except soap
Clothing and hats
Ceramic products, electrically fired
Candles
Dairy products
Electronic devices
Ice cream
Jewelry
Leather goods and luggage
Optical equipment
Orthopedic and medical appliances
Pottery, electrically fired
Perfume
Pharmaceutical products
Precision instruments
Plastic products, except pyroxylin
Paper products and cardboard products
Silverware
Spices and spice packing
Stationery
Shoes
Televisions, radios and phonographs

4. Residences for the use of watchmen or custodians only.

3.420.B. *Required lot area, width, and building height limits.*

1. Lots or building sites in an M-1 Industrial District shall have an area of not less than 15,000 square feet, with a minimum width of 100 feet measured along the front property line. Not more than 40 percent of the lot area shall be occupied by structures or buildings. Buildings shall be limited to not more than 30 feet in height.
2. Where the lot abuts a residential or estates district, the minimum lot area shall be increased by the number of square feet necessary to provide a 50-foot-wide buffer area between the line of abutment and the nearest building.

3.420.C. *Minimum yards required.*

1. *Front:* 50 feet, except an office building may be located within 20 feet of the front property line.
2. *Rear and side:*

   1 story: 15 feet.
   2 stories: 15 feet.

3. No structure shall be built within 20 feet of the property line adjoining any public platted right-of-way not a designated through-traffic highway.
4. No structure shall be built within 40 feet of the property line adjoining a designated through-traffic highway.
5. No setback or yard shall be required adjacent to railroad spurs or sidings.
6. Where the lot abuts a residential or estates district, the yard requirements for the abutting sides or rear shall be increased to 50 feet.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 1014, pt. 5, 12-6-2016)

Sec. 3.421. M-2 Industrial District.

3.421.A. *Uses permitted.* In this district a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in the M-1 Industrial District.
2. General manufacturing plants that meet the following standards:
   a. Manufacturing operations conducted in the open shall be screened from view outside the real property boundary. All waste materials shall be stored while on the premises in a screened enclosure, which shall be counted as part of the area allowed for occupation by buildings and structures.
   b. No smoke with opacity exceeding 20 percent, shall be emitted, except smoke with opacity not exceeding 40 percent, shall be permitted for not more than six minutes of any one hour.
   c. No particle from any flue or smokestack exceeding 0.2 grains per cubic foot of the flue gas at stack temperature of 500 degrees Fahrenheit shall be permitted.
   d. No odor nuisance shall be permitted to extend beyond lot lines. Tanneries, abattoirs, glue factories, oil tank farms, soap factories, artificial gas manufacturers, rubber manufacturers, distilleries and similar industries shall present detailed plans for elimination of odors to the zoning director before a permit shall be granted.
   e. Dust and dirt shall be confined within the buildings of the plant.
   f. No processes which result in the escape of noxious gases or fumes in concentrations dangerous to plant or animal life or damaging to property shall be permitted.

g. Operations creating glare shall be so shielded that the glare cannot be seen from outside the real property boundary.

h. Buildings and fences shall be painted, unless the materials are naturally or artificially colored.

3. Manufacture of the following:

Automobile accessories, except tires
Acids, except hydrochloric, nitric, picric, sulphurous or sulphuric acid
Boxes
Carbon
Canvas, cloth, cork, excelsior or textiles
Disinfectants and insecticides
Batteries and other electrical apparatus
Mattresses
Rope
Sash and doors
Starch, glucose and dextrin

4. Any of the following:

Automatic screw machines
Automobile assembly plant
Animal refuge
Assaying
Airplane hangar
Airport
Blacksmith shop
Canning factory
Cider mill
Construction or contractor yard
Cooperage
Cemetery, columbarium, mausoleum or crematory
Die casting
Livery stable, riding academy or dude ranch
Lumberyard with planing mill
Meat processing, no slaughtering
Metal buffing, plating and polishing
Machine shop
Millwork, lumber and planing mill
Motor freight terminal and depot
Mattress and bedding renovator
Painting and varnishing
Radio or television broadcasting towers or antennas
Welding shop

5. Storage in bulk of asphalt, brick, building materials, butane, cement, clay products, concrete products, coal, contractors' equipment, cotton, fuel, gasoline, grain, gravel, grease, hay, ice, lead, lime, liquor, plaster, pipe, lumber machinery, propane, roofing, rope, sand, stone, tar, tarred, or creosoted products, terra-cotta, timer, wood or wool, provided the area so used is located inside a fully enclosed building or masonry wall at least six feet in height.

6. Residences for the use of watchmen or custodians only.

3.421.B. *Required lot area, width and building height limits.*

1. Lots or building sites in an M-2 Industrial District shall have an area of not less than 30,000 square feet, with a minimum width of 100 feet measured along the front property line. Not more than 50 percent of the lot area shall be occupied by structures or buildings. Buildings shall be limited to not more than 40 feet in height.
2. Where the lot abuts a residential or estates district, the minimum lot area shall be increased by the number of square feet necessary to provide a buffer area 75 feet wide between the line of abutment and the nearest building.

3.421.C. *Minimum yards required.*

1. *Front:* 60 feet except an office building may be located within 20 feet of the front property line.
2. *Rear and side:*

   1 story: 25 feet.

   2 stories: 25 feet.

   3 stories and over: 35 feet.

3. No structure shall be built within 20 feet of the property line adjoining any public platted right-of-way not a designated through-traffic highway.
4. No structure shall be built within 50 feet of the property line adjoining a designated through-traffic highway.
5. No setback or yard shall be required adjacent to railroad spurs or sidings.
6. Where the lot abuts a residential or estates district, the yard requirement for the abutting sides or rear shall be increased to 75 feet.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 1014, pt. 5, 12-6-2016)

Sec. 3.422. M-3 Industrial District.

3.422.A. *Uses permitted.* In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

1. Any use permitted in the M-2 Industrial District.
2. Heavy industrial plants that meet the following standards:
   a. No smoke with opacity exceeding 40 percent shall be emitted, except smoke of a greater opacity shall be permitted for not more than six minutes in any one hour.
   b. No particles from any flue or smokestack shall exceed 0.3 grains per cubic foot of flue gas at stack temperature of 500 degrees Fahrenheit.
   c. No gases or fumes toxic to persons or injurious to property shall be permitted to escape beyond the confines of the building in which created.
3. Gravel, rock stone or sand crushing.
4. Ready-mix concrete plants or asphalt plants.
5. One residence for a watchman or custodian only.

3.422.B. *Required lot area, width and building height limits.*

1. Lots or building sites in an M-3 Industrial District shall have an area of not less than two acres, with a minimum width of 200 feet measured along the front property line. Not more than 50 percent of the lot area shall be occupied by structures or buildings.
2. Where the lot abuts any other type district, except an industrial district, the minimum lot shall be increased by the number of square feet necessary to provide a two hundred-foot-wide buffer area between the abutting property line and the nearest building or structure.

3.422.C. *Minimum yards required.*

1. *Front:* 100 feet, except an office building may be located within 20 feet of the property line.
2. *Rear and side:*

   1 or 2 stories: 75 feet.
   3 stories or more: 100 feet.

3. No structure shall be built within 20 feet of the property line adjoining any public platted right-of-way not a designated through-traffic highway.
4. No structure shall be built within 75 feet of the property line adjoining a designated through-traffic highway.
5. No setback or yard shall be required adjacent to railroad spurs or sidings.
6. Where the lot abuts any other district, except an industrial district, requirements for the abutting sides, front or rear shall be increased to 200 feet.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 1014, pt. 5, 12-6-2016)

Sec. 3.423. PS Public Servicing District.

3.423.A. *Uses permitted.* In this district, a building or structure or land shall be used for only the following purposes, subject to any additional limitations pursuant to section 3.402:

1. The PS Public Servicing District shall embrace those essential services of the County, board of public instruction and sanitary district for the servicing and general welfare of the residents of Martin County.
2. Airport. All uses normal to airport operations and such other uses as may be deemed proper by the Board of County Commissioners.
3. Cemeteries, mausoleums, crematories:
   a. No premises shall be used or occupied for the purpose of a cemetery in any zone, unless approved after a public hearing by the Board of County Commissioners.
   b. No land for which a plat has not been recorded shall be used for any burials.
   c. Graves and/or monuments shall not be closer than 25 feet to the nearest property line.
4. Parks, public recreation buildings, playgrounds and such other uses as may be deemed proper by the Board of County Commissioners.

(Ord. No. 608, pt. 1, 3-19-2002)

Sec. 3.424. SY Salvage Yards.

3.424.A. *Compliance.* Salvage yards shall meet the provisions of this division and all other applicable provisions of the Land Development Regulations, including any additional limitations pursuant to section 3.402.

3.424.B. *Minimum area.* The minimum area of land to be so used shall not be less than one acre and the maximum area shall not exceed ten acres.

3.424.C. *Parking junked automobiles.* Automobiles or vehicles which are not in running order or any other junk or scrap of whatsoever character shall not at any time be located for storage, dismantling or any other purpose within 75 feet of any boundary of any residential district, within 50 feet of the front street line, within 30 feet of any side street line, nor within 30 feet of any other property line of the lot being so used.

3.424.D. *Fencing and screening.*

1. The area to be occupied by the salvage yard shall be entirely surrounded by a substantial, continuous masonry fence or wall eight feet in height, or by vegetative screening. Such fence or wall shall be of similar composition, construction and color throughout and shall be constructed without openings, except for one entrance and one exit and such entrance and exit shall be equipped with unpierced gates. Such gates shall be closed and securely locked at all times, except during business hours. Plans for such fence or wall shall be submitted to the planning and zoning commission, who shall determine whether or not the proposed fence will meet the requirements of this chapter. No building permit shall be issued for the construction of such fence or wall until the approval of the planning and zoning commission has been secured. Such fence shall be maintained in good order and shall not be allowed to deteriorate.

2. If vegetative screening is to be substituted for such fence or wall, plans for such screening shall be submitted to the planning and zoning commission. Such vegetative screening shall consist of a green belt strip not less than 20 feet wide where it adjoins another lot line, nor less than ten feet wide where it adjoins a street line. The greenbelt shall be composed of at least one row of deciduous or evergreen trees and one or two rows of shrubs. The planning and zoning commission shall approve or disapprove such request for vegetative screening.

3.424.E. *Nonconforming uses.* Since it is the intent of this chapter to minimize the extension of nonconforming uses and to look to their possible, eventual elimination, any salvage yard existing and operating as a nonconforming use in any district as of May 9, 1968, shall be allowed to continue its operations, subject to the following provisions:

1. The area used for the operation of such salvage yard shall not be increased at any time or under any circumstances.

2. No additional permanent buildings shall be erected and no presently existing permanent buildings shall be structurally altered to increase their bulk or square footage area.

3. No automobile not in running order or any other junk or scrap of whatsoever character shall at any time be located for storage, dismantling or any other purpose within 75 feet of any boundary of any residential district, within 50 feet of the front street line, within 30 feet of any side line, nor within 30 feet of any other property line of the lot being so used.

4. The area occupied by the salvage yard shall be entirely surrounded by a substantial, continuous masonry fence or wall eight feet in height, or by vegetative screening. The fence shall meet the requirements set forth in Article 4, Division 15.

(Ord. No. 608, pt. 1, 3-19-2002; Ord. No. 633, pt. 1, 9-2-2003)

Sec. 3.425. IZ Interim Zoning.

3.425.A. *Described.* The boundary of the Interim Zoning District shall be the entire unincorporated area of Martin County, excepting those areas specifically covered by another zoning district.

3.425.B. *Uses permitted.*

1. If the neighborhood is predominantly one classification of usage, the zoning director shall be governed by the regulations for that class of usage in determining the standard zoning regulations to be applied; including required lot area, type of structure, type of use, minimum yards required, height limitations, etc.
2. If no trend of development has been established in the neighborhood, the minimum standards of the R-2 Single-Family Zoning District shall be complied with.
3. Uses in this district are also subject to any additional limitations pursuant to section 3.402.

3.425.C. *New subdivisions.* Before a new subdivision shall be recorded in an Interim Zoning District, the area involved shall be rezoned by the usual procedure of the planning and zoning commission into a zoning district or districts deemed to be compatible with the area involved, adjoining areas and the overall requirements of the comprehensive plan.

3.425.D. *Appeals.* Whenever the director of zoning refuses to issue a permit to use, construct, alter, modify, expand or move a building or premises located in an interim zoning district because the proposed use, construction, alteration, modification, expansion or movement would conflict with regulations contained herein, the person desiring a permit may apply for relief to the zoning board of adjustment by the appropriate methods, as set forth in chapter 61-2466, Special Acts of 1961 of the Legislature of the State of Florida.

(Ord. No. 608, pt. 1, 3-19-2002)

Article 4 SITE DEVELOPMENT STANDARDS

DIVISION 1. WETLANDS AND SHORELINE PROTECTION [1]

Sec. 4.1. In general.

4.1.A. *Purpose.* It is the purpose of this division to promote ecological stability, improve water quality, prevent flooding and protect property and environmental resources.

1. The purpose of this division is to protect natural wetland systems and sustain natural wetland hydroperiods, to minimize activities that degrade, destroy or otherwise negatively impact wetland values and functions, and where appropriate, to reestablish and restore productive wetland systems.

2. It is also the purpose of this division to protect estuarine waters to minimize activities that degrade, destroy or otherwise negatively impact estuarine systems, and where appropriate, to reestablish and restore natural habitat. Activities that negatively impact estuarine water quality and the natural habitat, above or below the mean high water line, shall be minimized. Furthermore, activities/improvements which increase water retention and/or increase water quality improvements shall be encouraged.

3. Wetlands serve many important hydrological and ecological values and functions. They reduce the impact of flooding by acting as natural retention and water storage areas. Wetlands act as groundwater recharge and/or discharge areas for the surficial aquifer, and protect water supplies for environmental, urban and agricultural use. Wetlands protect groundwater table levels and help minimize damage from fires. Wetlands provide in-flows of clean water to the rivers and estuaries through surface and groundwater connections and minimize urban runoff by filtering water. They provide green space and biological diversity, and serve to cool the atmosphere. Wetlands act as productive biological systems providing habitat, foraging and denning areas for listed, threatened and endangered species. Wetlands are important to our community values and aesthetic appearance.

4. The purpose of this division is to protect natural wetland systems. Manmade excavations in uplands, except those that are navigable and connected to surface waters of the State, are not protected by this division. While manmade wetlands exempt under this division are not protected as natural wetlands, development review shall assure that impacts to them do not adversely affect drainage or natural systems.

4.1.B. *Wetlands applicability.*

1. All wetlands in unincorporated Martin County shall be protected. Freshwater wetlands and estuarine wetlands shall be protected and regulated pursuant to sections 4.1., 4.2., 4.3., 4.6., and 4.7., within the Land Development Regulations (LDR) and Objective 9.1G., Martin County Comprehensive Growth Management Plan (Comprehensive Plan). If there is any conflict between Article 4, Division 1 and Objective 9.1G., Comprehensive Plan, the Comprehensive Plan shall control.

   a. No negative impacts shall be allowed within wetlands or wetland buffers except as specifically provided for in section 4.3. waivers and exceptions. All development must be

consistent with the wetland protection requirements of this division and the Comprehensive Plan. Compliance with these requirements must be demonstrated by the applicant prior to the issuance of any development approval or order.

b. The requirements of this division to protect wetlands and wetland buffers shall apply to all activities, whether urban or agricultural. A clearing permit shall be required, for any clearing in order to demonstrate compliance with this division.

4.1.C. *Shoreline protection applicability.*

1. Within the unincorporated area of Martin County the Shoreline Protection Zone, as defined, shall be protected pursuant to sections 4.1., 4.4., 4.5., 4.6., and 4.7., within Article 4, Division 1., LDR and Objective 8.1C., Comprehensive Plan. If there is any conflict between Article 4, Division 1 and Objective 8.1C., Comprehensive Plan the Plan shall control.

a. The Shoreline Protection Zone includes areas commonly referred to as the St. Lucie River, Indian River Lagoon, Loxahatchee River, all navigable tributaries, navigable canals, and any wetlands delineated within the Shoreline Protection Zone. However, wetlands within the Shoreline Protection Zone shall be protected pursuant to section 4.1.B., LDR and Objective 9.1G., Comprehensive Plan.

4.1.D. *Glossary.* For purposes of this division the following words, terms and phrases shall have the meanings as set forth below.

Buffers means a transition area managed for the protection of preserved upland and wetland habitats from the destructive impacts of human activities.

County Administrator shall mean the County Administrator of Martin County or his/her designee.

Docks mean fixed or floating structures providing access over submerged lands.

Hardened shoreline means a shoreline area connected to surface waters of the state that has been legally excavated and stabilized (e.g., sea walls, rip rap, retaining walls, or interlocking bricks that function to provide shoreline stabilization at Mean High Water or above) and has neither native habitat nor a predominance of native vegetation.

Isolated wetlands means delineated wetlands and wetlands that would have been delineated except for being illegally altered, but which are surrounded by uplands and without a natural or navigable connection to surface waters of the state.

Mean high water (MHW) line means the intersection of the tidal plane of the mean high water with the shore as determined in accordance with F.S. ch. 177, pt. II.

Natural wetland hydroperiod means the normal seasonal fluctuations in the surface and groundwater levels of wetlands and the resulting duration of surface flooding in response to seasonal rainfall.

Navigable means the following estuarine river systems in Martin County; St. Lucie River, Indian River and Loxahatchee River, including canals, tributaries and sovereign submerged lands regardless of the existence of a lease, easement or license. For purposes of applying a Shoreline Protection Zone, the term "navigable" shall not include:

a. Surface waters of the State that are connected to estuarine waters by a weir or other manmade structure.

b. Ditches, swales and other constructed conveyances that are connected to the estuary by a pipe.

Retaining wall means a vertical structure designed and constructed to resist the lateral pressure of soil moving downward due to stormwater runoff. Unlike riprap or a seawall a retaining wall shall not be subject to normal wave action.

Riprap means a manmade aggregation of unconsolidated boulders, rocks, or clean rubble designed to break the force of waves and to protect the shore from erosion due to wave action. The materials used shall not contain any dangerous protrusions.

Seawall means a vertical structure built along a portion of a coast, retaining earth against its landward face and designed to prevent erosion and other damage by wave action.

Self-contained plant community means a sustainable native habitat appropriate to the local conditions.

Shoreline Protection Zone means all estuarine waters within Martin County and all surface waters of the State that are both hydrologically connected to the estuarine waters and navigable. The Shoreline Protection Zone shall also extend 75 feet laterally upland from the mean high water of those estuarine waters and surface waters of the state. Within the waters described above, "wetlands" (as defined by F.S. § 373.019(25) and delineated pursuant to F.S. § 373.421(1)) shall be protected as described in Objective 9.1G. Comprehensive Plan.

Surface waters of the state, for purposes of this division, includes navigable waters and connected wetlands, as defined by F.S. § 373.019(19), and excludes isolated wetlands as defined in this division.

Unhardened manmade shoreline means a shoreline area connected to surface waters of the state that has been legally excavated, not structurally hardened, and has neither native habitat nor a predominance of native vegetation landward from the mean high water line.

Wetlands mean areas as defined in F.S. § 373.019(25) and are those areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

Wetland areas of special concern means generalized areas of Martin County identified in the Comprehensive Plan where delineated wetlands shall be given special protection.

(Ord. No. 903. pt. 1(Exh. A), 12-13-2011)

Sec. 4.2. Wetland protection standards.

4.2.A. *Manmade wetlands.* This policy is intended to protect natural wetlands even when impacted by manmade excavations. This division is not intended to protect manmade excavations created in uplands except those that are navigable and connected to the surface waters of the State. While manmade wetlands exempt under this policy are not protected as natural wetlands, development review shall assure that impacts to them do not adversely affect surface water management or natural systems. In determining if a wetland which meets the definition in section 4.1.D., above, is a natural system protected under Objective 9.1G. of the Comprehensive Plan and under this division, the following standards shall apply:

1. Only manmade wetlands clearly excavated in uplands are exempt.
2. Navigable canals connected to the surface waters of the state, whether excavated in uplands or wetlands, are not exempt.

3. Artificially created wetlands where there were no wetlands at the time of excavation and where there are no wetlands adjacent to the bank top of the excavation are exempt.

4. Manmade wetlands which are within or directly adjacent to natural wetlands shall be protected as part of the natural wetland system.

5. If there is not sufficient evidence to prove that the area delineated as a wetland both was manmade in upland soils and is not within or adjacent to a natural wetland, then the system shall be protected as a natural wetland.

4.2.B. *Delineation.* All those contemplating land purchase or development are urged to obtain field delineations of wetlands by an environmental professional prior to decisions on land use and project design. The Martin County Composite Wetlands Map, a composite of several data sources, may be consulted. The composite map is a useful guide to locate wetlands, but state law requires wetland boundaries to be delineated in the field according to the state unified wetlands delineation methodology. The state unified wetland delineation methodology will determine the final jurisdictional location and extent of wetlands. All wetlands delineated pursuant to F.S. § 373.421 shall be protected, regardless of size.

4.2.C. *Basic information requirements.*

1. All applications for development shall delineate all wetlands on-site and identify those wetlands off-site within 100 feet of the property line and within 200 feet of any proposed excavation greater than two feet in depth. Wetland delineation shall be verified on site as provided in subsections A. and B. above.

2. The County Administrator may accept the submittal of information to verify that no wetlands can be identified on site. This method of identification shall not be used to delineate the boundaries of any wetland. One or more of the following documents, at the highest resolution available, may be submitted by the applicant to verify no wetlands occur:

   a. Aerials from each 1975, 1986, and current from the Property Appraiser's Office;

   b. Martin County Composite Wetland Map, most updated version or its successor;

   c. Martin County Soil Survey; and

   d. 1985 National Wetland Inventory.

   Upon a determination by the County Administrator that no wetlands exist on site no further submittal pursuant to this division shall be required.

3. One or more of the following may be required for a delineated wetland as described in paragraph 4.2.C.1., above:

   a. A topographic survey indicating the elevation of wetland boundaries and of the deepest part of each wetland, and including existing contours per the requirements of section 4.343.A.1.

   b. Normal wet season elevation of wetlands surface water as determined by local surface water stage records or locally calibrated hydrologic models. In the absence of this hydrologic data, the wetland normal wet season surface water levels will be provided based on field surveys of biological indicators such as vegetation and reduced soil indicators according to the expert opinion of professional wetland ecologists or biologists. Appropriate biological indicators include moss or lichen lines on the buttress of cypress trees or other wetland tree species and the landward extent of perennial aquatic vegetation species.

   c. The normal high surface water elevation for wetlands surface water as determined by local surface water stage records or locally calibrated hydrologic models. In the absence of this hydrologic data, the normal high surface water elevation for wetlands surface water levels

will be indicated as 1.0 feet above the normal wet season elevation as determined in paragraph 2., above, or until such time that a method for determining an equivalent water level is determined by the state agency designated to issue permits.

d. Sheet flow patterns illustrating predevelopment hydrological connections between wetlands on and off site in a high water year.

4. Wetland areas of special concern. Wetlands delineated within the following areas of special concern include:

a. The North County Savannas.

b. Britt Creek.

c. Arant's Creek and Swamp.

d. Warner Creek.

e. Hutchinson Island estuarine area.

f. St. Lucie South Fork and Islands.

g. Willoughby Creek.

h. Manatee Creek.

i. Intracoastal Waterway and adjacent marshes.

j. St. Lucie South Fork headwaters.

k. Myrtle Slough.

l. Danforth Creek.

m. Kitching Creek headwaters.

n. Cypress Creek and Loxahatchee River headwaters.

o. Bessey Creek.

p. Mapp Creek.

q. Hog Creek.

r. Allapattah Slough.

s. Barley Barber Swamp.

t. Bluefield Wetlands.

u. Boar and Myer Hammocks.

v. East Creek.

w. Cane Slough.

x. Roebuck Creek.

y. Wetlands within Federal, state, regional or county designated greenways.

4.2.D. *Wetland buffers.* Wetland buffers and setbacks from wetland buffers shall be provided and maintained in accordance with the following requirements:

1. Areas of native vegetation shall be preserved as buffer zones to all wetlands. Any native vegetation removed or destroyed in violation of laws in effect at the time such vegetation was removed or destroyed shall be restored pursuant to policy 9.1G.2.(3) and (6) of the Comprehensive Plan.

2. Wetland buffers shall be measured landward of the boundary of the delineated wetland. For natural bluffs with slopes steeper than one foot vertical to three feet horizontal, required buffers shall start at the top of the bank. See sections 4.3.H. and 4.5.C. for further shoreline stability requirements.

3. For wetlands connected to natural creeks, rivers, water bodies connected to surface waters of the state, and surface waters of the state, a wetland buffer zone with a minimum of 75 feet shall be required. This buffer shall not apply to manmade and nonnavigable waters connected to surface waters of the state.

4. For isolated wetlands and any other wetlands not covered in sections 4.2.D.3. and 4.2.D.5., a wetland buffer with a minimum of 50 feet shall be provided landward from the delineated wetland.

5. The following protective measures will be required to assure protection of wetlands delineated within the wetland areas of special concern listed in this division. All applications for: clearing of native vegetation, site plan approval, and building permits on any lot of record greater than five acres in size shall be reviewed for the presence of habitat supporting listed species and shall be governed by the following regulations:

   a. In order to assure that the biological resources of the wetlands are protected, there shall be a 75-foot buffer of native vegetation.

   b. Where habitat is identified that may support species listed by either the U.S. Fish and Wildlife Service or the Florida Fish and Wildlife Conservation Commission a listed species survey shall be done and remote sensing data shall be reviewed for the surrounding private property. The nest, den or burrow of any species listed as threatened or endangered by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission or any other Federal or State listing agency shall be protected pursuant to the requirements and recommendations of the listing agency.

4.2.E. *Setbacks for construction and building maintenance activities.* Wetland buffers shall be protected from encroachment during construction and building maintenance activities as follows:

1. New construction (including fill proposed adjacent to wetland buffer zones and upland preserve areas) shall be set back a minimum of ten feet for primary structures;

2. Setbacks for accessory structures, such as, but not limited to, pool decks, screen enclosures and driveways, shall be five feet.

3. Graded areas landward of these required buffer protection areas shall not exceed a slope of one foot vertical to four feet horizontal. All slopes shall be properly stabilized upon completion of construction to the satisfaction of the County Administrator.

4.2.F. *Density transfers.* All property owners shall have the right to transfer density to upland areas on any site which contains wetlands, in accordance with the following standards. Net buildable density is the allowable number of residential units divided by the net buildable upland area; net buildable upland area is the gross land area less all wetlands.

1. The site shall be submitted for review as either a planned unit development or a clustered multifamily project in one of the multifamily residential zoning districts.

2. The resulting residential density of the upland property shall be no greater than 15 dwelling units per acre. In those instances where the density proposed is greater than ten dwelling units per acre, there shall be a minimum 75-foot buffer around all wetlands on site.

3. The total number of units allowed in any development using this density transfer formula shall not exceed the maximum allowed density for the entire parcel as shown on the Future Land Use Map of the Comprehensive Plan.

4. Density transferred shall not exceed one-half the wetland acreage multiplied by the gross density.

5. For parcels with wetlands that occupy 50 percent or more of the total site, the gross residential density of the upland parcel shall not exceed more than two times the gross residential density of the entire parcel.

6. The increase in net residential density created by density transfer shall not create adverse impacts or land use incompatibility with adjacent parcels.

7. Whenever density transfers are proposed, the net buildable area of all plans shall include a minimum 50 percent permeable open space. Golf courses shall account for no more than 60 percent of the required permeable open space.

4.2.G. *Performance standards.* The following performance standards shall be followed for all wetland areas and wetland buffers.

1. *Vegetation removal* . The removal of natural vegetation and exotic invasive vegetation from wetlands and from buffer zones surrounding wetlands shall be governed by the following regulations:

   a. Clearing or direct removal of vegetation shall not occur except in compliance with an approved preserve area management plan or in compliance with those minimal activities permitted under section 4.3.

   b. All materials that are cleared from the wetland or buffer zone, including exotic invasive vegetation debris, shall be removed from the site and not piled or stored within the wetland or designated upland preserve areas, except as provided in the PAMP.

   c. Removal of exotic invasive vegetation in wetlands and buffer areas shall be conducted in compliance with a Preserve Area Management Plan (PAMP) approved by the County Administrator.

   d. Exotic vegetation must be regularly removed from all preserve areas including wetlands and wetland buffers by the least damaging means.

   e. Planting of exotic vegetation or incompatible native vegetation shall not occur within or encroach upon the wetland area or buffer. Any proposed plantings occurring in the wetland or buffer shall consist of native vegetation which is compatible with existing native plant communities, soils, and climatic conditions, and must be approved in writing by the County Administrator.

2. *Replanting.* Areas of the wetland or buffer zone that are devoid of existing, natural associations of native vegetation shall be planted with, or supplemented by, appropriate native vegetation sufficient to create a self-perpetuating plant community capable of functioning as natural habitat. When supplemental plantings are necessary, a planting plan for the wetland or wetland buffer zone shall be prepared as an attachment to the PAMP. The planting plan must include:

   a. A planting area map will be prepared showing the extent of proposed plantings together with local soil information. Planting density shall be sufficient to provide approximately 80 percent vegetative groundcover in the first year.

   b. Construction drawings of the replanting areas showing any proposed alteration to topographic contours.

   c. A topographic map showing various elevation contours to be planted and the plant species appropriate to each contour.

   d. Description of the current hydrologic conditions affecting the replanting area and adjacent hydrologic contributing and receiving areas.

e. Schedule and details of replanting including the type of construction and measures to minimize impacts to the adjacent wetland buffer, water management and other irrigation practices that will be used until the vegetation has been established. Planting shall be complete prior to:

- Issuance of the first building permit in a major or minor residential subdivision; or
- A certificate of occupancy on the primary structure of a nonresidential final site plan.

f. Monitoring reports detailing the progress of the planting plan will be submitted within six months after planting. Information provided must be adequate to determine that planted species have survived in sufficient number and health as needed to reasonably meet cover requirements in the above. The Environmental Monitoring Report Guidelines developed by the South Florida Water Management District may be used as a reporting template.

g. Replanting of portions or all of the affected area will be required if the cover requirements are not met within the first year.

h. A bond for 100 percent of the cost of exotic vegetation removal, replanting, maintenance and monitoring shall be required for a period of two years from the date the planting was completed.

3. *Excavating and filling.* Excavating and filling activities within 300 feet of wetlands shall be governed by the following regulations.

a. Dredging or filling shall not occur within the wetlands or the buffer zone surrounding the wetlands except in compliance with the provisions of the Excavation, Fill and Mining regulations.

b. A minimum width of 200 feet shall be maintained between the outer edge of any wetland and any lake excavation unless an alternative plan utilizing an impermeable barrier is approved by Martin County in consultation with the South Florida Water Management District. Any excavation which is likely to result in drawdown of the water table through pumping or through off site outfalls must be separated a minimum of 200 feet from any wetland.

c. Filling which occurs landward of a wetland buffer zone shall be contained to prevent runoff of sediment into buffer zones or wetlands and immediately stabilized upon completion of construction.

4. *Construction within or adjacent to wetlands and wetland buffer zones.* No alteration or construction shall be allowed within wetlands or buffer zones except as specifically provided below and in section 4.3, waivers and exceptions.

a. The structure and foundation of docks shall be designed to accommodate surface water flows and shall not be designed to impede, interrupt or impound surface water flows. Public and private dock structures shall be consistent with the Comprehensive Plan. Marina development shall be consistent with the Boat Facilities Siting Plan, Manatee Protection Plan and marina siting section of the Comprehensive Plan.

b. Routine maintenance of existing structures shall be permitted, but shall be performed in the least intrusive manner possible and shall not result in additional damage to the wetland or wetland buffer zone.

c. All pilings shall be secured, placed or set to the desired depth by the least disruptive method based on existing site characteristics.

d. Boardwalks shall be designed to minimize wetland disruption while allowing access for wildlife and water viewing. Where boardwalks are provided for golf course access and for access between facilities, they must be part of an overall site plan designed to minimize wetland intrusion.

e. The use of heavy equipment shall be minimized in the wetland areas and/or buffer zones.

f. There shall be no temporary filling of the wetlands area or buffer zone for construction.

g. Placement of water management control structures in wetlands and/or the buffers around wetlands shall only be allowed as part of a stormwater management plan that complies with section 4.342.H.2., LDR. Placement of structures in preserve areas shall require revegetation of both the wetland and wetland buffer for which planting plans shall be included in the preserve area management plan.

4.2.H. *Waste disposal.* Disposal of wastes in and around wetlands and buffer zones shall be governed by the following regulations:

1. The discharge of domestic, industrial, leachate, or agricultural wastewater containing heavy metals, herbicides, pesticides or any other toxic substance(s) in excess of concentrations established by State and Federal and County guidelines into the waterways, wetlands or buffer zones shall be prohibited.

2. Sludge, sewage and septic systems which are adjacent to wetlands in wetland areas of special concern shall be set back from such wetlands in accordance with section 4.2.D.5.a.

3. The disposal of hazardous material in designated areas shall not occur within 300 feet of a wetland.

4. Any new solid waste disposal facility shall be subject to the wetland protection provisions of this division and designed in such a manner as to have no negative effect on the wetlands or buffer zones.

4.2.I. *Stormwater and surface water management.* Management of water in and around wetlands is critical to the survival of a healthy wetlands system. Seasonal freshwater in-flows in appropriate volumes are critical to the health of the estuary. There is presently excess freshwater runoff to the estuary during the rainy season which may contribute to heavy pollutant loads, fish disease and freshwater imbalance. Dry season freshwater flows are currently inadequate to supply base flows for a healthy estuary. Stormwater and surface water management in and around wetlands and buffer zones shall be governed by the following regulations:

1. Maintenance of wetland hydrology and water quality.

a. Direct discharge of stormwater into wetlands or buffer zones shall be prohibited. Stormwater must be provided retention and/or detention water quality treatment prior to being discharged into wetlands or wetland buffer zones. Stormwater retention and/or detention basins shall be used to maintain post-development discharges at predevelopment levels.

b. Stormwater retention basins and outfall structures shall be designed to assure that the water quality, rate of runoff and seasonal runoff volumes are equal to natural conditions. Timing and volume of water discharge shall be appropriate to restore and/or maintain the natural hydroperiod.

c. Retention and/or detention basins shall be designed and constructed with sediment traps and litter or trash screens. The retention and/or detention basins shall be vegetated, and the use of herbicides and pesticides within the retention and/or detention basin for vegetation and insect control shall be discouraged.

2. Any alteration of water levels within wetlands shall be prohibited unless determined necessary to restore or maintain the natural hydroperiod of the wetland system by way of a surface water management plan approved by the County Administrator in consultation with the SFWMD. Outfall structures shall be designed to assure wet season water tables will be maintained throughout the development and that quality, rate, timing and volume will maintain sustainable on-site wetlands and healthy receiving waters. (See above also re flowways, under PAMPs.)

3. Timing and volume of water discharge shall be appropriate to restore and/or maintain the natural hydroperiod.

4.2.J. *Subdivision site design.* Master and final site plans dividing land into three or more lots, tracts or parcels shall identify all wetlands and the required wetland buffers as part of a preserve area. All such preserve areas shall be separate from the individual lots, tracts or parcels within all future land use designations except Agricultural Ranchette and Agricultural.

(Ord. No. 903. pt. 1(Exh. A), 12-13-2011)

Sec. 4.3. Waivers and exceptions for delineated wetlands.

This division is not intended to result in a taking of property under the Fifth Amendment of the United States Constitution or section 5 of the tenth article of the Florida Constitution, and waivers and exceptions may be granted by the Board of County Commissioners or the County Administrator under the procedures and provisions of this division where a landowner proves that the implementation of this division will result in such a taking. All wetland alteration allowed under these waivers and exceptions shall be sufficiently mitigated to ensure that there is no net loss of functions or the spatial extent of wetlands in Martin County. If waivers or exceptions are allowed under this division, that option which avoids and minimizes damage shall be selected. The use of heavy equipment shall be minimized, and there shall be no temporary filling of any wetland area or buffer zone. No exceptions or waivers to these standards shall be granted except in accordance with section 4.3 and under the conditions and provisions described below.

4.3.A. *Waivers for certain lots of record.* Buffers and setbacks may be altered on certain lots of record to provide reasonable use of such lots of record under the following circumstances. It is not the intent of this section (4.3.) that this subsection A. be used in conjunction with a division of a lot of record into more than one lot.

1. Single-family residential lots of record on plats approved between April 1, 1982, and December 15, 1998, may be developed in accordance with the wetland regulations (buffer, transition zone, setback, and performance criteria) in effect at the time that the plat was approved.

2. Lots of record on the adoption date of this division which are less than five acres in size shall be exempt from the buffer provisions for wetlands of special concern as outlined in section 4.2.D.5., and shall remain exempt if such lots or parcels are subsequently subdivided, provided that such lots or parcels are not part of a contiguous, commonly owned lot or parcel that is larger than five acres at the time of subdivision. This waiver or exception shall not affect other buffer requirements contained in section 4.2.D., above.

3. Retaining walls for primary or accessory structures may be placed at the upland edge of the buffer on residential lots of record so existing on April 1, 1982, if slopes are maintained and the buffer area is replanted in native vegetation compatible with elevations and proximity to the delineated wetland; and provided that all zoning district setback criteria are met.

4. Replanting of native vegetation shall not be required at the time of a building permit for new single-family homes on residential lots of record so existing on April 1, 1982, where no native vegetation existed on such lot on April 1, 1982, or at the time of adoption of this division.

5. Any residential lot of record so existing on April 1, 1982, that abuts the estuaries or their navigable tributaries may reduce the buffer zone to 20 feet landward of the delineated wetland, provided that:

   a. Existing native upland and transitional vegetation adjacent to the delineated wetland shall be maintained and the 20-foot buffer shall be exceeded if the lot size is large enough to allow such a site design and the larger buffer zone conforms to the neighborhood pattern; if

no native vegetation exists within this zone, there is no requirement to replant with this material.

b. For 4:1 slopes or greater (e.g., code standard or shallower slope) from the residence to the delineated wetland, a stormwater detention swale, a minimum of 12 inches in depth, shall be provided in the buffer zone and run along the entire width of the existing lot.

c. For less than 4:1 slopes (e.g., steeper slope than code standard) from the residence to the delineated wetland, a stormwater detention berm, a minimum of 16 inches high, shall be provided in the buffer zone and run along the entire width of the existing lot and extend up the sides of the lots for at least one-third its depth.

d. For lots with existing native vegetation in the buffer zone, a berm or swale, as required, shall be provided upland and outside this zone.

6. The requirements for a swale as required in section 4.3.A.5. is waived where:

a. There is a minimum buffer zone of 50 feet and 4:1 slopes or greater (e.g., code standard or shallower slope) from the residence to the delineated wetland.

7. The setback of a minimum of ten feet from the wetlands buffer zone may be reduced or eliminated by the County Administrator where:

a. The lot is a single-family residential lot of record so existing on February 20, 1990; and

b. The lot has a total upland area of no more than 21,780 square feet; and

c. The required wetland buffer area was disturbed or cleared of native vegetation prior to April 1, 1982, to the extent that the provision of a setback to the buffer protection zone would serve no practical purpose.

8. For hardened and unhardened shorelines, protection of adjacent water quality through stormwater control shall be required for all reduced buffers as set forth in section 4.3.A.5., or as otherwise required by the County Administrator.

9. Although a reduction in the wetland buffer may be authorized by section 4.3.A., and compliance with structure setbacks established in table 3.12.2, LDR, is required. In addition, to protect existing view corridors on adjacent waterfront properties, new principal structures on lots with delineated wetlands shall maintain a setback from the property line equal to or greater than the average setback of the nearest principal residences on adjacent lots. The average setback of the nearest principal residences on adjacent lots shall be determined by measuring from the point of each of the existing principal residences nearest to property line.

4.3.B. *Waivers for access.* It is not the intent of this section (4.3.) that this subsection B. be used in conjunction with a division of a lot of record into more than one lot. The provisions of this division may be waived for access purposes only under the following circumstances:

1. *Access to uplands.* A waiver may be granted where the owner of the property demonstrates that encroachment of wetlands or wetland buffers is necessary for access to an upland area and no reasonable upland alternative exists. An exception or waiver shall be granted only when appropriate environmental agencies, including the Martin County Soil and Water Conservation District or the Growth Management Department, certify in writing that (i) the encroachment is the least damaging alternative, and (ii) the encroachment is the minimum encroachment capable of providing the required access, and (iii) the applicant submits an acceptable proposal for mitigation which will minimize damage to wetlands or buffers.

4.3.C. *Bridges in public rights-of-way.*

1. An exception from these regulations may be granted for proposed or approved bridges in a public right-of-way crossing estuarine waters or surface waters of the State, so that public access may be maintained in accordance with the provisions in policy 9.1G.2.(7)(f) of the

Comprehensive Plan. For proposed bridges within public rights-of-ways crossing estuarine waters or surface waters of the state, public access shall be allowed by clearing that portion of the affected wetland vegetation so long as a revegetation and management plan is reviewed, adopted and implemented in accordance with applicable State regulations. The County Administrator shall approve a request for access under this subsection C. only after receiving a satisfactory plan of the proposed development which shall demonstrate the need for access and shall designate the property boundaries to scale (including the limits of the Shoreline Protection Zone). The plan shall also demonstrate the reason for the development and other information as may be required by the Code of Ordinances, the Comprehensive Plan, and the LDR. The decision of the County Administrator may be appealed to the Board of County Commissioners.

2. If no feasible alternative exists, transportation facilities may traverse isolated wetlands and or wetland buffers. Design techniques, including, but not limited to, box culverts or piling support bridges, should be used to minimize wetland impacts. An exception or waiver shall be granted only when appropriate environmental agencies, including the Martin County Soil and Water Conservation District or the Growth Management Department, certify in writing that (i) the encroachment is the least damaging alternative, and (ii) the encroachment is the minimum encroachment capable of providing the required access, and (iii) the applicant submits an acceptable proposal for mitigation which will minimize damage to wetlands or buffers and ensures there is no net loss of functions or spatial extent of wetlands in Martin County.

4.3.D. *Waivers and exceptions for public utilities.* An exception from these regulations may be granted where the applicant demonstrates that encroachment of wetlands, or wetland buffers, as defined in this Land Development Regulation, is necessary for the construction and/or maintenance of a public utility, as defined in F.S. § 366.02, subject to the following conditions:

1. The construction or maintenance activity is for a linear facility that cannot be accomplished without wetland impacts;
2. The utility has demonstrated that the encroachment is necessary and that no reasonable upland alternative exists;
3. The activity is designed and located in such a manner that the least amount of damage to the wetlands is assured;
4. The applicant has submitted a proposal for reforestation and/or mitigation, to offset the impact;
5. Permits have been received from the appropriate State and Federal environmental agencies and copies of those permits have been submitted to Martin County, prior to issuance of the County permit;
6. The Martin Soil and Water Conservation District or the Growth Management Department has reviewed the application and has determined in writing that the proposed encroachment is the least damaging alternative;
7. The applicant has provided proof of ownership or easement over the property to be encroached;
8. A plan has been approved by the Growth Management Department for the removal of undesirable exotic vegetation as part of the restoration and/or mitigation proposed in subparagraph 4., above;
9. The applicant has demonstrated that the construction and/or maintenance activity will maximize the preservation of native indigenous vegetation; and
10. The utility demonstrates that, should fill be required, the minimum necessary is used to assure reasonable access to the property or construction activity.

4.3.E. *Waivers for access to navigable water not otherwise described in section 4.3.* It is not the intent of this section (4.3.) that this subsection E. be used in conjunction with a division of a lot of record into more than one lot.

1. The following exceptions from these regulations may be granted when a plan for elevated observation boardwalks and single-family residential docks, multislip docks, boat ramps and commercial docks has been designed and located in such a manner that the least amount of damage to the wetland and wetland buffer is assured; and has been approved by the County Administrator, as meeting all criteria of the Coastal Management and Conservation and Open Space Elements; and has been approved by the appropriate State and Federal agencies. The following regulations shall not be applicable to the Shoreline Protection Zone unless delineated as wetlands. A variance to the following dimensions shall be permitted to the extent necessary to achieve compliance with the Florida Americans with Disabilities Accessibility Implementation Act.

   a. A single-family residential lot may be allowed one single elevated dock, not to exceed six feet in width.

   b. A final site plan for single-family residential lots or multifamily residential units may be approved with one single elevated multislip dock, not to exceed six feet in width.

   c. A nonresidential final site plan on lands with a Commercial Waterfront future land use designation may be approved with an elevated multislip dock, not to exceed 12 feet in width. or multiple elevated walkways, not to exceed the combined width of 12 feet.

   d. As an alternative to subsection c. above, a nonresidential final site plan on lands with a Commercial Waterfront future land use designation may be approved with a boat ramp, travel lift basin or other boat launch facility, not to exceed 30 feet in width. The access must be approved by the County Administrator and provide a public benefit. Where vehicle turnaround and maneuver are needed, the area of alteration shall likewise be limited to 30 feet in width as with the approach road, but they may be designed to be contiguous with the accessway. Said access shall comply with all applicable State and Federal regulations. Boat entry and retrieval facilities shall be allowed.

   e. A nonresidential final site plan on lands with an Institutional Recreational future land use designation may be approved for a single elevated dock, not to exceed 12 feet in width, or multiple elevated docks, not to exceed the combined width of 12 feet. Due to the public benefit derived from public boat launch facilities, a public boat launch facility, not to exceed 30 feet in width, may be approved in addition to the 12 feet of elevated walkway.

4.3.F. *Clearing for access under this section.* The County Administrator shall approve any request for clearing under this section 4.3 only after receiving a satisfactory plan of the proposed development which shall demonstrate the need for access and shall designate the boundaries to scale (including the limits of the Shoreline Protection Zone). The plan shall also demonstrate the reason for the development and other information as may be required by the Martin County Code of Ordinances, the Comprehensive Plan and the LDR . The decision of the County Administrator may be appealed to the Board of County Commissioners. The Board of County Commissioners may approve the subject request upon a finding of compliance with this division.

4.3.G. *Maintenance.* The maintenance of existing legal uses, if done in accordance with this division, shall not be considered a violation of the requirements of this division. Maintenance shall not include fill and shall be done so as to create minimal impacts to wetlands and buffers.

4.3.H. *Shoreline stabilization.* No new construction shall threaten the stability of the estuarine system. Decisions regarding shoreline stabilization shall be coordinated to protect adjacent properties and to protect the values and functions of wetlands, spoil islands and submerged lands throughout the estuary and its tributaries.

1. Shoreline stabilization shall be accomplished by the establishment of appropriate native wetland and/or transitional upland vegetation. Native vegetation shall be compatible with elevations and proximity to the mean high water line.

2. In the event shoreline stabilization methods are proposed to impact a wetland delineated within estuarine waters, a field determination shall be made to verify erosion is causing a serious (significant) threat to life or property. Application materials must demonstrate that erosion is causing a serious (significant) threat pursuant to criteria described in section 4.5.C.7. and 8.

3. If the County Administrator determines erosion is causing a serious (significant) threat to life or property, section 4.3.I., elimination of all reasonable use, shall be utilized to identify a means to minimize impacts to a delineated wetland and prevent erosion causing a serious (significant) threat to life or property.

4. In all cases where shoreline hardening is allowed, revegetation with native shoreline vegetation appropriate to tidal and upland sections of the shoreline shall be required as an integral part of the project. The revegetation plan shall provide a minimum of 25 percent of the hardened shoreline to be planted with red, white or black mangroves spaced two feet on center where technically feasible. Such vegetation shall be protected and maintained in accordance with a preserve area management plan approved by the County Administrator. This requirement is intended to provide scenic buffering along the waterway and to improve and/or maintain the biological functions of the shoreline protection and upland transition zone.

4.3.I. *Elimination of all reasonable use.* Any provision of this division that precludes all reasonable economically viable use of the property and which if applied would result in a taking of the property may be waived to the extent necessary to provide the minimum reasonable use based on the following:

1. One single-family home shall be allowed on residential lots of record established as of April 1, 1982, which are vested under the Comprehensive Plan where there is insufficient upland property to make any reasonable use of the land, provided that (i) access shall be through the area of the lot which is the least damaging to the wetlands and in accordance with the criteria contained in section 4.3.B.1., (ii) fill shall be the minimum necessary to accommodate the home, (iii) stem wall or piling design shall be used whenever possible, (iv) the footprint of the home (which shall also include the first floor of a home constructed on pilings) is no greater than 3,000 square feet, including accessory uses if the footprint must encroach into a wetland, and (v) all other development regulations are satisfied.

   a. For purposes of this subsection 4.3.I.1., the lot of record shall be a lot in single ownership, and contiguous lots owned or controlled by the same person or entity which can be used for a common use shall be considered as one lot.

   b. For purposes of this subsection 4.3.I.1., the hardship shall not be self-imposed, such as by transferring contiguous property that could have been utilized.

   c. For purposes of this subsection 4.3.I.1., pervious driveways and sidewalks required for access to and egress from the proposed structure and the area required for septic system placement shall not be included in the 3,000 square foot calculation of the house footprint.

   d. On sites where municipal sewer service is not available and insufficient upland area exists to place a septic system wetland impacts will be allowed in order to site a septic system and a house. A minimum 50 feet between the septic system and preserved wetlands shall be maintained. All other requirements for on-site sewage disposal systems must be met.

2. The provisions of this division may be waived with respect to nonresidential lots of record established as of April 1, 1982, which are vested under the Comprehensive Plan, but only to the extent necessary to allow for the minimum reasonable use. Fill shall be the minimum necessary to provide for minimum reasonable use.

   a. For purposes of this subsection 4.3.I.2., the lot of record shall be a lot in single ownership, and contiguous lots owned or controlled by the same person or entity which can be used for a common use shall be considered as one lot.

b. For purposes of this subsection 4.3.I.2., the hardship shall not be self-imposed, such as by transferring contiguous property that could have been utilized.

3. For lots of record created in accordance with Martin County ordinances and regulations after April 1, 1982, and prior to December 15, 1998 (the effective date of Ordinance No. 537), the provisions of this division may be reduced or waived but only to the extent necessary to allow for the minimum reasonable use. Fill shall be the minimum necessary to provide for minimum reasonable use.

   a. For purposes of this subsection 4.3.I.3., the lot of record shall be a lot in single ownership, and contiguous lots owned or controlled by the same person or entity which can be used for a common use shall be considered as one lot.

   b. For purposes of this subsection 4.3.I.3., the hardship shall not be self-imposed, such as by transferring contiguous property that could have been utilized.

4. *Procedure for obtaining waivers under this subsection 4.3.I.* Upon a showing that the application of the wetland regulations in this division would preclude all economically viable reasonable use, the County Administrator may approve a waiver or exception provided in section 4.3.I.1. Applications for waivers and exceptions under sections 4.3.I.2. and 4.3.I.3. shall be decided by the Board of County Commissioners and shall be processed in accordance with the following procedure:

   a. An applicant shall file an application for waiver or exception with the County Administrator. The application shall include:

      (1) The name of the present owner of the property and the name of the owner from which the present owner took title.

      (2) The date upon which the present owner took title to the property.

      (3) The relationship of the present owner to prior owners if the present owner is a successor in interest.

      (4) The purchase price paid for the property, and any other investments made in the property by the owner.

      (5) The history of land zoning and land uses of the property, and the history of the development of the property.

      (6) Proof that the lot is a lot of record for purposes of the waiver or exception subsection relied upon by the applicant. Proof may be a plat, a deed, or another title record that demonstrates that the lot satisfies the lot of record requirement.

      (7) The record owners of all properties contiguous to the applicant's lot, and the date the properties were last conveyed.

      (8) A complete description of the use (indicating activity, scale, and intensity) that the applicant believes is the minimum reasonable economically viable use.

   b. The applicant shall include in the application a site plan showing all of the proposed development for the lot. The applicant's plan shall show that the applicant has considered and used flexible and innovative design techniques to accommodate the project with minimum effect on the wetland protection measures intended by this division.

   c. The applicant shall establish by clear, substantial competent evidence that the application of the regulations in this division preclude all reasonable economically viable use of the property. The applicant shall further establish by clear, substantial competent evidence that the use and project proposed by the applicant for the lot is the minimum use that can be made of the lot.

d. The Board of County Commissioners will make its decision on the basis of the facts of the particular case presented by the application. To grant the application, the Board of County Commissioners must find that the owner of the lot will be denied all beneficial use of the property (as such is described in controlling Federal and State case law), considering the impact of the application of the regulations and the extent to which application of the regulations interferes with the owner's investment backed expectations. Among the factors to be considered are: the history of the property, the history of development, the history of zoning and land use regulation on the property, changes in development when or if title passed, the nature and extent of the property, the developability of the property with and without the application of the regulations, the reasonable expectations of the owner, any diminution of the owner's investment backed expectations, and the minimum development necessary to prevent a taking of the property under Federal and State takings law. The Board of County Commissioners shall make a specific factual finding on each of the above factors and any other factors considered by the board if it approves the application.

e. Proceedings under section 4.3.I.4. shall be the only proceedings available under the Code of Ordinances or LDR for waivers and exceptions to wetland rules based on elimination of all reasonable use.

4.3.J. *Stormwater treatment projects* . Those projects listed in the adopted Capital Improvements Plan and constructed by the Martin County Board of County Commissioners, as well as reservoirs, stormwater treatment areas and related facilities constructed as part of the Comprehensive Everglades Restoration Plan in any part of Martin County may be done, subject to the following:

1. The project must be designed to cause the least amount of negative impact to wetlands. Waivers to existing requirements will be based on the principle of protecting the highest quality of habitat and impacting the lowest quality habitat. Following are example habitats ranked from lowest to highest in quality and importance:

   a. Wetland buffers degraded with exotic vegetation;

   b. Wetland buffers, undisturbed;

   c. Wetlands isolated and degraded;

   d. Wetland systems, large and disturbed;

   e. Wetland systems, large and undisturbed.

   f. Wetland quality will be assessed using criteria established by the State of Florida.

2. All projects must follow all State and Federal regulations and permitting requirements.

3. Waivers to the Comprehensive Plan policies or the LDR will not be granted that would jeopardize the continued existence of threatened or endangered species as listed by the Florida Fish and Wildlife Conservation Commission or the U.S. Fish and Wildlife Service.

4.3.K. *Public facility capital improvement projects.* Notwithstanding provisions of the Comprehensive Plan concerning concurrency with Level of Service requirements or adverse impacts to wetland or upland habitat, the Board of County Commissioners may approve the location and construction of a public facility capital improvement upon their determination that the following are met:

1. The facility is listed in the adopted Capital Improvements Plan.

2. The site for the proposed public facility capital improvement is within the Primary or Secondary Urban Services District.

3. The facility site has been evaluated based on the following criteria:

   a. Project-specific requirements including location within facility service area, minimum facility size requirements, co-location with existing facilities, facility siting or design requirements, operational requirements and state or Federal funding and regulatory requirements;

b. Impact on environmental resources and the ability to mitigate negative impacts;

c. Future land use designation and zoning district; and

d. Relative cost of alternative sites including the cost of mitigating or restoring natural resources.

4. The design and layout of the proposed facility is the least disruptive to wetland and upland habitats.

5. Where negative impacts to wetland and upland habitats cannot be avoided, such impacts shall be minimized and mitigated in accordance with State and Federal permitting requirements.

Impacts to lower quality habitat shall be considered before impacts to higher quality habitat. Below are example habitats ranked from lowest to highest in quality and importance:

a. Common upland habitat impacted by exotic vegetation;

b. Common upland habitat, undisturbed;

c. Wetland buffers degraded with exotic vegetation;

d. Wetland buffers, undisturbed;

e. Wetlands, isolated and degraded;

f. Wetland systems, large and disturbed;

g. Wetland systems, large and undisturbed.

Wetland quality will be assessed using criteria established by the State of Florida.

6. The construction of the proposed facility shall not jeopardize the continued existence of threatened or endangered species as listed by the Florida Fish and Wildlife Conservation Commission or the U.S. Fish and Wildlife Service.

7. The design and construction of the proposed facilities complies with:

a. All State and Federal regulations and permitting requirements;

b. Comprehensive Plan policies in Objective 16.5F. regarding the protection of historical resources;

c. Comprehensive Plan policies in Objective 8.2A. regarding the location of public facilities within the Coastal High Hazard Area of the County;

d. Comprehensive Plan policy 9.1G.7 of the Comprehensive Plan concerning the protection of endangered, unique or rare upland habitat; and

e. Compliance with policy 9.1G.3 of the Comprehensive Plan concerning the protection of wetlands of special concern.

8. The facility site has been selected as part of a review of alternative sites and, based on the criteria listed above, has been found to be the site most appropriate for the facility.

(Ord. No. 903. pt. 1(Exh. A), 12-13-2011)

Sec. 4.4. Shoreline protection.

4.4.A. *General.* The County shall enforce shoreline performance standards in review of estuarine development proposals. Martin County shall protect the estuarine rivers and the shoreline in order to protect the stability of the estuary, enhance water quality and preserve shoreline mangrove

communities, where they are not otherwise protected as wetlands under sections 4.1., 4.2., 4.3., 4.6., and 4.7.

1. *Shoreline protection zone* . The Shoreline Protection Zone includes that portion of shoreline extending 75 feet laterally upland from the mean high water of the estuarine waters and surface waters of the state and shall be referred to as the landward extent of the Shoreline Protection Zone.

2. *Existing development* . Any permitted uses located within the landward extent of the Shoreline Protection Zone may be maintained subject to appropriate permits.

3. *Shoreline uses* . Except as provided in section 4.4 and section 4.5., no structure shall be permitted within the Shoreline Protection Zone, Structures within the Shoreline Protection Zone shall be limited to docks, bridges in the public right-of-way (waterward of the mangrove line) and elevated walkways, limited to those necessary for the use and enjoyment of the shoreline property owner and County-approved public utilities. Elevated walkways that cross over navigable surface waters of the state shall be reviewed by the Board of County Commissioners for compliance with the Comprehensive Plan.

4. *Proposed development* . The landward extent of the Shoreline Protection Zone shall be designated as a Preserve Area, provided it meets the minimum upland preserve area width requirement and thus extends 50 feet upland from the mean high water line. Areas not meeting the minimum preserve area width shall not require a management plan but will be sloped, revegetated and maintained free of invasive exotic vegetation to prevent the need for shoreline hardening.

5. *Shoreline performance standards* .

    a. *Mangroves.* The Shoreline Protection Zone mangroves shall include mangrove communities containing red (Rhizophora mangle) and black (Avicennia germinans) mangroves. White (Laguncularia racemosa) and Buttonwood mangroves (Conocarpus erectus) may be included in the Shoreline Protection Zone if they are integrally tied to the estuarine environmental system. Any mangrove or wetland vegetative communities that are isolated inland, separated from estuarine waters by non-wetland natural vegetation communities, and outside the Shoreline Protection Zone, shall be preserved and protected in accordance with the provisions of sections 4.2.A. through J.

    The existence of a narrow band of Australian Pine or other berm vegetation such as those created by mosquito impoundment dikes shall not constitute "isolation" as used above. This standard shall not be interpreted as allowing destruction of non-mangrove wetlands landward of the area protected by this standard when such wetlands are protected in accordance with the provisions of sections 4.2.A. through J.

    Areas of the Shoreline Protection Zone that have been voluntarily altered after the effective date of the Comprehensive Plan (adopted 1982) by planting wetland vegetation, including mangroves, shall be exempt from additional setbacks from such plantings. Such alterations must be documented; and must not have been required for remedial purposes or as part of any prior development approval.

    Exotic vegetation may be removed or appropriate native vegetation may be planted when approved in writing by the County Administrator.

    b. *Vegetation removal.* The removal of natural vegetation and exotic invasive vegetation from the Shoreline Protection Zone shall be governed by the following regulations:

        (1) Clearing or direct removal of vegetation shall not occur except in compliance with an approved preserve area management plan, an exotic vegetation removal permit or, in

compliance with those minimal activities permitted for riparian usage (e.g., docks and walkways), pursuant to sections 4.4.A.3. and 4.5.

(2) All materials that are cleared from the Shoreline Protection Zone, including exotic invasive vegetation debris, shall be removed from the site and shall not be piled or stored within the Shoreline Protection Zone or designated upland preserve areas.

(3) Removal of exotic invasive vegetation shall be conducted in compliance with a Preserve Area Management Plan (PAMP) approved by the County Administrator.

(4) Exotic vegetation must be regularly removed from all preserve areas including the Shoreline Protection Zone by the least damaging means.

(5) Planting of exotic vegetation or incompatible native vegetation shall not occur within or encroach upon the Shoreline Protection Zone. Any proposed plantings shall consist of native vegetation which is compatible with existing native plant communities, soils, and climatic conditions, and must be approved in writing by the County Administrator.

c. *Replanting.* Areas of the Shoreline Protection Zone that are devoid of existing, natural associations of native vegetation shall be planted with, or supplemented by, appropriate native vegetation sufficient to create a self-contained plant community capable of functioning as natural habitat. When supplemental plantings are necessary, a planting plan for the Shoreline Protection Zone shall be prepared as an attachment to the PAMP. The planting plan must include the following:

(1) A planting area map will be prepared showing the extent of proposed plantings together with local soil information.

(2) Construction drawings of the replanting areas showing any proposed alteration to topographic contours.

(3) A topographic map showing various elevation contours to be planted and the plant species appropriate to each contour.

(4) Monitoring reports detailing the progress of the supplemental planting plan will be submitted within six months after planting.

(5) Schedule and details of replanting including the type of construction and measures to minimize impacts to the adjacent wetland buffer, water management and other irrigation practices that will be used until the vegetation has been established.

(6) The Planting Plan and required monitoring report must document that planting density (on the planting area map) shall be sufficient to provide approximately 80 percent vegetative ground cover in the first year.

(7) Information provided (in the monitoring report) must be adequate to determine that planted species have survived in sufficient number and health as needed to reasonably meet cover requirements in the above. The Environmental Monitoring Report Guidelines developed by the South Florida Water Management District may be used as a reporting template.

(8) Replanting of portions or all of the affected area will be required if the cover requirements are not met within the first year.

(9) Planting shall be complete prior to the approval of the first Certificate of Occupancy in a Minor or Major site plan. Planting shall be complete prior to the final inspection of an excavation and fill permit.

(10) A bond for 100 percent of the planting cost shall be required for a period of two years from the first Certificate of Occupancy in a Minor or Major site plan or final inspection of an excavation and fill permit.

d. *Filling in the Shoreline Protection Zone.*

(1) No wetlands shall be filled and there shall be no adverse impacts to the estuary, mangrove and/or other wetland communities.

(2) Preservation and/or revegetation of native indigenous vegetation shall be maximized.

(3) Fill shall be the minimum necessary to assure that the owner is not denied reasonable use of the property.

e. *Construction within the Shoreline Protection Zone.* No alteration or construction shall be allowed within the Shoreline Protection Zone except as specifically provided below and in section 4.5, waivers and exceptions.

(1) The structure and foundation of docks shall be designed to accommodate surface water flows and shall not be designed to impede, interrupt or impound surface water flows. Public and private dock structures shall be consistent with the Comprehensive Plan. Marina development shall be consistent with the Boat Facilities Siting Plan, Manatee Protection Plan and marina siting section of the Comprehensive Plan.

(2) Routine maintenance of existing structures shall be permitted, but shall be performed in the least intrusive manner possible and shall not result in additional damage to natural vegetation in the Shoreline Protection Zone.

(3) All pilings shall be secured, placed or set to the desired depth by the least disruptive method based on existing site characteristics.

(4) Boardwalks shall be designed to minimize natural vegetation disruption while allowing access for wildlife and water viewing.

(5) The use of heavy equipment shall be minimized in the Shoreline Protection Zone.

f. *Waste disposal.* Disposal of wastes in and around the Shoreline Protection Zone shall be governed by the following regulations:

(1) The discharge of domestic, industrial, leachate, or agricultural wastewater containing heavy metals, herbicides, pesticides or any other toxic substance(s) in excess of concentrations established by State and Federal and County guidelines into the waterways shall be prohibited.

(2) Sludge, sewage and septic systems which are adjacent to the Shoreline Protection Zone shall be set back in accordance with section 4.4.A.1.

(3) The disposal of hazardous material in designated areas shall not occur within 300 feet of the Shoreline Protection Zone.

g. *Stormwater and surface water management.* Stormwater and surface water management in and around the Shoreline Protection Zone shall be governed by the following regulations:

(1) Direct discharge of stormwater into the Shoreline Protection Zone shall be prohibited. Stormwater must be provided retention and/or detention water quality treatment prior to being discharged. Stormwater retention and/or detention basins shall be used to maintain post-development discharges at predevelopment levels.

[a] Stormwater retention basins and outfall structures shall be designed to assure that the water quality, rate of runoff and seasonal runoff volumes are equal to natural conditions. Timing and volume of water discharge shall be appropriate to restore and/or maintain the natural conditions.

[b] Retention and/or detention basins shall be designed and constructed with sediment traps and litter or trash screens. The retention and/or detention basins

shall be vegetated, and the use of herbicides and pesticides within the retention and/or detention basin for vegetation and insect control shall be discouraged.

h. *Protection of the Shoreline Protection Zone.* Shoreline Protection Zones and any other designated upland preserve areas shall be protected from encroachment due to construction and/or building maintenance activities. Erosion control devices shall be installed and maintained throughout the duration of any construction activities adjacent to the Shoreline Protection Zone.

(1) New construction proposed for areas adjacent to the Shoreline Protection Zone shall be set back a minimum of ten feet (or greater if warranted by specific site conditions) for primary structures. Minimum setbacks for accessory structures (pool decks, screen enclosures, driveways, etc.) shall be five feet. This setback is unrelated to setbacks associated with specific zoning districts.

4.4.B. *Prohibition of canals.* Martin County shall prohibit construction of navigable canals. Canals have been shown to have a variety of negative impacts on the estuary.

4.4.C. *Proposed alterations to natural flushing patterns and circulation of estuarine waters.* Any proposed alteration shall not permit significant alteration of tidal flushing and circulation patterns by development without demonstrated proof by the applicant that such alteration will not have a negative impact on the natural environment. The phrase "significant alteration of tidal flushing and circulation patterns" is defined as an alteration that would:

1. Reduce water quality.
2. Cause erosion.
3. Reduce nutrient input into estuarine system (mangrove detrital matter).
4. Cause potential for saltwater intrusion into groundwater.
5. Cause siltation or shoaling.
6. Prevent or restrict tidal flushing.

4.4.D. *Boat facilities siting plan.* All development orders regarding boat facilities (including commercial marinas and all boat ramps) and all development of boat facilities shall be consistent with the Boat Facilities Siting Plan incorporated into the Comprehensive Plan.

(Ord. No. 903. pt. 1(Exh. A), 12-13-2011)

Sec. 4.5. Waivers and exceptions to the shoreline protection zone.

The following waivers and exceptions are only applicable to section 4.4., shoreline protection. The following waivers and exceptions are not applicable to lands delineated wetlands or wetland buffers.

4.5.A. *Waivers for certain lots of record.* The Shoreline Protection Zone and setbacks may be altered on certain lots of record to provide reasonable use of such lots of record under the following circumstances. It is not the intent of this section (4.5.) that this subsection A. be used in conjunction with a division of a lot of record into more than one lot.

1. Single-family residential lots of record on plats approved between April 1, 1982, and December 15, 1998, may be developed in accordance with the Shoreline Protection Zone (setback, and performance criteria) in effect at the time that the plat was approved.
2. For lots of record so existing on April 1, 1982, with an upland area of one acre or less, the landward extent of the Shoreline Protection Zone shall be reduced to 25 feet. No waiver

application needs to be submitted however, all shoreline performance standards remain applicable and a berm or swale described in section 4.5.A.3., shall be required.

3. Any residential lot of record so existing on April 1, 1982, that abuts the estuaries or their navigable tributaries may reduce the landward extend of the Shoreline Protection Zone to 20 feet landward of the mean high water line, provided that:

   a. Existing native upland and transitional vegetation adjacent to the mean high water line shall be maintained and the 20-foot Shoreline Protection Zone shall be exceeded if the lot size is large enough to allow such a site design and the larger Shoreline Protection Zone conforms to the neighborhood pattern; if no native vegetation exists within this zone, there is no requirement to replant with this material.

   b. For 4:1 slopes or greater (e.g., code standard or shallower slope) from the residence to the bulkhead, a stormwater detention swale, a minimum of 12 inches in depth, shall be provided in the Shoreline Protection Zone and run along the entire width of the existing lot.

   c. For less than 4:1 slopes (e.g., steeper slope than code standard) from the residence to the bulkhead, a stormwater detention berm, a minimum of 16 inches high, shall be provided in the Shoreline Protection Zone and run along the entire width of the existing lot and extend up the sides of the lots for at least one-third its depth.

   d. For lots with existing native vegetation in the Shoreline Protection Zone, a berm or swale, as required, shall be provided upland and outside this zone.

4. The requirement for a swale as described in section 4.5.A.3. is waived where:

   a. There is a minimum Shoreline Protection Zone of 50 feet and 4:1 slopes or greater (e.g., code standard or shallower slope) from the residence to mean high water.

5. For legal, single-family, residential lots of record as of April 1, 1982, that have hardened shorelines, the Shoreline Protection Zone may be reduced to a minimum of 15 feet by the County Administrator upon a determination that special and unique circumstances exist, which have created a hardship for the property owner. However, all shoreline performance standards remain applicable and a berm or swale described in section 4.5.A.3. shall be required.

6. For single-family lots of record as defined by the Comprehensive Plan, construction setbacks (from the Shoreline Protection Zone) for both primary and accessory structures may be reduced to less than ten feet, but not less than five feet, provided:

   a. Setbacks on existing adjacent developed lots are similar;

   b. The Shoreline Protection Zone or other designated upland preserve area can be protected from encroachment;

   c. The lot cannot be developed with the setback criteria in section 4.4.A.5.h.(1); and

   d. The County Administrator determines that the lot was essentially devoid of vegetation in the preserve area on the date of the adoption of this plan and no purpose would be served by requiring a ten-foot setback rather than a five-foot setback.

4.5.B. *[Hardened and unhardened shorelines.]*

1. *Hardened shorelines.* The minimum shoreline protection for properties, including Community Development Area properties with legally hardened shorelines (i.e., seawalls, riprap, retaining walls, or interlocking bricks) that do not contain a predominance of native vegetation or upland vegetation shall be 20 feet from mean high water.

2. *Unhardened manmade shorelines.* The minimum shoreline protection for properties with legally constructed, unhardened shorelines (i.e., within manmade canals and basins) as of April 1, 1982, that do not contain a predominance of native wetland or upland vegetation shall be 25

feet from mean high water. The first 20 feet from mean high water shall be restored with native vegetation to provide shoreline stabilization.

3. *[Water quality protection.]* For hardened and unhardened shorelines, protection of adjacent water quality through stormwater control shall be required for all reduced Shoreline Protection Zones as set forth in section 4.5.A.3., or as otherwise required by the County Administrator.

4. *[Structure setbacks.]* Although a reduction in the Shoreline Protection Zone may be authorized by sections 4.5.A. and 4.5.B., compliance with structure setbacks established in table 3.12.2, LDR, is required. In addition, to protect existing view corridors on adjacent waterfront properties, new principal structures on lots with hardened or unhardened shorelines shall maintain a setback from mean high water equal to or greater than the average setback of the nearest principal residences on adjacent lots. The average setback of the nearest principal residences on adjacent lots shall be determined by measuring from the point of each of the existing principal residences nearest to mean high water.

4.5.C. *Shoreline stabilization.* No new construction shall threaten the stability of the estuarine system. Decisions regarding shoreline stabilization shall be coordinated to protect adjacent properties and to protect the values and functions of wetlands, spoil islands and submerged lands throughout the estuary and its tributaries. Section 4.5.B. shall not be applicable to the Atlantic Coast on the east side of Hutchinson Island or the east side of Jupiter Island within unincorporated Martin County. Sections 4.5.C.1., 2., and 3. shall not require a determination that erosion is causing a serious (significant) threat to life or property.

1. Shoreline stabilization shall be accomplished by the establishment of appropriate native wetland and/or transitional upland vegetation in the landward extent of the Shoreline Protection Zone. Native vegetation shall be compatible with elevations and proximity to the mean high water line.

2. Retaining walls for primary or accessory structures may be placed at the upland edge of the Shoreline Protection Zone on residential lots of record so existing on April 1, 1982, if slopes are maintained and the Shoreline Protection Zone is replanted in native vegetation compatible with elevations and proximity to water; and provided that all zoning district setback criteria are met.

3. Vertical seawalls may be allowed under the following circumstances:

   a. The lot is a residential lot of record so existing on April 1, 1982; and

   b. The lot fronts on a manmade canal created prior to April 1, 1982; and

   c. Seventy-five percent or more of the canal lots of the subdivision or plat have permitted bulkheads or vertical seawalls existing as of January 1, 2000; and

   d. The lot is undeveloped as of January 1, 2000.

4. In the event section 4.5.C.3., above, is not applicable, structural methods may be permitted when erosion is causing a serious (significant) threat to life or property. Methods described in subsection a., below, may be used when erosion is caused by stormwater runoff carrying soils into the Shoreline Protection Zone. Methods described in subsections b. and c., below, may be used when erosion is caused by wave action.

   a. Retaining walls shall be permitted within the landward extent of the Shoreline Protection Zone for the construction of primary or accessory structures provided:

      (1) Retaining walls shall be located landward from the mean high water to permit planting of appropriate native vegetation waterward of the retaining wall; and

      (2) The area between the retaining wall and the primary or accessory structures includes the use of a berm or swale pursuant to section 4.5.A.3.b. or c.; and

(3) The slope of the land, waterward of the retaining wall, is (as determined by the County Administrator) shallow enough to support a natural variety of native vegetation; and

(4) The proposal for a retaining wall includes a planting plan of native vegetation waterward of the retaining wall. Native vegetation shall be compatible with elevations and proximity to the mean high water line.

b. Riprap materials, pervious interlocking brick systems, filter mats and other stabilization systems shall be permitted within the landward extent of the Shoreline Protection Zone provided:

(1) Native plant revegetation shall be used in combination with riprap materials, pervious interlocking brick systems, filter mats and other stabilization systems; and

(2) The County Administrator shall determine that significant erosion exists due to hydrological activity in the waterway and that a less intense method will fail to prevent erosion.

(3) The area landward of the vertical seawall includes the use of a berm or swale pursuant to section 4.5.A.3.b. or c.

c. Seawalls may be allowed to stabilize or harden a shoreline provided:

(1) The County Administrator determines that significant erosion exists due to hydrological activity in the waterway and that no other protection method is suitable to the specific and unique conditions of the site. An example would be a significantly eroding shoreline which drops so sharply that no suitable bank exists for the placement of native plants, riprap materials or other materials used in other similar stabilization methods.

(2) The lack of any suitable alternative to the use of vertical seawalls must be field checked, reviewed and verified by the County Administrator prior to issuance of a building permit for construction of vertical seawalls.

(3) Vertical seawalls shall be located landward of the mean high water line, whenever practicable, to permit the planting of native vegetation pursuant to policy 8.1C.2.(7), Comprehensive Plan.

(4) The area landward of the vertical seawall includes the use of a berm or swale pursuant to section 4.5.A.3.b. or c.

(5) Where practicable, riprap materials shall be installed waterward of the vertical seawall.

5. Replacement of existing, legally permitted shoreline hardening structures.

a. Existing structures may be repaired or replaced with a similar structure. For example, existing riprap may be replaced with riprap. An existing seawall may be replaced with a similar seawall. All replacement structures shall include the use of a berm or swale pursuant to section 4.5.A.3.b. or c.

b. Replacement of riprap or a seawall shall occur in the same location as the existing shoreline hardening. The water side of a new vertical seawall (cap and wall face) shall not be located more than 12 inches from the water side of an existing seawall (cap and wall face).

6. Additional shoreline hardening requirements applicable to all riprap and seawall applications:

a. No shoreline hardening system, new or replacement, shall cause the erosion of abutting properties to be accelerated by the establishment of the applicant's riprap or seawall. It shall be the responsibility of the property owner who has constructed the riprap or seawall

to remediate such accelerated erosion activity on adjoining properties and the applicant shall be required to state such responsibility on the approved plans.

b. All shoreline hardening, new or replacement shall include revegetation pursuant to policy 8.1C.2.(7), Comprehensive Plan. Such vegetation shall be protected and maintained in accordance with a preserve area management plan approved by the County Administrator. This requirement is intended to provide scenic buffering along the waterway and to improve and/or maintain the biological functions of the Shoreline Protection Zone.

7. The following minimum criteria shall be used by the County Administrator to assess each application for shoreline hardening to determine that erosion is causing a serious (significant) threat to life or property:

a. Increasing, destructive loss of native vegetation, which results in a documented accelerated shoreline loss. The burden of proof shall be the responsibility of the applicant; or

b. Existing shoreline protection trends as established within the immediate area where the shoreline protection measure is proposed shall be considered if:

(1) The parcel proposed for shoreline hardening is immediately adjacent to and between existing, riprap, or seawalled lots on either side of the subject parcel; or

(2) The parcel is located along a canal where more than 75 percent of the canal has riprap or vertical walls; or

(3) The parcel is located less than 150 feet from existing riprap, or vertical walls.

c. Existing manmade canals cut into upland areas shall be considered special problems if:

(1) Canals 50 feet or less in width (as measured at the mean high water line).

(2) A ten foot or larger elevation difference exists between mean high water and the finished floor of existing primary structures.

(3) Invasion and domination of the native shoreline vegetation by undesirable exotic vegetation, including Australian Pine, Melaleuca and Brazilian Pepper trees may require not only the removal of the trees but the excavation of the root systems. Depending on the size of the excavation and the proximity to structures, the County Administrator may consider the excavated area more vulnerable to erosion.

d. Unique water-dependent requirements of existing and proposed marine waterfront commercial uses.

(1) Pursuant to policy 8.1C.1.(3)2), Comprehensive Plan, properties designated for marine waterfront commercial use may access the water through the Shoreline Protection Zone. In these cases the shoreline may be hardened for travel lifts, boat ramps and related facilities and shall generally be limited to 30 feet in width.

8. Shoreline hardening applications must provide plans, test results, or other professionally accepted information that affirmatively demonstrates that any proposed shoreline hardening project will not:

a. Adversely impact water quality; or

b. Adversely affect adjacent properties; or

c. Adversely affect biological communities; or

d. Adversely affect the flow of water; or

e. Increase the waterward extension of the existing shoreline; or

f. Create a navigational hazard.

9. Native indigenous vegetation within and adjacent to the estuary, including mangrove and upland vegetation, especially on slopes and bluffs shall be preserved. Vegetative and landscaping requirements should emphasize the importance of planting indigenous coastal vegetation to minimize the water usage for irrigation purposes.

10. In all new development, in which plats or site plans are required to be submitted, plans shall show, and the engineer of record shall certify, that sufficient preservation area exists to protect natural banks and prevent the necessity for future shoreline hardening. Where banks have been previously cleared or filled and are not sufficiently stabilized then the banks shall be resloped (if necessary) and revegetated with appropriate native vegetation in order to assure that future shoreline hardening will not be necessary.

11. In all cases where shoreline hardening is allowed, revegetation with native shoreline vegetation appropriate to tidal and upland sections of the shoreline shall be required as an integral part of the project. The revegetation plan shall provide a minimum of 25 percent of the hardened shoreline to be planted with red, white or black mangroves spaced two feet on center where technically feasible. Such vegetation shall be protected and maintained in accordance with a preserve area management plan approved by the County Administrator. This requirement is intended to provide scenic buffering along the waterway and to improve and/or maintain the biological functions of the shoreline protection and upland transition zone.

4.5.D. *Waivers for access.* The provisions of this division may be waived for access purposes only under the following circumstances:

1. *Water access.* Within the Shoreline Protection Zone, defined in section 4.1.D., no development shall be permitted except to provide the property owner reasonable access to the water. Development shall be restricted to accessways running perpendicular to the shoreline, shall represent the minimum destruction required for access, and shall be no greater than 12 feet in width. The owner shall submit and upon approval implement a proposal which will minimize damage to the extent feasible.

   a. For those properties that are designated and zoned for marine waterfront commercial use, development associated with access to the water through the Shoreline Protection Zone must be accomplished in a manner that is least disruptive to the existing native vegetation, and generally shall not exceed a width of 30 feet. The access must be accepted by the County Administrator and provide for a public benefit. Where vehicle turnaround and maneuver are needed, the area of alteration shall likewise be limited to 30 feet in width as with the approach road, but they may be designed to be contiguous with the accessway. Said access shall comply with all applicable State and Federal regulations. Boat entry and retrieval facilities shall be allowed.

   b. For those properties that are designated and zoned for institutional use, and used for public boat ramps, docking facilities, fishing piers, and related facilities providing benefits which exceed those lost as a result of Shoreline Protection Zone alterations, an accessway running generally perpendicular to the shoreline shall be no greater than 150 feet in width. Public use shall demonstrate the need for direct water access in any proposal for shoreline clearing under this subsection 4.5.D.1. This exception shall be used only to the extent necessary to provide access to the water.

   c. The County Administrator, shall approve a request for access under this subsection 4.5.D.1. only after receiving a satisfactory plan of the proposed development which shall demonstrate the need for access and shall designate the property boundaries to scale (including the limits of the Shoreline Protection Zone). The plan shall also demonstrate the reason for the development and other information as may be required by the Martin County LDR. The decision of the County Administrator may be appealed to the Board of County Commissioners.

4.5.E. *Bridges in public rights-of-way.*

1. For proposed bridges within public rights-of-way crossing estuarine waters or surface waters of the state, public access shall be allowed by clearing that portion of the affected native vegetation, so long as a revegetation plan is reviewed and approved by the County Administrator in accordance with applicable state regulations. The County Administrator shall approve a request for access under section 4.5.E. only after receiving a satisfactory plan of the proposed development which shall demonstrate the need for access and shall designate the property boundaries to scale (including the limits of the Shoreline Protection Zone). The plan shall also demonstrate the reason for the development and other information as may be required by the Comprehensive Plan, and the LDR. The decision of the County Administrator may be appealed to the Board of County Commissioners.

4.5.F. *Waivers and exceptions for public utilities.* An exception from these regulations may be granted where the applicant demonstrates that encroachment of the Shoreline Protection Zone, as defined in this Land Development Regulation, is necessary for the construction and/or maintenance of a public utility, as defined in F.S. § 366.02, subject to the following conditions:

1. The construction or maintenance activity is for a linear facility that cannot be accomplished without impacts to the Shoreline Protection Zone;
2. The utility has demonstrated that the encroachment is necessary and that no reasonable upland alternative exists;
3. The activity is designed and located in such a manner that the least amount of damage to the Shoreline Protection Zone is assured;
4. The applicant has submitted a proposal for revegetation to offset the impact;
5. Permits have been received from the appropriate State and Federal environmental agencies and copies of those permits have been submitted to Martin County, prior to issuance of the County permit;
6. The Martin Soil and Water Conservation District or the County Administrator has reviewed the application and has determined in writing that the proposed encroachment is the least damaging alternative;
7. The applicant has provided proof of ownership or easement over the property to be encroached;
8. A plan has been approved by the County Administrator for the removal of undesirable exotic vegetation as part of the revegetation proposed in subparagraph 4., above;
9. The applicant has demonstrated that the construction and/or maintenance activity will maximize the preservation of native indigenous vegetation; and
10. The utility demonstrates that, should fill be required, the minimum necessary is used to assure reasonable access to the property or construction activity.

4.5.G. *Docks and elevated walkways.* An exception from these regulations may be granted when a plan for elevated observation boardwalks, single-family residential docks, multislip docks, boat ramps and commercial docks has been designed and located in such a manner that the least amount of damage to the Shoreline Protection Zone and has been approved by the County Administrator. Elevated walkways that cross over navigable surface waters of the state shall be reviewed by the Board of County Commissioners for compliance with the policies of the Comprehensive Growth Management Plan.

4.5.H. *Clearing for access under this section.* The County Administrator shall approve any authorized request for clearing under this section 4.5. only after receiving a satisfactory plan of the proposed development which shall demonstrate the need for access and shall designate the boundaries to scale (including the limits of the Shoreline Protection Zone). The plan shall also demonstrate the reason for the development and other information as may be required by the Martin County Code of

Ordinances, the Comprehensive Plan and the LDR. The decision of the County Administrator may be appealed to the Board of County Commissioners. The Board of County Commissioners may approve the subject request upon a finding of compliance with this division.

4.5.I. *Maintenance.* The maintenance of existing legal uses, if done in accordance with this division, shall not be considered a violation of the requirements of this division.

4.5.J. *Elimination of all reasonable use.* Any provision of this division that precludes all reasonable economically viable use of the property and which if applied would result in a taking of the property may be waived to the extent necessary to provide the minimum reasonable use based on the following:

1. One single-family home shall be allowed on residential lots of record established as of April 1, 1982, which are vested under the Comprehensive Plan where there is insufficient upland property to make any reasonable use of the land, provided that (i) access shall be through the area of the lot which is the least damaging to the Shoreline Protection Zone, (ii) fill shall be the minimum necessary to accommodate the home, (iii) stem wall or piling design shall be used whenever possible, (iv) the footprint of the home (which shall also include the first floor of a home constructed on pilings) is no greater than 3,000 square feet, including accessory uses if the footprint must encroach into the Shoreline Protection Zone, and (v) all other development regulations are satisfied.

    a. For purposes of this subsection 4.5.J.1., the lot of record shall be a lot in single ownership, and contiguous lots owned or controlled by the same person or entity which can be used for a common use shall be considered as one lot.

    b. For purposes of this subsection 4.5.J.1., the hardship shall not be self-imposed, such as by transferring contiguous property that could have been utilized.

    c. For purposes of this subsection 4.5.J.1., pervious driveways and sidewalks required for access to and egress from the proposed structure and the area required for septic system placement shall not be included in the 3000 square foot calculation of the house footprint.

    d. On sites where municipal sewer service is not available and insufficient upland area exists to place a septic system impacts to the Shoreline Protection Zone will be allowed in order to site a septic system and a house. A minimum 50 feet between the septic system and the Shoreline Protection Zone shall be maintained. All other requirements for on-site sewage disposal systems must be met.

2. The provisions of this division may be waived with respect to nonresidential lots of record established as of April 1, 1982, which are vested under the Comprehensive Plan, but only to the extent necessary to allow for the minimum reasonable use. Fill shall be the minimum necessary to provide for minimum reasonable use.

    a. For purposes of this subsection 4.5.J.2., the lot of record shall be a lot in single ownership, and contiguous lots owned or controlled by the same person or entity which can be used for a common use shall be considered as one lot.

    b. For purposes of this subsection 4.5.J.2., the hardship shall not be self-imposed, such as by transferring contiguous property that could have been utilized.

3. For lots of record created in accordance with Martin County ordinances and regulations after April 1, 1982, and prior to December 15, 1998 (the effective date of Ordinance No. 537), the provisions of this division may be reduced or waived but only to the extent necessary to allow for the minimum reasonable use. Fill shall be the minimum necessary to provide for minimum reasonable use.

    a. For purposes of this subsection 4.5.J.3., the lot of record shall be a lot in single ownership, and contiguous lots owned or controlled by the same person or entity which can be used for a common use shall be considered as one lot.

b. For purposes of this subsection 4.5.J.3., the hardship shall not be self-imposed, such as by transferring contiguous property that could have been utilized.

4. *Procedure for obtaining waivers under this subsection 4.5.J.* Upon a showing that the application of the Shoreline Protection Zone would preclude all economically viable reasonable use, the County Administrator may approve a waiver or exception provided in section 4.5.J.1. Applications for waivers and exceptions under sections 4.5.J.2. and 4.5.J.3. shall be decided by the Board of County Commissioners and shall be processed in accordance with the following procedure:

a. An applicant shall file an application for waiver or exception with the County Administrator. The application shall include:

(1) The name of the present owner of the property and the name of the owner from which the present owner took title.

(2) The date upon which the present owner took title to the property.

(3) The relationship of the present owner to prior owners if the present owner is a successor in interest.

(4) The purchase price paid for the property, and any other investments made in the property by the owner.

(5) The history of land zoning and land uses of the property, and the history of the development of the property.

(6) Proof that the lot is a lot of record for purposes of the waiver or exception subsection relied upon by the applicant. Proof may be a plat, a deed, or another title record that demonstrates that the lot satisfies the lot of record requirement.

(7) The record owners of all properties contiguous to the applicant's lot, and the date the properties were last conveyed.

(8) A complete description of the use (indicating activity, scale, and intensity) that the applicant believes is the minimum reasonable economically viable use.

b. The applicant shall include in the application a site plan showing all of the proposed development for the lot. The applicant's plan shall show that the applicant has considered and used flexible and innovative design techniques to accommodate the project with minimum effect on the Shoreline Protection Zone.

c. The applicant shall establish by clear, substantial competent evidence that the application of the regulations in this division preclude all reasonable economically viable use of the property. The applicant shall further establish by clear, substantial competent evidence that the use and project proposed by the applicant for the lot is the minimum use that can be made of the lot.

d. The Board of County Commissioners will make its decision on the basis of the facts of the particular case presented by the application. To grant the application, the Board of County Commissioners must find that the owner of the lot will be denied all beneficial use of the property (as such is described in controlling Federal and State case law), considering the impact of the application of the regulations and the extent to which application of the regulations interferes with the owner's investment backed expectations. Among the factors to be considered are: the history of the property, the history of development, the history of zoning and land use regulation on the property, changes in development when or if title passed, the nature and extent of the property, the developability of the property with and without the application of the regulations, the reasonable expectations of the owner, any diminution of the owner's investment backed expectations, and the minimum development necessary to prevent a taking of the property under Federal and State takings law. The

Board of County Commissioners shall make a specific factual finding on each of the above factors and any other factors considered by the board if it approves the application.

e. Proceedings under section 4.5.J.4. shall be the only proceedings available under the Code of Ordinances or LDR for waivers and exceptions to the Shoreline Protection Zone based on elimination of all reasonable use.

(Ord. No. 903. pt. 1(Exh. A), 12-13-2011)

Sec. 4.6. Preserve Area Management Plan (PAMP).

All applicants for development approval on sites which require upland preserve areas, wetland preserve areas, wetland buffers, Shoreline Protection Zone or hardened shorelines must provide a PAMP for review and approval by the County Administrator. Sites which include both upland and wetland preserve areas may be governed by a single PAMP, provided that all applicable requirements are met. The landward extent of the Shoreline Protection Zone shall be designated as a preserve area, provided the minimum upland preserve width requirements are met. All applicable provisions of the Comprehensive Plan shall apply to preserve areas regardless of whether a detailed PAMP, an abbreviated PAMP or no PAMP is required.

4.6.A. *Preserve area maintenance not implemented through a PAMP.* For those developed areas where a PAMP does not exist for the preserve areas identified in an approved site plan, the following basic preserve area maintenance is required:

1. All exotic vegetation and trash must be removed at least annually.
2. No new drainage or irrigation which negatively affects wetlands, wetland buffers or upland preserves shall be allowed.
3. A PAMP will not be required for a Shoreline Protection Zone that does not meet minimum width requirement of 50 feet.

4.6.B. *Abbreviated PAMP* . An Abbreviated PAMP is authorized as set forth in paragraphs 1., 2., and 3., below. Preserve area management plans shall be subject to review and approval by the County Administrator, and no development approval shall be issued until the preserve area management plan is approved. The wetland areas on site must be maintained in accordance with the PAMP.

1. An Abbreviated PAMP shall be required for maintenance of stormwater management features passing through wetlands.
2. An Abbreviated PAMP may be required for the Shoreline Protection Zone where fill is permitted, revegetation is required as part of shoreline hardening and, where minimum upland preserve area width requirements are met as established, by policy 9.1G.8. Areas not meeting the minimum preserve area criteria will be sloped, revegetated and maintained free of invasive exotic vegetation to prevent the need for shoreline hardening.
3. When delineated wetlands, wetland buffers or upland preserve areas are located on existing single family lots an Abbreviated PAMP form will be provided by the County. The form may be revised periodically by the County Administrator but, shall include with the following minimum requirements:
    a. Responsibilities will be outlined to protect and preserve any native vegetation within the preserve area including limits for the type of maintenance that can be performed.
    b. Guidelines for any exotic removal to be performed by the least damaging method to the preserve area.
    c. Restrictions stating that a preserve area cannot be modified or altered in size, vegetation type, or function without approval by the Board of County Commissioners.

d. Responsibilities for protection of any rare, threatened and endangered species in accordance with State and Federal laws.

e. Restrictions stating that no new drainage or irrigation which negatively affects wetlands, wetland buffers or upland preserves shall be allowed.

f. A legal description and survey of the delineated wetland and/or preserve area within the site must be attached as part of the PAMP. Where there is no wetland delineation the Shoreline Protection Zone shall be shown on the site plan and attached to the PAMP.

4.6.C. *Detailed PAMP.* A more detailed PAMP shall be required for site plans (minor and major) and may be required for other permits/approvals. Detailed PAMP templates may be revised from time to time by the County Administrator and shall contain the following minimum requirements:

1. Provisions for the initial removal and ongoing management of exotic invasive vegetation and debris.

2. Plans for the revegetation of any preserve areas with appropriate native plant material, where necessary.

3. Mitigate previous or potential drainage impacts, to the maximum extent technically feasible and consistent with permitted flood control, in order to restore the natural hydroperiod. The PAMP shall identify on-site drainage which is lowering wet season water tables. Where artificial drainage has lowered the water table, natural water storage shall be restored. When monitoring reports indicate that the surface water management system improvements are lowering the site's water table, predevelopment wetland hydrologic patterns shall be restored. Artificial drainage shall be blocked to the extent possible without flooding existing buildings.

4. The applicant must demonstrate that the quality and quantity of inflows to the wetlands from natural drainage patterns are maintained by incorporating these areas into the project's surface water management plan. Patterns of flow between wetlands shall remain open. Hydrologic connections between wetlands shall be maintained. Water quality, rate of runoff and volume of runoff shall recreate natural conditions for the benefit of wetlands and receiving waterways.

5. The applicant must demonstrate that a regulated activity will not cause adverse secondary impacts to a water resource. The PAMP must also provide reasonable assurance that the secondary impacts from construction, alteration, and intended or reasonably expected use of a proposed activity will not cause violations of water quality standards or adverse impacts to the functions of wetlands or other surface waters.

6. Preserved habitat shall be arranged in a continuous, massed fashion adjacent to wetlands, natural water bodies, connected lakes and other preserved habitats.

7. Provide any additional measures deemed necessary to protect and maintain the values and functions of the wetland area including regular monitoring and reports on compliance.

8. Provide for the protection of plant and animal species that are rare, endangered, threatened or a species of special concern as defined by the Federal government, the State of Florida, including the Florida Fish and Wildlife Conservation Commission (FFWCC), and including any species or native habitat the Treasure Coast Regional Planning Council determines to be regionally rare, endangered or threatened with extinction, in accordance with recommendations from applicable State and Federal agencies; and include all permitting conditions as an attachment to the PAMP. Such recommendations, requirements and conditions for permit shall be made part of the preserve area management plan. The preserve area management plan shall include the protection provisions for endangered, unique or rare habitat. In the case of aquatic or wetland dependent species for which habit management guidelines have been developed by the U.S. Fish and Wildlife Service or the FFWCC; the applicant must provide compliance with these guidelines and assurance that the proposed development will not adversely affect the listed species. For those aquatic or wetland dependent animal species that are listed but habitat

management guidelines have not been developed the applicant must propose measures to avoid and minimize impacts to habitat function.

9. The applicant must demonstrate that the construction, alteration, and intended or reasonably expected uses of development will not adversely impact the ecological value that uplands provide for aquatic or wetland dependent listed animal species for enabling existing nesting or denning by these species.

10. Provide language that native upland or wetland vegetation within the preserve area can be altered only in accordance with the PAMP. Preserve areas shall not be altered except by way of a PAMP amendment approved by the Board of County Commissioners. The PAMP may also provide for necessary habitat management practices if approved by the Growth Management Director; such necessary management shall be for the purpose of protecting, preserving and enhancing but not altering or removing the existing native vegetation. The PAMP document and guidelines may be modified as needed to fulfill required management obligations that do not conflict with the purposes of the preserve area. These modifications must be approved by the Growth Management Director. The PAMP shall provide for fire management and other alternatives necessary for the long term viability and habitat value of the preserve area and shall also provide for protection against imminent threats to public health and safety.

11. The professional responsible for the PAMP shall certify in writing that the PAMP meets all of the requirements of the Comprehensive Plan and the applicable Martin County regulations and that the PAMP will assure the maintenance of functions and values of upland habitat and wetland systems, and that the natural wetland hydroperiod fluctuations and water tables will not be altered by stormwater improvements or on-site wells. Stormwater management plans shall be carefully coordinated with the PAMP. Weir height must be set to maintain or enhance water tables throughout the site in order to maintain natural storage and natural wetland hydroperiods on the land.

(Ord. No. 903. pt. 1(Exh. A), 12-13-2011)

Sec. 4.7. Violations; restoration and set-aside; correction; hearings.

4.7.A. *Correction of violation upon notice of violation.* Correction of a violation of applicable regulations of this division shall consist of the following:

1. Where evidence indicates that drainage, clearing, or other development or manmade impacts has taken place, subsequent to April 1, 1982, and in violation of applicable wetland development restrictions in effect at the time the violation occurred, restoration shall be required before any development permits or orders are issued and within 90 days after receiving a notice of violation. This requirement shall include submittal of a PAMP application for the subject property including a restoration plan, a commitment for installation and maintenance of plant materials for environmental restoration and a minimum two-year letter of credit, or other acceptable financial alternative, to assure the successful restoration of the particular violation.

2. Where activities in violation of the Comprehensive Plan, the Code of Ordinances, the LDR, an approved PAMP, or an approved development order have altered any wetland area so that all or part of the original area no longer meets the definition of a wetland or has negatively impacted a wetland, restoration shall be required within 90 days after receiving a notice of violation. This requirement shall include submittal of a PAMP application for the subject property including an approved restoration plan, a commitment for installation and maintenance of plant materials for environmental restoration and a minimum two-year letter of credit, or other acceptable financial alternative, to assure the successful restoration of the particular violation.

3. Where activities in violation of the shoreline protection section of the Comprehensive Plan or this division have taken place, an after-the-fact shoreline stabilization permit shall be required

within 90 days after receiving a notice of violation. A PAMP shall be required within 90 days after receiving a notice of violation if the shoreline protection zone meets the criteria provided in section 4.4.A.4. An approved restoration plan shall be provided for impacts to native habitat in the shoreline protection zone and shall include submittal of a commitment for installation and maintenance of plant materials for environmental restoration and a minimum two-year letter of credit, or other acceptable financial alternative, to assure the successful restoration of the particular violation.

4.7.B. *Restoration.*

1. Restoration shall be conducted in accordance with an approved PAMP and an approved restoration plan. Restoration of buffers, habitat, and hydrology of the original wetland area shall be required. The wetland shall be protected as a natural wetland. Restoration of the habitat at all levels (i.e., groundcover, understory and canopy), with species diversity for the habitat type, is required. The replanting standards outlined in section 4.2.G.2 of this division, except for section 4.2.G.2.h., shall apply and be part of the restoration plan. The restoration plan shall include success criteria by providing a minimum 80 percent coverage or an approved targeted percent coverage of planted and recruited desirable native species throughout the restoration area, based upon habitat type. Restored native plant material shall be established and self-propagating throughout the restoration area.

2. Surety provided for required restoration shall include a cost estimate for restoration materials, installation, maintenance and monitoring of the restoration area under the supervision of a qualified environmental professional. Surety shall be provided in the amount of 110 percent of the cost estimate from an environmental professional. Restoration maintenance shall include exotic species removal and be conducted on a quarterly basis, at a minimum. Monitoring shall be reported annually to include a baseline planting report and quarterly monitoring for a minimum of two years or until success criteria is met, whichever is longer.

4.7.C. *Hearings.*

1. If the recipient of the notice of violation requests a hearing before the Code Enforcement Magistrate, then the provisions of subsection A. and B. above shall not apply until final action by the Code Enforcement Magistrate. The recipient of the notice may, at its option, proceed with the approved corrective actions provided for in subsection A. and B. above before the Code Enforcement Magistrate acts on the notice.

2. If the matter goes to a hearing before the Code Enforcement Magistrate upon request of the recipient of the notice of violation or if correction has commenced but has not been completed in accordance with subsection A. and B., then the Code Enforcement Magistrate shall hear the case and issue a final decision on the notice of violation.

4.7.D. *Penalties.* In addition to the foregoing, the Code Enforcement Magistrate may assess monetary penalties provided by law.

4.7.E. *Unmitigated violations.* Should the violation continue beyond the time specified for correction as provided above, or if the violator fails to take the corrective actions provided above within reasonable time, the Code Inspector shall notify the Code Enforcement Magistrate and request a hearing.

4.7.F. *Repeat violations.* If a repeat violation is found, the Code Inspector shall issue a notice of violation, but is not required to give the violator further time to correct the violation. The Code Inspector shall notify the Code Enforcement Magistrate and request a hearing. The case may be heard by the Code Enforcement Magistrate and penalties and corrective measures imposed in accordance with this section, even if the repeat violation has been corrected prior to the hearing, and the notice shall so state.

4.7.G. *Threats to public health, safety and welfare; irreparable or irreversible violations.* If the Code Inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature,

the Code Inspector shall make a reasonable effort to notify the violator and may immediately notify the Code Enforcement Magistrate and request a hearing.

(Ord. No. 903. pt. 1(Exh. A), 12-13-2011; Ord. No. 954, pt. I, 5-20-2014)

Secs. 4.8—4.30. Reserved.

FOOTNOTE(S):

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Editor's note— Part 1 of Ord. No. 903, adopted Dec. 13, 2011, amended div. 1 in its entirety to read as herein set out. Former div. 1 pertained to similar subject matter, was comprised of §§ 4.1—4.4, and derived from Ord. No. 548, adopted June 22, 1999; Ord. No. 572, adopted July 25, 2000; Ord. No. 573, adopted May 25, 2000; Ord. No. 580, adopted Nov. 7, 2000; Ord. No. 590, adopted June 19, 2001; Ord. No. 640, adopted March 9, 2004; Ord. No. 732, adopted Dec. 19, 2006; and Ord. No. 821, adopted April 7, 2009. (Back)

Cross reference— Excavation, mining and filling, § 4.341 et seq.; stormwater management and flood control, § 4.381 et seq.; tree protection, § 4.666. (Back)

DIVISION 2. UPLANDS PROTECTION [2]

Sec. 4.31. In general.

4.31.A. *Purpose and intent.* The purpose and intent of this division is to promote ecological stability and integrity by preventing the loss of native upland habitat. The specific objectives to be advanced by the regulations of this division are the maintenance of air and water quality, the control of erosion, the reduction of stormwater runoff, conservation of water resources, preservation of adequate aquifer

recharge throughout the spatial extent of the aquifer, the promotion of biological diversity and the preservation of native upland habitat for various forms of plants and wildlife, including species which are endangered, threatened or of special concern.

4.31.B. *Applicability.* In addition, this division is intended to apply to all development and all land uses, consistent with the provisions of the Martin County Comprehensive Growth Management Plan.

4.31.C. *Glossary.*

For purposes of this division, the following words, terms and phrases shall have the meanings as set forth below.

Agricultural land clearing permit: Approval to clear native upland habitat on land with an agricultural future land use designation.

Common native upland habitat: A native upland habitat determined not to be rare, unique or endangered. The Pine Flatwoods Community is the dominant common native upland habitat in Martin County.

Defensible space: The area between wildland fuels or native habitats and structures, at least 30 feet in width, that allows firefighters to protect the structure from wildfire. In the absence of firefighters, this safety zone increases the likelihood that the structure will survive on its own.

Development: The carrying out of any building activity, mining operation, the making of any material change in the redevelopment or modification of an existing use or appearance of any structure or land, which creates additional impacts or the dividing of land into three or more lots, tracts or parcels, including planned unit developments and acknowledging all exceptions to subdivisions.

Endangered, unique or rare native upland habitats: Native upland habitats, also known as special habitats, that have been identified by the Treasure Coast Regional Planning Council (TCRPC) or the Martin County Comprehensive Growth Management Plan (hereinafter referred to as the Comprehensive Plan) as being regionally or locally unique, rare or endangered. Determination of endangered or regionally rare habitat will be based on those habitats identified by the TCRPC and supported by applicable State and Federal authorities. The TCRPC has identified the sand pine/scrub oak and tropical hammock associations as endangered habitats in the County. The Comprehensive Plan has identified sand pine/scrub oak associations, turkey oak associations, hardwood hammock associations, tropical hammock associations, coastal hammock associations and cabbage palm/oak hammock associations as endangered, unique and rare in Martin County.

Environmental assessment: A document prepared and certified by a qualified environmental professional pursuant to section 4.32.

Exotic vegetation: A plant that is a nonnative species including all nonnative species identified in the most current Florida Exotic Pest Plant Council (FLEPPC) invasive plant list.

Firewise: The use of materials and systems in the design of a development, a building or structure, or a landscaping plan, to safeguard against the spread of fire to or from a building or structure to the native habitat area.

Firewise Protection Plan: A plan, as prepared by the Florida Forest Service or appropriate State agency, incorporating firewise principles for the mitigation of wildfire risk to existing or proposed developments.

Golf course area: The total area within the golf course boundaries including all preserve areas.

Land clearing: The removal of vegetation or soils from either wetlands or uplands. Land clearing shall not mean the removal of exotic vegetation or the practice of silviculture in compliance with best management practices.

Land clearing debris: Means rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or development. Land clearing debris shall not include vegetative

matter from lawn maintenance, commercial or residential landscape maintenance, right-of-way or easement maintenance, farming operations, nursery operations, or from any other sources not related development.

Land clearing plan: A required part of an application for a land clearing permit. This plan includes, at a minimum, proposed dates for clearing, a description of the proposed method of erosion and sediment control, a description of the proposed method of debris disposal, and a description of soil stabilization procedures to be implemented after land clearing. Other information may be required on a site-specific basis. Amended plans may be required if proposed methodology prove inadequate.

Native upland habitat: A naturally occurring vegetative habitat on upland soils where the dominance of vegetation in the canopy, understory, and groundcover, or any combination thereof, is native plant community associations. "Dominance of vegetation" means that native vegetation occupies 50 percent or more of the areal extent (coverage by vegetation) of the stratum (canopy, understory, or groundcover) being evaluated. A combination of the strata including canopy, understory or groundcover exists when two or more of the strata exhibit a dominance of native vegetation. Native upland habitat need not be pristine or totally without exotics.

1. Areas where invasive and other exotics exist, but are not dominant vegetation, are protected.
2. Natural areas that do not have groundcover are protected.

Native vegetation: Plant species that occurred in Florida at the time of European contact or the 1500s or as identified as a native plant in the *Guide to the Vascular Plants of Florida* by R. Wunderlin and B. Hansen.

Natural or *naturally occurring:* Existing in and produced by nature, occurring in nature without manmade influence.

Nuisance native species: Native plant species with nuisance characteristics or presence in sufficient number or biomass that may be expected by a qualified environmental professional to prevent, or unreasonably interfere with, the long or short term success of a preserve area.

Preserve area management plan (PAMP): Pursuant to section 4.36, a plan required of all applicants for development approval on sites which contain upland or wetland preserve areas.

Protected species: Plant and animal species currently listed as candidate species (C1 or C2) and those species designated as proposed for endangered or threatened species (PE or PT), rare (R), endangered (E), threatened (T), or species of special concern (SSC) by the Florida Fish and Wildlife Conservation Commission, List of Endangered and Potentially Endangered Fauna and Flora in Florida. Protected species shall also include plant and animal species currently listed by the U.S. Fish and Wildlife Service, the Treasure Coast Regional Planning Council, and plant species currently listed as threatened, endangered, or commercially exploited by the Florida Department of Agriculture and Consumer Services that have a distribution range in Martin County, or as designated by the Comprehensive Plan.

Qualified environmental professional: A person who possesses, either the necessary skills or a special registration, certification, or education which is obtained by completion of an accredited two-year or four-year college degree, and who possesses knowledge which is inherently or legally necessary to render that person capable, competent, and eligible to perform the particular responsibilities. The two- or four-year college degree shall be in an environmental science including but, not limited to biology, botany, ecology or forestry.

Silviculture practice or operation: A process where forests are tended, harvested, and reforested, following Florida Department of Agriculture best management practices.

Site: The total area within the property boundaries of a principal parcel to be developed, or contiguous parcels, intended for development under a common scheme or plan.

Upland preserve area: Pursuant to the requirements of this division, an upland area designated for protection, preservation, and maintenance of appropriate ecological functions located within a site proposed for development.

Uplands: Any area not defined as wetlands or surface waters, including all native upland habitat and impacted lands such as pasture and other cleared areas.

(Ord. No. 527, pt. 1, 5-21-1998; Ord. No. 605, pt. I, § 4.2.1, 12-4-2001; Ord. No. 930, pt. 1, 6-11-2013)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.32. Environmental assessment.

Any application for development approval shall submit either an environmental assessment prepared and certified by a qualified environmental professional or a statement from a qualified professional stating that no wetlands or native upland habitat exists on the site. The environmental assessment shall be required if wetland or native upland habitat exists on the site and shall be used as the basis for determining the portions of a development site to be preserved and shall include, at a minimum, the following:

4.32.A. Property boundaries superimposed on a recent aerial photo.

4.32.B. An assessment of existing soils, using County soil surveys.

4.32.C. Acreage, location and description of each habitat type, including areas of invasive exotic vegetation and wetlands, total acreage in common habitat types, total acreage of habitats which are endangered, unique, rare or threatened, and total upland acreage shall be tabulated and mapped using the Florida land use cover and classification system.

4.32.D. A list of rare, endangered, threatened or species of special concern, both flora and fauna, with the potential to be found on site based on the Treasure Coast Regional Planning Council's Strategic Regional Policy Plan, Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service lists or based upon appropriate critical habitat found on site for protected species.

4.32.E. A field survey and map shall be made showing the areas of the site surveyed for listed species identified pursuant to section 4.32.D, above. Surveys shall be performed and certified as utilizing appropriate referenced survey methodologies established by the listing agencies. In addition to listed fauna, the survey shall locate specific species of rare, endangered, threatened or unique plants of limited range that have been found (e.g. four-petal paw paw in Jensen Beach sand pine scrub) so that they can be included in preserve areas.

(Ord. No. 527, pt. 1, 5-21-1998; Ord. No. 605, pt. 1, § 4.2.2, 12-4-2001; Ord. No. 930, pt. 1, 6-11-2013)

Sec. 4.33. Preservation of native upland habitat.

Martin County shall ensure that a minimum of 25 percent of the existing native upland habitat in the County will be preserved. It is the intent of the policies related to native upland habitat that all development shall protect and preserve native upland habitat in place within the development. The following minimum requirements shall apply to all development, including activity on land with an agricultural ranchette future land use designation and land clearing on all land uses not specifically exempted in section 4.37. Planned unit developments which take advantage of variances in lot size and

density must exceed the minimum upland habitat preservation requirements. In addition to required preserve areas, all existing native trees and native vegetation not located in an area requiring their removal shall be retained in an undisturbed state.

4.33.A. *Implementation of minimum preserve requirements.*

1. On sites where common native upland habitat exists, not less than 25 percent of each particular type of common native upland habitat shall be preserved in place on the site, such that the cumulative total need not exceed 25 percent of the existing native upland vegetation on site, except as required under the provisions for endangered, unique and rare habitat. Pine/palmetto flatwood associations are among the common native upland habitats in Martin County.

2. Increased conservation of native habitats which are determined to be endangered, unique, or rare in Martin County, or regionally rare is required by this division. On sites where endangered, unique, or rare native upland habitat exists, up to 25 percent of the total upland area shall be preserved in endangered, unique, or rare native upland habitat, in a clustered fashion where possible, in a manner that is consistent with a reasonable use of the property.

3. Required wetland buffers shall count toward preservation requirements when they contain appropriate habitat types. An area of pine flatwoods that meets preserve area design standards shall count toward the total required acreage for common habitat. Buffers and other preservation requirements can only be counted toward the preserve requirements of this division if they contain the appropriate habitat type and meet design standards. For example, pine flatwoods (common habitat) around a wetland shall not count toward the preservation requirements for any endangered, unique, threatened or rare habitat. The requirement to provide a wetland buffer or shoreline protection zone is separate from upland preservation requirements. The total native upland habitat set aside may exceed 25 percent when wetland buffers or shoreline protection zones are included.

4. Where only common habitat exists on site, preservation of no more than 25 percent of the total upland native habitat on site shall be required. Where possible, 25 percent of each common habitat shall be preserved.

5. Where common habitat and unique, endangered, threatened or rare habitat both exist on the same site, the first requirement to be met shall be the preservation of 25 percent of the total uplands in unique, endangered, threatened or rare habitat.

    a. When 25 percent of the total upland has been preserved in unique, endangered, threatened or rare habitat, there shall be no further requirements for 25 percent of common upland native habitat.

    b. When there is insufficient unique, endangered, threatened or rare upland habitat to provide preserve area equal to 25 percent of the total uplands, then all unique, endangered, threatened or rare upland habitat shall be preserved and in addition, the following rules shall apply to the remaining common habitat:

        (1) If the habitat consists of a single type, then 25 percent of that habitat shall also be preserved, provided, however, that in no case shall over 25 percent of the total uplands be required for upland habitat preservation.

        (2) If the habitat consists of more than one type, then 25 percent of the common habitat shall also be preserved by preserving up to 25 percent of each common habitat type in such proportions as comply with the requirements of section 4.35; provided, however, that in no case shall over 25 percent of the total uplands be required for upland habitat preservation.

    By way of illustration of subparagraphs a and b above:

A 100-acre site with 100 acres of upland consisting of 24 acres of rare upland habitat and 76 acres of common habitat must preserve 24 acres of rare habitat and one acre of common habitat.

A 100-acre site with 100 acres of upland consisting of 35 acres of rare habitat and 65 acres of common habitat must preserve 25 acres of rare habitat.

A 100-acre site with 100 acres of upland containing five acres of rare habitat and 20 acres of common habitat must preserve five acres of rare habitat and five acres of common habitat.

A 100-acre site with 100 acres of upland containing 45 acres of upland habitat consisting of five acres of rare and 40 acres of common habitat comprised of 20 acres of one particular common habitat type and 20 acres of another particular common habitat type must preserve five acres of rare and five acres of each particular common habitat type.

In contrast, a 100-acre site with 45 acres of upland consisting of five acres of rare habitat and 20 acres of one type of common habitat and 20 acres of another type of common upland habitat must preserve five acres of rare habitat and a total of 6.25 acres of common habitat in such proportions as comply with the requirements of section 4.33.B, Additional preservation requirements.

4.33.B. *Additional preservation requirements.*

1. Required preserve areas shall not be located in areas where future road rights-of-way are shown on the Transportation Element of the Comprehensive Plan. Rights-of-way for utilities, stormwater management and other purposes may cross preserve areas where necessary, but no such right-of-way within a preserve area shall be credited toward the upland preservation requirement.
2. Portions of preserve areas within single-family lots that are eligible for clearing according to water access provisions cannot be credited toward preserve area requirements.
3. Areas which are not permanently protected as native upland habitat shall not be credited toward preserve area requirements. For example, areas in and adjacent to preserve areas which may be altered for docks, boardwalks, sidewalks, golf cart paths, golf play ("line of sight" clearing), utilities, stormwater management and any other intrusions must be clearly outlined on development plans and shall not be credited toward preserve area requirements.
4. Nature trails within preserve areas are for pedestrian use only. All-terrain vehicles, dirt bikes and other motorized vehicles are prohibited within preserve areas. Trails within preserve areas shall not be credited toward preserve area requirements.
5. Upland preserve areas shall be protected from encroachment during construction activities by erecting barricades which are highly visible. Such barricades shall be a minimum of four feet in height and shall not be attached to vegetation. The developer shall be responsible for maintaining such barriers until construction activities have concluded.
6. New construction (including fill proposed adjacent to wetland buffer zones and upland preserve areas) shall be set back a minimum of ten feet for primary structures; setbacks for accessory structures, such as but not limited to pool decks, screen enclosures and driveways, shall be five feet. On-site sewage disposal systems (including the drainfield) shall not be located within ten feet of designated upland preserve areas. Graded areas landward of these required buffer protection areas shall not exceed a slope of one foot vertical to four feet horizontal. All slopes shall be properly stabilized to the satisfaction of the County Engineer.

7. Where areas of native upland habitat have been destroyed in violation of the Comprehensive Plan, Martin County Code of Ordinances or the Martin County Land Development Regulations, including but not limited to dumping, burning and clearing, such areas shall be included as native upland habitat acreage when calculating preserve requirements under this section. Use of pre-clearing aerial photography or habitat mapping, if available, shall be referenced to determine if such areas are common native upland habitat or endangered, unique or rare native upland habitat (see section 4.38 regarding enforcement of restoration).

4.33.C. *Special requirements for golf courses.* Golf courses shall retain and preserve a minimum of 30 percent of the total upland area of the golf course in native vegetation. Because of high water use by golf courses and the potential for increased runoff of nutrients, pesticides and herbicides, increased in size of the preservation area is warranted. This golf course requirement shall be applied to the area designated as golf course and shall not reduce the 25 percent requirement (25 percent of common habitat or 25 percent of total upland where endangered, unique or rare habitat exists) for remaining parts of the project.

4.33.D. *Alternative compliance for preclusion of reasonable use.* This option may be used only after all perimeter buffer requirements have been met. Flexible and innovative design techniques shall be applied to site design to maximize on-site preservation of native upland habitat. The requirements for an on-site preserve area may be reduced only after a showing that these requirements preclude reasonable use of the site as determined and approved by the Board of County Commissioners. Requirements may be reduced only in the amount necessary to provide reasonable use of the site. The mitigation measures allowed by this policy can only be used when reasonable use is precluded. All other development must preserve native upland habitat on site. The following options are available as approved by the Board of County Commissioners:

1. Purchase similar upland native habitat communities outright within the same planning area; if not available, then purchase in Martin County; or

2. Create an equal amount of similar required native upland habitat adjacent to other areas of preserved native habitat on or off site.

The off-site preserved native habitat area must be preserved in place on a site deeded to the County or to a private conservation group recognized by the County. A preserve area management plan (PAMP) shall be provided for the off-site areas of preservation or of habitat creation. Longterm funding for management must be assured by the applicant prior to development plan approval.

(Ord. No. 527, pt. 1, 5-21-1998; Ord. No. 530, pt. I, 10-9-1998; Ord. No. 605, pt. 1, § 4.2.3, 12-4-2001; Ord. No. 930, pt. 1, 6-11-2013)

Sec. 4.34. Preservation requirements for upland areas within the agricultural land use designation.

4.34.A. *Commercial agricultural uses.* Where commercial agricultural uses are proposed for lands which currently exist as native upland habitat and are designated agriculture on the future land use map and where the proposed agricultural use would require clearing of that currently existing habitat, such use shall be required to preserve native upland habitat as follows:

1. *Common native upland habitat.* The property owner of the proposed agricultural use must:

   a. Preserve a minimum of ten percent of each common native upland plant community which occurs on site; or

b. Pay a land value exaction fee at the time the land is converted. The land exaction fee shall be equivalent to the average assessed value of one acre of the particular habitat type under consideration within the county multiplied by the number of acres the proposed use was required to preserve but elected to contribute to preservation off-site. Whenever possible, these funds shall be used towards purchasing property in close proximity to the subject site. The time of conversion of the agricultural land from its current natural state will be evidenced by an application to the South Florida Water Management District for an agricultural surface water management permit.

2. *Unique/rare/endangered native upland habitat.* The property owner of the proposed agricultural use shall be required to:

   a. Preserve a minimum of 25 percent of each native upland plant community which occurs on-site and is designated as unique or rare in Martin County or designated as a habitat which is regionally rare or endangered as determined by the Treasure Coast Regional Planning Council and supported by State and Federal agencies. (These habitats shall be limited to oak/cabbage palm hammock associations, sand pine/scrub oak associations, coastal hammock associations, turkey oak associations and other hardwood hammock associations with native trees such as cypress, magnolia, maple and/or bay trees); or

   b. At the time of conversion of agricultural land from its current natural state by way of an application to the South Florida Water Management District for an agricultural surface water management permit, the property owner shall pay a land value exaction fee equivalent to the average assessed value of one acre of the particular habitat type under consideration within the County multiplied by the number of acres of that habitat type the proposed use was required to preserve but elected to contribute to preservation off-site. Whenever possible, these funds shall be used towards purchasing property in close proximity to the subject site.

3. In all cases of clearing native uplands, an environmental assessment shall be supplied to Martin County along with a preserve area management plan. These documents must be approved by the Martin County Growth Management Department prior to any site development or alteration. Prior to clearing on sites greater than ten acres in size, the PAMP and environmental assessment must be submitted to the Florida Game and Fresh Water Fish Commission and the Florida Department of Environmental Protection for comment and plan implementation.

4. All agricultural uses shall be required to comply with the applicable objectives and policies set forth in this element. Any exceptions or exemptions to the policies of this plan will require a plan amendment supported by adequate data and analysis. To the maximum extent possible, regulations and/or ordinances shall be promulgated to avoid unreasonable interference with efficient and economical use of agriculturally designated lands.

(Ord. No. 527, pt. 1, 5-21-1998; Ord. No. 605, pt. 1, § 4.2.4, 12-4-2001)

Sec. 4.35. Preserve area design standards.

Any application for final site plan approval for a site containing upland or wetland preserve areas must include a Preserve Area Management Plan to address both upland and wetland areas. Development on the site shall be designed to preserve the most important habitat. Habitat that is endangered, unique or rare or contains endangered, unique or rare plants or animals shall have the highest priority for preservation. High priority shall also go to habitats exhibiting minimal disturbance and maximum diversity. The Preserve Area Management Plan is subject to the review and approval of the Martin County Growth Management Department. No development approval will be issued until the Preserve Area Management Plan is approved by the Martin County Growth Management Department. The following preserve area design standards shall apply to both wetland and upland preserve areas.

Please see Division 1 of this article, the Wetlands Protection LDR, for additional information. General provisions for the design of preserve areas include:

4.35.A. *Minimum upland preserve area width requirements.* The width of preserve areas should be adequate to maintain longterm viability and should maximize wildlife utilization. Native habitat configured as long narrow areas between lots shall not be credited towards preserve area requirements. Preserve areas that meet the minimum 50-foot width standard may be permitted between lots if they provide an effective wildlife corridor or if they connect clustered preserve areas.

1. The minimum width of native upland habitat to be credited toward upland preserve requirements shall be 50 feet.

2. For isolated wetlands, buffer areas shall be a minimum of 50 feet of native vegetation, measured landward of the boundary of the delineated wetland.

3. For natural creeks, rivers and water bodies connected to waters of the State, a minimum 75-foot wide buffer zone of native vegetation shall be provided and maintained from the landward extent of the wetland, or if no wetlands are present separate from the natural creek, river or water body, from the mean high water line, as determined in accordance with F.A.C. 62-301.400.

4. Wetland buffers, for isolated wetlands, in and adjacent to golf courses shall be a minimum of 75 feet. Of the 75-foot buffer, the 25 feet adjacent to the golf course may be native sand or a native vegetation planting area and turf grass, fertilizer and pesticides shall be prohibited. This 25-foot area adjacent to the golf course shall provide a clear distinction between the golf course and the preserve area. The balance of the 75-foot wetland buffer shall be included in the PAMP and shall comply with section 4.35.A.2 above.

4.35.B. *Preserve areas in the shoreline protection zone.* Required shoreline buffer areas on waterfront lots (per Division 1 of this article), less any areas that are eligible to be cleared for shoreline access, can be credited toward upland preserve requirements where appropriate habitat is present. Otherwise, preserve areas shall not be part of single family lots.

4.35.C. *Preserve area configuration requirements.*

1. Preserved habitat shall be maintained in a clustered configuration adjacent to wetlands, natural water bodies, constructed lakes and other preserved habitats located on- or off-site. Preserve areas shall be larger along property boundaries where preserve areas or public conservation areas exist immediately adjacent to the parcel.

2. Applicants for development approval shall utilize creative and innovative design techniques to comply with the upland preserve requirements and to maximize preservation of native upland vegetation to the extent technically feasible.

3. Required preserve areas may only be permitted between lots if they serve as a wildlife corridor or if they connect clustered preserve areas.

4. All preserve areas which are adjacent to single-family or multifamily lots shall be clearly marked with signs indicating that the area is a preserve area, subject to a recorded Preserve Area Management Plan on file in the Martin County Growth Management Department.

4.35.D. *Requirements for wildlife utilization and listed species.*

1. Preserved habitat shall be located so as to maximize wildlife utilization.

2. Native preserve area arrangement shall give special consideration to maximizing wildlife utilization for species which are endangered, threatened or of special concern.

3. Preserved habitat shall be located so as to maintain the longterm viability of native upland plant communities.

4. Native preserve area arrangement shall give special consideration to maintaining the longterm viability of native upland plant communities which are unique, regionally rare, or endangered.

5. Individual specimens of plants designated as a protected species that occur on the development site and are not located within the project's proposed preserve area, shall be relocated, if biologically practicable, into the onsite preserve area or onto other suitable existing conservation/preservation lands.

4.35.E. *Firewise setback requirements to native habitat areas.*

1. New development requiring a minor or major site plan approval on lands designated as agricultural or agricultural ranchette on the future land use map shall incorporate a 30-foot defensible space between the primary or attached secondary structure and proposed preserve areas within the development. In addition such developments shall require a 30-foot defensible space between proposed primary or attached secondary structures and native habitat areas managed for conservation or preservation on adjoining properties.

2. New residential development requiring a minor or major site plan approval on future land use designations other than agricultural or agricultural ranchette shall be required to incorporate a defensible space as described in 4.35.E.1., above, if the proposed development scores a 75 or more on the Florida Wildfire Risk Assessment Scoresheet. A completed scoresheet shall be included in all new applications and will be reviewed and approved by the Fire Prevention Chief and Environmental Division of the Growth Management Department. Proposed projects that score a 75 or less on the scoresheet shall incorporate a defensible space in accordance with section 4.35.E.3. Ten-foot wide emergency vehicle access routes to the defensible space shall be established and approved by the County during final site plan review. Emergency vehicle access routes shall not be in conflict with required land development, building, or zoning setbacks.

3. New residential development requiring a minor or major site plan approval for future land use designations other than agricultural or agricultural ranchette shall incorporate a 30-foot defensible space between proposed primary or attached secondary structures and native habitat areas managed for conservation or preservation on adjoining properties outside the development. A 30-foot defensible space shall also be incorporated between proposed primary or attached secondary structures and proposed preserve areas within the development. However a maximum of 25 feet of the defensible space can be within the proposed upland preserve or wetland buffer area for the development. Maintenance of the defensible space shall adhere to the firewise landscaping guidelines developed by the Florida Forest Service and all other requirements in this section and be part of the Firewise Protection Plan incorporated into the PAMP.

4. Existing residential developments with preserve areas can request County approval of a Firewise Protection Plan to allow a defensible space between existing structures and preserve areas. A maximum of 25 feet of the defensible space can be within an upland preserve or wetland buffer area. A recommendation for the creation of a defensible space, as prepared by the Florida Forest Service or other responsible State agency shall be provided to the Growth Management Department for approval. Maintenance of the defensible space shall be described in the plan and be in conformance with the firewise landscaping guidelines developed by the Florida Forest Service and all other requirements in this section. Review and approval of a new PAMP pursuant to section 4.36 shall be required if one does not exist for the development, or existing PAMPs shall be amended to add the Firewise Protection Plan. Mechanical removal of vegetation in the preserve

defensible space shall only be granted upon recommendation by the Florida Forest Service and approval by the Environmental Division of the Growth Management Department.

(Ord. No. 527, pt. 1, 5-21-1998; Ord. No. 530, pt. I, 10-9-1998; Ord. No. 605, pt. 1, § 4.2.5, 12-4-2001; Ord. No. 930, pt. 1, 6-11-2013)

Sec. 4.36. Preserve area management plan (PAMP).

4.36.A. *Preserve area management plans required.*

1. All applicants for development approval on sites which contain upland or wetland preserve areas must provide a PAMP for review and approval by the Martin County Growth Management Department. Sites which include both upland preserves and wetlands may be governed by a single PAMP, provided that all applicable requirements are met.
2. There shall be no alteration of upland or wetland preserve areas. Necessary habitat management practices, as provided in the PAMP and approved by the Martin County Growth Management Department, shall be conducted as necessary, consistent with an existing approved PAMP.
3. Clearing and removal of exotic vegetation in upland preserve areas is exempt from the requirement for a clearing permit. However, clearing and removal of exotic vegetation in upland preserve areas shall be conducted in compliance with an approved Preserve Area Management Plan (PAMP) and with the concurrence of the Environmental Division of the Growth Management Department. In addition, if the use of motorized vehicles or tools other than hand-held tools are proposed as part of the clearing and removal process, an Exotic Vegetation Clearing Plan that has been approved by the Director of the Growth Management Department shall be required. Hand-held tools are defined here as those tools that can be held in a person's hands, including power tools. The Board of County Commissioners may establish a fee for the processing of Exotic Vegetation Clearing plans. Exotic Vegetation Clearing Plans shall be posted in a conspicuous place in the front of the premises before the clearing is started. All land clearing debris, including exotic vegetation debris, shall be removed from preserve areas and not piled or stored in the preserve areas.

4.36.B. *Minimum requirements.* The PAMP shall contain the following:

1. Provisions for the initial removal and ongoing management of exotic vegetation, nuisance native vegetation and debris.
2. Plans for the revegetation of any upland preserve areas with appropriate native plant material, if required by this division.
3. Provisions for the protection of plant and animal species of regional concern in accordance with recommendations from applicable State and Federal agencies.
4. Any additional measures deemed necessary to protect and maintain the functions and values of the upland preserve areas. Where sand pine scrub is present in developments where controlled burns will not be possible after full development, alternative methods for maintaining the endangered habitat must be outlined in detail in the PAMP, including an estimate of the frequency of major maintenance projects.
5. Provision for protective barriers around all trees and vegetation to be saved, prohibiting all activity within these areas during construction.
6. Provisions for fire management and other alternatives necessary for the longterm viability and habitat value of the preserve area; and provisions for protection against imminent threats to

public health and safety including guidelines and maintenance of firewise setbacks, if required by this division.

7. Specific provisions for County enforcement of the PAMP and a reduced copy of the final development plan or plat clearly indicating preserve area locations shall be attached to the declaration of covenants and restrictions as recorded in the County public records.

8. Provisions for the perpetual maintenance of preserve areas and procedures for the transfer of responsibilities must be clearly identified for any applicant requesting development approval and all successive owners.

9. A certification by a qualified professional stating that the PAMP meets all of the requirements of the Comprehensive Growth Management Plan and the Land Development Regulations and will preserve the function and value of the native upland habitat.

10. Existing approved preserve areas or PAMPs may be amended to include the criteria and minimum requirements as established in this section, upon review and approval of a PAMP amendment by the Growth Management Department.

4.36.C. *Alteration of preserve areas.* There shall not be any alteration of the size, shape or design of a previously approved preserve area without approval by the Board of County Commissioners. An applicant shall make a written request for alteration of a preserve area including the reason for the request and the extent of the alteration. The Growth Management Department Director shall make a recommendation to the BCC regarding the need for the change and the restoration or enhancement necessary to compensate for the alteration. Amendments to a PAMP or alteration of a preserve area must meet all of the requirements of the original PAMP.

(Ord. No. 527, pt. 1, § 4.2.09, 5-21-1998; Ord. No. 605, pt. 1, § 4.2.6, 12-4-2001; Ord. No. 640, pt. 2, 3-9-2004; Ord. No. 930, pt. 1, 6-11-2013)

Cross reference— Development review procedures, art. 10.

Sec. 4.37. Land clearing plans and procedures.

Protection of upland habitat requires regulation of the development of upland areas. Because most development requires land clearing, this section establishes land clearing requirements and the procedure for obtaining land clearing permits. No land clearing shall be permitted in unincorporated Martin County until a land clearing permit is obtained and posted or the project is determined to be exempt from the requirements of obtaining a land clearing permit. No land clearing permit shall be issued until an environmental assessment, as required herein, has been submitted to, and approved by, the County in association with applicable development review procedures. This section shall apply to all land clearing and development activities in unincorporated Martin County. No land clearing shall be allowed, except as described in section 4.34, Preservation requirements for upland areas within the agricultural land use designation, unless a final site plan has been approved in accordance with applicable development review procedures. For agricultural purposes, no clearing of native habitat shall begin until an environmental assessment and a PAMP have been submitted to the County and approved.

4.37.A. *Land clearing procedures.*

1. Applications for land clearing shall require a land clearing plan that includes, at a minimum, proposed dates for clearing, the proposed method of erosion and sediment control, the proposed method of debris disposal and soil stabilization procedures to be implemented after land clearing. Where off-site siltation becomes a problem, work on the project shall stop until an amended plan is approved and implemented.

2. During construction activities, existing native vegetation shall be retained to act as buffers between adjacent land uses, and to minimize nuisance dust, noise and air pollution. This requirement shall be a condition of all development approvals. Barricades shall be used on-site to preserve the vegetation to be retained.

4.37.B. *Permits.* Land clearing permits may be issued under the following circumstances but, in all cases a land clearing permit shall be posted, where visible and accessible, prior to the start of clearing.

1. Prior to land clearing, the owner of a residential lot platted or recorded prior to February 20, 1990, shall obtain a short form land clearing permit in conjunction with the issuance of a single-family or duplex building permit. Such lot shall be exempt from the preservation requirements in sections 4.33 through 4.36, but shall be developed in compliance with all other requirements of this division.

2. Prior to land clearing, the owner of a residential lot created through a final site plan approved after February 20, 1990, shall be issued a short-form land clearing permit in conjunction with the issuance of a single-family or duplex building permit. Such lot shall be developed in compliance with the applicable PAMP for that subdivision.

3. For land clearing permits issued in conjunction with a final site plan approval of a subdivision (standard, minor or major) pursuant to Article 10 of the Martin County Land Development Regulations, the following restrictions shall apply:

   a. Subdivision lots of less than 6,500 square feet may be cleared along with the roads and utilities.

   b. Subdivision lots in excess of 6,500 square feet shall not be cleared until a land clearing permit is issued in conjunction with a building permit.

   c. In limited cases when it is necessary to retain excess fill in designated areas (i.e., building pads), clearing of native vegetation on subdivision lots, over 6,500 square feet shall be permitted, prior to the issuance of a building permit.

4. An agricultural land clearing permit shall be required for the removal of native vegetation and the conversion of native habitat to agricultural production on land with an agricultural future land use designation. For agricultural purposes, no land clearing shall begin until an environmental assessment and a PAMP, if applicable, have been submitted and approved in accordance with the requirements of section 4.34, Preservation requirements for upland areas within the agricultural land use designation. Wetland protection standards, pursuant to section 4.2 shall also be required.

5. The provisions of section 4.34 shall not apply to lands designated agricultural ranchette. For agricultural ranchette purposes, no land clearing shall begin until an environmental assessment and PAMP, if applicable, have been submitted and approved in accordance with the requirements of sections 4.33 and 4.2.

4.37.C. *Exemptions.* The following activities shall not require the issuance of a land clearing permit.

1. The removal of exotic invasive vegetation from undeveloped land shall not require the issuance of a land clearing permit. However, any impact to native vegetation (canopy, understory or groundcover) resulting from or done as a part of exotic invasive vegetation removal may require restoration and replanting of the native vegetation, as specified in section 4.38. Therefore, clearing of exotic invasive vegetation shall be conducted with the concurrence of the Environmental Division of the Growth Management Department. In addition, if the use of motorized vehicles or tools other than hand-held tools are proposed as part of the clearing and removal process, an Exotic Vegetation Clearing Plan that has been approved by the Director of the Growth Management Department shall be required.

Hand-held tools are defined here as those tools that can be held in a person's hands, including power tools.

The Board of County Commissioners may establish a fee for the processing of Exotic Vegetation Clearing Plans. Exotic Vegetation Clearing plans shall be posted in a conspicuous place in front of the premises before clearing is started.

Single-family homeowners shall not be required to obtain land clearing permits or submit Exotic Vegetation Clearing Plans prior to removing exotic vegetation from the parcel on which their existing home is located. Single-family homeowners are encouraged to seek advice and guidance from the Environmental Division of the Growth Management Department when formulating plans to clear exotic invasive vegetation from such parcels. All land clearing debris, including exotic invasive vegetation debris, shall be removed from the premises and not piled or stored within the premises.

a. Where the removal of exotic invasive vegetation will result in areas of more than one-quarter acre of exposed soil, such soil shall be planted or seeded with a permanent native groundcover to reduce the loss of topsoil due to water and wind erosion.

b. Where the removal of exotic vegetation from the upland preserve areas of a site is proposed, such activity shall be conducted pursuant to a PAMP. Although no land clearing permit will be necessary for the removal of exotic vegetation from designated preserve areas under the control of a PAMP, clearing in preserve areas shall be conducted with the concurrence of the Environmental Division of the Growth Management Department. In addition, if the use of motorized vehicles or tools other than hand-held tools are proposed as part of the clearing or removal process, an Exotic Vegetation Clearing Plan that has been approved by the Director of the Growth Management Department shall be required. Hand-held tools are defined here as those tools that can be held in a person's hands, including power tools.

The Board of County Commissioners may establish a fee for the processing of Exotic Vegetation Clearing Plans. Exotic Vegetation Clearing Plans shall be posted in a conspicuous place in front of the premises before clearing is started. All land clearing debris, including exotic vegetation debris, shall be removed from the preserve area and not piled or stored within the preserve area.

2. Based on an environmental assessment showing that no upland or wetland habitat exists, or an approved final site plan, where clearing has been previously approved, proposed development may be determined to be exempt from the requirement for obtaining a land clearing permit.

3. The removal of understory through the use of hand tools to establish a line of sight for the purpose of performing routine field survey work shall not require a land clearing permit.

4.37.D. *Soil stabilization.* Soil stabilization such as seeding, wetting and mulching which minimize airborne dust and particulate emission generated by construction activity shall be completed progressively as vegetation removal occurs within a given area of a site. Excavation, fill placement, vertical construction or soil stabilization shall begin within 15 days, and shall be completed within 30 days of vegetation removal within a given area of a site. The method chosen for soil stabilization must be appropriate for the particular situation.

4.37.E. *Disposal of land clearing debris.* Open burning of land clearing debris in the Urban Service District, as defined in the Future Land Use Element of the Comprehensive Plan, by any method other than the oxygenated or pit burning technique that does not add particulate matter or smoke to the air, shall be prohibited. Land clearing debris shall be disposed of in the following manner:

1. Chipped on-site or at a legal chipping facility and delivered for composting to a facility approved for composting; or
2. Delivered to the chipper at the Martin County Landfill and chipped for mulch; or
3. Burned as described above.

Nonvegetative debris including construction and demolition debris shall be disposed of at an approved landfill site.

(Ord. No. 527, pt. 1, 5-21-1998; Ord. No. 605, pt. 1, § 4.2.7, 12-4-2001; Ord. No. 640, pt. 2, 3-9-2004; Ord. No. 930, pt. 1, 6-11-2013)

Sec. 4.38. Enforcement.

When a notice of violation, issued because clearing has occurred in violation of applicable upland preservation regulations, becomes final, restoration and/or set-aside (if set-aside is necessary) shall be required. Restoration or set-aside of substitute native upland habitat, as provided below, shall be commenced within 90 days of the date the notice of violation becomes final, or within 30 days, if correction is effected in lieu of Code Enforcement Board action.

4.38.A. *Correction of violation upon notice of violation where upland habitat set-aside is required.* Correction of a violation of the land clearing provisions of the upland preservation regulations shall consist of the following:

1. The upland habitat affected by the illegal clearing shall be restored or replaced as provided herein, in the amount of 125 percent of the requirement prior to the violation.
2. *Set-aside requirements.*
    a. When existing native upland habitat on the project site meets the requirements for a development order issued under this division, a conservation easement shall be required on the remaining upland habitat. The set-aside area covered by this conservation easement shall equal 125 percent of the requirements of this division.
    b. A set-aside habitat plan with a conservation easement and PAMP shall be submitted to the Growth Management Department for approval. Within 90 days of submittal and approval, the new preserved area shall be marked and posted to assure its protection. The method of marking and posting of the new preserve area will be consistent with the method described previously in section 4.35.
3. *Restoration.*
    a. Habitat restoration shall be required when, because of the location, amount, type or quality of remaining native upland habitat, 125 percent of the upland habitat requirements for this division cannot be provided. A Restoration Plan shall be submitted to the Growth Management Department. The plan will demonstrate that restoration, set-aside habitat, or the combination of the two, amounts to 125 percent of the area of the violation. The plan shall provide for monitoring and reporting at least every six months and include an enforceable conservation easement covering all areas of the restoration and set-aside habitat.
    b. Restoration of the habitat at all levels (i.e., groundcover, understory and canopy), with full species diversity for the habitat type, is required. No sodding, grassing or mowing of the native groundcover shall be allowed during or following the restoration. Native plant material shall be used for the restoration and shall meet the requirements of Division 15 of this article, the landscaping, buffering and tree protection LDR. If

feasible, local stock shall be used rather than material grown elsewhere to assure compatibility and survivability.

c. On approval of the restoration plan, a fee or bond covering the cost of enforcement and restoration, equal to 110 percent of estimated costs of the entire activity, shall be provided to the County.

d. Ninety days after completion of restoration, the Growth Management Department Environmental Planning Administrator shall inspect the site to determine initial success. If more than ten percent of the plants have died or are at risk of dying, replanting shall be undertaken immediately. When this replanting is completed another inspection shall be required after 90 days. If the subsequent restoration fails, the fee or bond may be adjusted to assure its adequacy under subsection 4.38.A.3.c. When a 90-day review determines that the restoration has been successful, a new PAMP shall be submitted and approved within 60 days of the determination to assure the continued protection and viability of the restored area.

e. A reporting plan shall be submitted and approved to assure monitoring and appropriate remediation.

f. In addition to the fee or bond required under subsection 4.38.A.3.c, a five-year letter of credit shall be submitted and approved for monitoring and exotic removal in the amount of 110 percent of the cost of the restoration only.

g. The recipient of the notice of violation or its successors or assigns shall not be eligible for a development order for the property until all of the corrective actions contained herein have been completed.

4.38.B. *Hearings.*

1. If the recipient of the notice of violation requests a hearing before the Code Enforcement Board, then the provisions of subsection 4.38.A.3 shall not apply until final action by the Code Enforcement Board. The recipient of the notice may, at its option, proceed with the corrective actions provided for in subsection 4.38.A.3 before the Code Enforcement Board acts on the notice.

2. If the matter goes to a hearing before the Code Enforcement Board upon request of the recipient of the notice of violation or if correction has commenced but the violation has not been completed in accordance with subsection 4.38.A.3, then the Code Enforcement Board shall hear the case and issue a final decision on the notice of violation.

4.38.C. *Penalties.* In addition to the foregoing, the Code Enforcement Board may assess monetary penalties provided by law.

4.38.D. *Unmitigated violations.* Should the violation continue beyond the time specified for correction as provided above or if the violator fails to take the corrective actions provided above within reasonable time, the Code Inspector shall notify the Code Enforcement Board and request a hearing.

4.38.E. *Repeat violations.*

1. If a repeat violation is found, the Code Inspector shall issue a notice of violation, but is not required to give the violator a reasonable time to correct the violation.

2. The Code Inspector shall notify the Code Enforcement Board and request a hearing. The case may be heard by the Code Enforcement Board and penalties and corrective measures imposed in accordance with section 4.38, even if the repeat violation has been corrected prior to the Board hearing.

4.38.F. *Threats to public health, safety, and welfare; irreparable or irreversible violations.* If the Code Inspector has reason to believe a violation or a condition causing the violation presents a

serious threat to the public health, safety, and welfare, or if the violation is irreparable or irreversible in nature, the Code Inspector shall make a reasonable effort to notify the violator and may immediately notify the Code Enforcement Board and request a hearing.

4.38.G. *Issuance of development orders.* When native upland habitat has been destroyed by illegal activity, completion of restoration or replacement shall be necessary to receive a development order as outlined in subsection 4.38.A.

(Ord. No. 527, pt. 1, 5-21-1998; Ord. No. 605, pt. 1, § 4.2.8, 12-4-2001; Ord. No. 930, pt. 1, 6-11-2013)

Secs. 4.39—4.70. Reserved.

FOOTNOTE(S):

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Cross reference— Excavation, mining and filling, § 4.341 et seq.; tree protection, § 4.666. (Back)

DIVISION 3. MANGROVE PROTECTION [3]

Sec. 4.71. Title.

This division shall be known as the "Martin County Mangrove Protection Ordinance."

(Code 1974, § 12-81; Ord. No. 280, pt. 1, 1-28-1986; Ord. No. 456, pt. 1, 2-28-1995)

Sec. 4.72. Policy and intent.

4.72.A. The Martin County Board of County Commissioners finds that:

1. Mangrove vegetation borders much of the estuarine shoreline of Martin County;
2. The mangrove vegetation protects the shoreline against erosion resulting from relentless coastal dynamics;
3. The mangroves provide habitat for a diverse community of plants, animals, and endangered species;
4. The mangroves play a fundamental role in estuarine nutrition by producing concentrations of organic matter which are utilized by marine organisms within the estuarine food web;
5. Over 90 percent of Florida's sport and commercial fishery species are dependent upon the nursery function of these dynamic estuaries;
6. The mangroves provide a dependable winter resting ground for a host of species of migratory birds;
7. The mangroves are aesthetically appealing and, with special concern for maintenance of biological function, can be reasonably incorporated into the landscaping of waterfront residences; and
8. The mangroves have been shown, in certain cases, to be amenable to standard horticultural practices, including pruning, and waterfront property owners can live in harmony with mangroves by use of selective modification of the vegetative growth.

4.72.B. It is the intent of this division to protect mangroves and their vital role in the economy and ecology of the County by establishing a procedure for evaluating and minimizing the impacts of proposed mangrove alteration, while allowing waterfront property owners to selectively trim mangroves in order to increase enjoyment of the benefits of riparian ownership.

(Code 1974, § 12-82; Ord. No. 280, pt. 1, 1-28-1986; Ord. No. 456, pt. 1, 2-28-1995)

Sec. 4.73. Definitions.

Alter or *alteration* means to cut, remove, defoliate, or destroy by any means.

Mangroves means any specimen of the species Avicennia germinans (black mangrove), Languncularia racemosa (white mangrove), Rhizophora mangle (red mangrove) and Conocarpus erectus (buttonwood mangrove).

Prop roots means the structures originating below the lowest limbs of red mangroves which are also known as stilt roots.

Untrimmed mangrove means a mangrove that has not been trimmed over two successive growing seasons (years).

(Code 1974, § 12-83; Ord. No. 280, pt. 1, 1-28-1986; Ord. No. 456, pt. 1, 2-28-1995)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.74. Prohibitions.

Unless exempted pursuant to section 4.77 of this division, no person shall alter or allow or cause to be altered any mangrove in the unincorporated and incorporated areas of Martin County, as defined in section 8.4.A and 9.4.A of the Martin County Comprehensive Plan, without first obtaining an approval from the Martin County Growth Management Department in accordance with the rules and regulations as outlined in this division.

(Code 1974, § 12-84; Ord. No. 280, pt. 1, 1-28-1986; Ord. No. 456, pt. 1, 2-28-1995)

Sec. 4.75. Approval procedures.

4.75.A. A person desiring to alter mangroves in unincorporated and incorporated Martin County shall apply for approval to do so on forms provided by the Martin County Growth Management Department unless the proposed alteration is exempt pursuant to section 4.77 of this division.

4.75.B. Within five working days after receipt of an application or receipt of additional information, the Martin County Growth Management Department shall examine the application or information and notify the applicant of any apparent errors or omissions, and request such additional information as may be necessary for the processing of the application.

4.75.C. Within 30 working days after an application has been determined to be complete by the Martin County Growth Management Department, the department shall take one of the following actions:

1. Approve the application with or without specific conditions reasonably necessary to assure compliance with this division.
2. Deny the application with an explanation of what changes, if any, in the application are necessary for approval of the application.
3. Deny the application with reasons clearly stated.

4.75.D. Any approval issued pursuant to this division shall expire within 60 days if the affected mangrove area is one-tenth acre or less or within 90 days if the affected mangrove area is over one-tenth acre unless otherwise specified in the conditions of approval.

4.75.E. Any final action or any inaction of the Martin County Growth Management Department may be appealed to the Martin County Board of County Commissioners in writing, addressed to the County Administrator, within 30 days from the date of the final action by the department or after 30 days of inaction by the department, as appropriate. The Board of County Commissioners shall assure that this division has been properly applied.

(Code 1974, § 12-85; Ord. No. 280, pt. 1, 1-28-1986; Ord. No. 456, pt. 1, 2-28-1995)

Cross reference— Development review procedures, art. 10.

Sec. 4.76. Standards for approval or denial of an application.

4.76.A. No approval shall be granted for the removal, alteration or destruction of mangroves by mechanical, chemical or other means except as otherwise provided in section 4.76.E, H, I, J, and K below.

4.76.B. No approval shall be granted for the alteration of any mangrove if such alteration destroys or causes the destruction of the mangrove, except as provided in subsections E, H, I, J, and K below.

4.76.C. No approval shall be granted for the alteration of any mangrove which serves as an active nesting site for migratory birds or breeding area for a colony of birds.

4.76.D. Prior to the commencement of any alteration, permits and approvals required by other Federal, State and local agencies must be obtained and copies of such permits and approvals must be submitted to the Growth Management Department.

4.76.E. An approval shall be granted for the removal and/or alteration of mangroves to provide upland property owners with reasonable access to the water subject to the following guidelines:

1. The removal and/or alteration of mangroves shall be restricted to an accessway running perpendicular to the shoreline.
2. The width of the mangrove area affected by the accessway shall not exceed 30 feet for those properties that are designated for Marine Waterfront Commercial use on the Martin County Comprehensive Plan future land use maps and when such properties are used for marine waterfront commercial purposes.
3. The width of the mangrove area affected by the accessway shall not exceed 12 feet for properties other than those listed in section 4.76.E.2 above.
4. The applicant must demonstrate a need for the requested accessway if such accessway necessitates the removal and/or alteration of mangroves.
5. The accessway must be designed and located in such a manner that the least amount of damage to the mangroves is assured in a manner consistent with sections 4.5.B and 8.4.A and 9.4.A of the Comprehensive Plan.

4.76.F. Except as otherwise provided in section 4.76.E, H, I, J, and K below, the following alterations to mangroves are prohibited:

1. The removal of more than 25 percent of the lateral limbs or other lateral branches of any untrimmed mangroves.
2. The reduction in height of any black, white, red or buttonwood mangrove by more than 25 percent of the height of any untrimmed mangrove.
3. The removal of more than 25 percent of the foliage of any untrimmed mangrove.
4. The removal of any trunk, limbs or other branches greater than one inch in diameter.
5. Alterations to any prop roots.
6. The reduction in height of any mangrove to less than six feet in height or the cutting or alteration of any tree less than six feet in height.

4.76.G. Plant materials removed by selective trimming shall be disposed of in the following manner:

1. Trunks, limbs or other branches less than one inch in diameter, with associated leaves, shall be cut into one-foot lengths and placed in the waters where the trimming is performed.
2. Trunks, limbs or other branches greater than one inch in diameter, but less than two inches in diameter with associated leaves, shall be cut into lengths of six inches or less and shall be placed in the waters where the trimming is performed.
3. Trunks, limbs or other branches greater than two inches in diameter, with associated leaves, shall be properly disposed of in an upland location, so as not to impede or restrict water movement or create a hazard to navigation.
4. Leaves not attached to trunks, limbs, or other branches shall be placed in the waters where the trimming is performed.

4.76.H. An approval shall be granted for the removal and/or alteration of mangroves to provide vehicular access to property subject to the following guidelines:

1. The applicant must demonstrate that no other access alternatives exist.
2. Appropriate environmental agencies, including the Martin County Soil and Water Conservation District, must review and comment in writing regarding the proposed removal and/or alteration as to its appropriateness as the least damaging alternative.
3. The applicant must submit a proposal for reforestation.

4.76.I. An approval shall be granted for the removal and/or alteration of mangroves when such removal and/or alteration is necessary to make any reasonable use of property subject to the following guidelines:

1. The property must have been a lot of record on April 1, 1982.
2. The applicant must demonstrate that there is insufficient upland area or non-mangrove area to make any reasonable use of the property.
3. The guidelines outlined in section 4.76.H above must be met.

4.76.J. An approval shall be granted for the removal and/or alteration of mangroves within a dedicated utility easement of road right-of-way to provide public utilities as defined in F.S. § 366.02, with reasonable access subject to the following guidelines:

1. The width of the mangrove area affected by the accessway shall not exceed eight feet.
2. The applicant must demonstrate that no other access or alternatives exist.
3. The accessway should be designed and located in such a manner that the least amount of damage to the mangroves is assured.
4. The easement was an easement of record on April 1, 1982.
5. The applicant must submit a proposal for reforestation.
6. Appropriate environmental agencies, including the Martin County Soil and Water Conservation District, must review and comment in writing regarding the proposed removal and/or alteration as to its appropriateness as the least damaging alternative.

4.76.K. An approval shall be granted for maintenance of existing facilities of public or private utilities and public drainage systems, provided that no other alternative exists and that the alteration will be the minimum necessary.

(Code 1974, § 12-86; Ord. No. 280, pt. 1, 1-28-1986; Ord. No. 456, pt. 1, 2-28-1995)

Sec. 4.77. Exemptions.

No approval under this division shall be required for:

4.77.A. Alteration by a Florida licensed land surveyor in the performance of his duties, provided such alteration is the minimum necessary and is limited to a swath three feet or less in width.

4.77.B. Alteration by a waterfront property owner who desires to alter mangroves that were voluntarily planted, provided that the voluntary nature of the planting is documented and provided that such planting was not required for remedial purposes or as part of any prior development approval.

4.77.C. Alteration by a waterfront property owner who desires to trim away freeze-damaged and dead plant tissue, provided such trimming occurs a minimum of nine months after the freeze,

provided such trimming is performed by hand, and provided such trimming is limited to said freeze-damaged and dead plant tissue removal.

4.77.D. Alteration in connection with any development which, prior to the enactment of this division, has received a binding letter of vested rights pursuant to section 1.12 of the Martin County Comprehensive Plan to the effect that such development is consistent with said plan. Such alteration shall be the minimum necessary for the development.

4.77.E. Alteration approved for shoreline protection measures pursuant to the exceptions provided in section 8.4.A and 9.4.A of the Comprehensive Plan, as may be amended from time to time.

4.77.F. Any alteration lawfully permitted and specified in a valid permit issued by the State of Florida. To obtain the exemption, the State permit must be submitted to Martin County prior to commencement of the alteration.

(Code 1974, § 12-87; Ord. No. 280, pt. 1, 1-28-1986; Ord. No. 456, pt. 1, 2-28-1995)

Sec. 4.78. Enforcement and penalties.

4.78.A. Any person who violates this division shall be subject to the enforcement provisions set out in F.S. ch. 125, and chapter 1, article 4, and chapter 67, article 2, of the Martin County Code of Ordinances as amended from time to time, and the penalties set forth therein.

4.78.B. Each individual mangrove unlawfully altered under the provisions of this division shall constitute a separate offense.

4.78.C. In addition to other penalties provided by law, appropriate reforestation shall be required for violation of this division.

4.78.D. No development orders shall be issued to any violators of this division until the violation(s) has been properly abated to the satisfaction of the County.

4.78.E. Mangroves used for reforestation purposes shall be grown in pots no smaller than five gallons, have no fewer than two lateral branches and be a minimum of four feet in height at the time of planting. The number of mangroves used for reforestation shall be equal to or greater than the number of mangroves altered in violation of this division.

4.78.F. No alteration shall be permitted for five years on mangroves that have been planted to abate a violation of this division.

4.78.G. Security shall be posted for a minimum of two years to assure that the plant materials installed to abate a violation of this division shall survive and that the natural habitat is maintained by regular removal of nonnative competing vegetation. The amount of the bond shall be equal to 200 percent of the estimated cost of the necessary work required to abate the violation.

4.78.H. Violators of this division shall pay for all costs to the County for the review of any reforestation or other mitigation plan and for any required plan implementation inspections conducted by the County. The review and inspection fees shall be sufficient to cover the expenses to the County. The amount of the fee shall be as established from time to time, as set forth by a resolution of the Board of County Commissioners.

(Code 1974, § 12-88; Ord. No. 280, pt. 1, 1-28-1986; Ord. No. 456, pt. 1, 2-28-1995)

Secs. 4.79—4.100. Reserved.

FOOTNOTE(S):

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Cross reference— Tree protection, § 4.666. (Back)

DIVISION 4. BARRIER ISLAND AND SEA TURTLE PROTECTION [4]

Sec. 4.101. Title.

This division shall be known as the "Martin County Barrier Islands Ordinance."

(Code 1974, § 33-72(A); Ord. No. 462, pt. I, 6-6-1995)

Sec. 4.102. Purpose and intent.

It is the purpose and intent of the special barrier island regulations to provide minimum standards for development on the barrier islands (Hutchinson Island, Long Island, Jupiter Island) of the unincorporated areas of the County and to limit the density and intensity of development in a manner that will properly reflect the unique conditions of the barrier islands as they relate to providing essential public services and facilities such as vehicular access, emergency evacuation, water supply, wastewater treatment, drainage and public safety. It is the further purpose and intent of these regulations to preserve environmentally sensitive resources to maintain and, where appropriate, to reestablish productive natural ecosystems and related coastal components of the barrier islands, the Indian River, the Intracoastal Waterway and the Atlantic Ocean and to maintain their contribution to the quality of life and economic well-being of the County.

(Code 1974, § 33-72(B); Ord. No. 462, pt. I, 6-6-1995)

Sec. 4.103. Definitions.

For the purposes of this division, the following definitions shall be used:

ACOE means Army Corps of Engineers.

Artificial light source means any source of light emanating from a manmade device including, but not limited to, incandescent mercury vapor, metal halide or sodium lamps, spotlights, streetlights, vehicular lights, construction or security lights.

Beach means the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of storm waves), as is defined in F.A.C. ch. 16B-33, as may be amended, or to constructed bulkheads or other coastal protection structures.

Beach access point means any path through or over the dune used by the general public, or, with respect to private property, by the owners or with the owner's permission, for the purpose of gaining access to the beach with the least disruption of natural dune vegetation.

Beachfront lighting means all artificial lighting within the jurisdictional boundaries of this division.

Coastal construction means the carrying out of any activity within jurisdictional boundaries to modify or improve site conditions including, but not limited to, building, clearing, filling, excavation, beach/dune preservation, stabilization and restoration projects, mechanical beach cleaning, grading or planting of vegetation, or the making of any material change in the size or use of any structure or the appearance of site conditions, or the placement of equipment or material upon such sites.

DEP means the Florida Department of Environmental Protection.

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

Ground level barrier means any natural or artificial structure rising above the ground which reduces artificial lighting from shining directly onto the beach/dune system.

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

Jurisdictional boundaries as applied to sea turtle protection are defined as follows:

1. The area between State Road A1A and the Atlantic Ocean on Hutchinson Island;
2. The area between MacArthur Boulevard and the Atlantic Ocean on Hutchinson Island.
3. The area between Beach Road and the Atlantic Ocean on Jupiter Island;
4. The area between the coastal construction control line (CCCL), established pursuant to F.S. § 161.053, as amended, and the Atlantic Ocean.

If the section of the barrier island has both an above-referenced road and the coastal construction control line, then the western jurisdictional boundary shall be whichever is the greater distance from the Atlantic Ocean.

Mechanical beach cleaning means any mechanical method by which debris is removed from the beach.

Nest means the area in and around a place in which sea turtle eggs are naturally deposited or relocated beneath the sediments of the beach/dune system.

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

Permitted agent of the State means any qualified individual, group or organization possessing a permit from the Department of Environmental Protection (DEP) to conduct activities related to sea turtle protection and conservation.

Primary dune means the first natural or manmade mound or bluff of sand which is located landward of the beach, which has substantial vegetation, height, continuity and configuration.

Sea turtle means any specimen belonging to the species Caretta caretta (loggerhead turtle), Chelonia mydas (green turtle), Dermochelys coriacea (leatherback turtle), Eretmochelys imbricata (hawksbill turtle) or any other marine turtle using County beaches as a nesting habitat.

SFWMD means the South Florida Water Management District.

Turtle walk means any organized, educational, public awareness program expressly formed for the purpose of observing nesting or hatching sea turtles.

(Code 1974, § 33-72(C); Ord. No. 462, pt. I, 6-6-1995)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.104. Applicability.

These development standards shall apply throughout and adjacent to the barrier islands within the unincorporated areas of the County, and all development on or attached to the barrier islands shall be consistent with said development standards. Standards related to beachfront lighting shall apply to proposed and existing facilities.

(Code 1974, § 33-72(D); Ord. No. 462, pt. I, 6-6-1995)

Sec. 4.105. Maximum residential densities.

The following density limitations shall apply:

4.105.A. *Comprehensive Plan limitations.* The maximum permitted residential density for contiguous land areas under common ownership on the barrier islands shall not exceed two dwelling units per gross upland acre.

4.105.B. *Transportation capacity limitations.* When minimum traffic standards are exceeded based on existing and approved developments on the principal transportation system that provides access to the barrier islands and provides traffic circulation on the barrier islands, including the Jensen and Stuart Causeways, A1A and MacArthur Boulevard, residential development shall be restricted to single-family dwellings.

(Code 1974, § 33-72(E); Ord. No. 462, pt. I, 6-6-1995)

Sec. 4.106. Site design standards.

The following site design standards shall apply to all barrier island development requiring site plan approval:

4.106.A. *Bufferyards.* A minimum 20-foot-wide native vegetative buffer, excluding all buildings, structures, driveways and parking areas, shall be provided on each parcel along all property lines separating two residential uses. The bufferyard shall be increased to not less than 40 feet

in width on each parcel between nonresidential uses or between a residential use and an adjacent property which is used, zoned or designated for nonresidential use in the Comprehensive Growth Management Plan.

4.106.B. *Building separation.* The following minimum structural separations shall be maintained:

1. One- and two-story structures: 15 feet.
2. Three-story structures: 20 feet.
3. Four-story structures: 25 feet.

4.106.C. *Maximum building height.* The building height restrictions of section 3.7 of this Code shall apply, except that the height of structures on oceanside parcels shall be measured from the average height of the primary dune. Where this method of measurement would permit buildings to exceed four stories or 40 feet in height the additional area shall be restricted to parking garages, utilities and building access uses.

4.106.D. *Setback requirements.* The following setback standards shall apply:

1. A minimum setback of 50 feet shall be maintained from the centerline of all County or other non-State road rights-of-way.
2. A minimum setback of 100 feet shall be maintained from the centerline of all State road rights-of-way.
3. Adequate setbacks shall be maintained from all roads or drives that provide internal traffic circulation to a development. This provision shall not apply to minor structures such as a guardhouse which are normally constructed in close proximity of roads or drives.

4.106.E. *Parking facilities.* Constructed parking facilities shall be specifically limited to one floor of parking.

(Code 1974, § 33-72(F); Ord. No. 462, pt. I, 6-6-1995)

Sec. 4.107. Beach and dune protection.

4.107.A. *Dune preservation zone.* A dune preservation zone extending from the mean high-water line of the Atlantic Ocean to a point being 50 feet westerly of the coastal construction control line (CCCL) as in force and effect on June 1, 1985, is hereby established.

4.107.B. *Permitted uses within dune preservation zone.* No development, other than approved shore protection, beach restoration, St. Lucie Inlet maintenance, dune crossovers or activities related to beach safety shall be permitted within the dune preservation zone.

4.107.C. *Modification of dune preservation zone boundaries.* For those lands lying south of the Fletcher Beach access strip, the Board of County Commissioners may reduce the western limits of the dune preservation zone upon a determination that such a reduction shall not materially affect the preservation of the dune. No total net loss of dune shall be allowed.

4.107.D. *Responsibility for funding.* Funding for approved beach renourishment, shoreline stabilization and dune restoration projects shall be the responsibility of the beneficiaries of such projects.

4.107.E. *Dune restoration.* Dune restoration shall be a component of all beach renourishment projects.

4.107.F. *Motorized vehicles.* No motorized land vehicles shall be allowed seaward of the dune preservation zone without prior approval from DEP and the Board of County Commissioners.

4.107.G. *Dune crossings.* A permit from the Department of Environmental Protection is required for the construction of walkways crossing dunes to beaches fronting on the open waters of the Atlantic Ocean.

1. Dune crossings constructed across the dune are to be post-supported and elevated according to the provisions set forth by the Department of Environmental Protection which vary in allowance for sand buildup and clearance above existing or proposed dune vegetation.
2. Each subdivision will be limited to one common dune crossing, provided, however, that this limitation shall not apply to single-family lots constituting lots of record prior to the enactment of this division. The crossing structure shall conform to the standards set forth by the DEP for public walkways and handicap ramps.

4.107.H. *Pedestrian use of dune crossings.* No person shall cross a dune except by way of an elevated dune crossing.

(Code 1974, § 33-72(G); Ord. No. 462, pt. I, 6-6-1995)

Sec. 4.108. Flood damage prevention.

The minimum living floor elevation for any structure constructed on the barrier island shall comply with F.A.C. 16B-33.07, as may be amended, pertaining to coastal construction and excavation, in addition to all applicable flood damage prevention provisions of the County Code of Ordinances.

(Code 1974, § 33-72(H); Ord. No. 462, pt. I, 6-6-1995)

Sec. 4.109. Public safety requirements.

The following minimum public safety requirements shall be met by all developments on the barrier islands that require site plan approval. These requirements do not apply to single-family residences.

4.109.A. *Access to structures.* Adequate space shall be provided in all developments to permit accessibility to all structures by firefighting and other emergency equipment.

4.109.B. *Fire hydrants.* All development shall incorporate fire hydrants with appropriate locations including hydrant separations of not more than 500 feet.

4.109.C. *Sprinkler systems.* All structures with habitable floorspace over two stories or 25 feet in height (whichever is less) shall be provided with a sprinkler system installed in accordance with NFPA 13, Standards for Automatic Sprinkler Protection, and NFPA 14, Standards for Standpipes, as may be amended.

4.109.D. *Elevators.* Primary elevators, and passageways providing vertical and horizontal access to habitable areas within structures, shall be designed and constructed to be capable of accommodating a stretcher in a supine position.

4.109.E. *Emergency evacuation.* All development applications must include an emergency evacuation plan approved by the Emergency Management Division of the Public Safety Department. The plan must include construction, if required, and locations of approved shelters, public emergency preparedness information and emergency evacuation routes.

(Code 1974, § 33-72(I); Ord. No. 462, pt. I, 6-6-1995)

Sec. 4.110. Stormwater standards.

Where applicable, stormwater systems shall be designed and constructed pursuant to stormwater standards established by DEP, SFWMD, or as required by County ordinance.

(Code 1974, § 33-72(J); Ord. No. 462, pt. I, 6-6-1995)

Sec. 4.111. Sea turtle protection.

4.111.A. *Prohibition of activities disruptive to sea turtles.*

1. *Horseback riding and campfires.* Horseback riding and campfires shall be prohibited on or seaward of the primary dune during the nesting season. Areas of prohibition for these activities are also extended to all areas landward of the primary dune where sea turtles are known to nest.
2. *Disturbance or touching of sea turtles.* Any disturbing, touching, harassing, killing or taking of any sea turtle, hatchling, egg or part of same is strictly prohibited. Persons wishing to observe sea turtle nesting and/or hatching are encouraged to join a DEP approved public awareness "turtle walk." Groups or individuals conducting public awareness turtle walks shall obtain a permit from DEP and follow DEP guidelines.

4.111.B. *Required sea turtle protection plan (STPP).* A sea turtle protection plan (STPP) approved by the County in consultation with DEP shall be required for all coastal construction involving the installation of permanently mounted light fixtures and for all coastal construction conducted during the nesting season seaward of the primary dune or landward of the primary dune where sea turtles are known to nest. Approval of an STPP does not relieve applicants from complying with all other applicable conditions set out in this division or from mitigating against subsequent negative impacts to sea turtles, their nests or eggs.

1. *STPP application procedures.* A STPP shall be submitted to the County concurrently with the application for a development order. The STPP shall include the following information, as applicable:
   a. Location, number, positioning and type of all proposed permanent exterior artificial light sources including, but not limited to, those used on balconies, walkways, recreational areas, roadways, parking lots, dune crossovers, decks, boardwalks and signs.
   b. Protective/mitigative measures to minimize lighting impacts on sea turtles, including measures to prevent direct illumination of areas seaward of the primary dune.
   c. Schedule of proposed construction periods.
   d. Number of linear feet of shoreline seaward of the primary dune upon which construction will occur.
   e. Number and type of vehicles, equipment and materials to be used seaward of the primary dune, and location of beach access points to be used in moving equipment and materials to and from the site.
   f. Location, number, positioning and type of temporary nighttime security lights.
   g. Protective/mitigative measures to minimize construction impacts on sea turtles.
2. *Alternate STPP application procedure.* The provisions of subsection 1 (required sea turtle protection plan (STPP)) above can be met by supplying a copy of a sea turtle protection plan approved through permit by the State of Florida Department of Environmental Protection (DEP).

4.111.C. *General standards for coastal construction.* The following standards with no exceptions shall apply to all coastal construction specified in this division and shall be met prior to the issuance of a building permit or approval of a site plan:

1. *Timing considerations.* Coastal construction shall be limited to the maximum extent possible to the nonnesting season (November 1 through February 28). Coastal construction (other than government-approved hydraulic filling activities) occurring during any portion of the nesting season shall be conducted during daylight hours only.

2. *Coastal construction seaward of primary dune during nesting season.* Protective and mitigative measures for sea turtles developed pursuant to this division shall be implemented for all coastal construction seaward of the primary dune during the nesting season.

3. *Restrictions on nighttime security lighting.* Temporary nighttime security lighting should be limited to the fewest number of lights necessary to provide adequate security and shall:

   a. Be mounted not more than 15 feet above the ground;

   b. Not illuminate areas outside of the subject property, and use shrouded lighting hoods or shielded lighting to retain light within these areas;

   c. Not directly illuminate areas seaward of the primary dune, unless protective mitigative measures for lighting impacts are developed pursuant to this division.

4. *Protective and mitigative measures.* Temporary security lighting, or construction seaward of the coastal construction control line or 50-foot setback during the sea turtle nesting season, will require extended review by County staff and the DEP and shall not be approved unless emergency circumstances are demonstrated. If it is absolutely necessary for these activities to be performed because emergency circumstances have been demonstrated, then lighting shall be limited to the fewest number necessary. If construction seaward of the coastal construction control line is proposed during the nesting season, then the following minimum additional information for protective and mitigative measures must be supplied. If these minimum criteria are required as part of the DEP sea turtle protection plan permit then the project will be exempt from additional Martin County permitting requirements. Protective and mitigative measures shall include, but not be limited to, the following, as applicable:

   a. *Nest relocation.* A permitted agent of the State shall conduct a preliminary site survey and relocate all sea turtle nests to a safe habitat during the nesting season.

   b. *Exemption of preliminary site survey.* Construction activity in progress on or before March 1 of each year shall be exempt from a preliminary site survey, but the daily nesting survey requirements below shall apply.

   c. *Delay of construction.* If nests are known to be present during a preliminary site survey and cannot be relocated or removed to a safe habitat, construction shall be postponed for 65 days or until all potentially affected nests have hatched.

   d. *Prevention of construction delays.* Persons anticipating construction starts during the nesting season may obtain the services of a permitted agent of the State to mark all nests on a daily basis as set out in DEP guidelines, beginning no later than March 1 of each year. The nests may be relocated by the permitted agent of the State after all permits have been obtained.

   e. *Daily nesting surveys.* A permitted agent of the State shall conduct daily nesting surveys of construction areas seaward of the primary dune and shall cage sea turtle nests or relocate the nests to a safe habitat, beginning with the preliminary site survey or the nesting season, as applicable, until one of the following occurs: construction activities are completed or the nesting season has ended.

f. *Delimitation of construction areas.* Preliminary site surveys and daily nesting surveys shall encompass all areas seaward of the primary dune upon which equipment and materials are moved to and from the construction site.

g. *Record maintenance.* Daily records shall be maintained for all sea turtle monitoring conducted pursuant to this division and, together with a summary of the monitoring results, shall be provided to the County upon completion of construction activities or at the end of the sea turtle nesting season, whichever comes first. Daily records shall include, as appropriate:

(1) Date of the preliminary site survey;

(2) Inclusive dates of daily nesting survey;

(3) Number of nests relocated;

(4) Number of eggs per nest relocated;

(5) Hatch success, if required by DEP; and

(6) Names of permitted agent of the State performing monitoring program.

4.111.D. *Standards for site development.* All agents of the State performing site development activities within jurisdictional boundaries, approved by the County after the effective date of this division, shall comply with the following standards, as applicable, and the standards shall be incorporated into a STPP:

1. *Location, alignment and placement of structures.* The positioning of buildings, recreational facilities, walkways, beach access points, parking lots and other features of the site shall be predicated on minimizing operational impacts of these features on sea turtles.

2. *Ground level barriers and dune enhancement.* Natural or artificial structures rising above the ground should be used to the maximum extent possible to prevent lighting from directly or indirectly illuminating the beach/dune system and to buffer noise and conceal human activity from the beach. Improving dune height in areas of low dune profile, planting native vegetation or using hedges and privacy fences is encouraged.

4.111.E. *Standards for beachfront lighting.* All lighting for the coastal construction activities shall comply with the following standards, as applicable, and shall be incorporated into the STPP:

1. *General prohibition.* No artificial existing or proposed public or private light source, directly or indirectly, within or outside jurisdictional boundaries, shall illuminate areas seaward of the primary dune.

2. *Permanent lighting.* The installation of permanent lighting shall reflect the standards and mitigative measures using the DEP "Information Form to Assess and Reduce Impacts to Marine Turtles" or such publication as amended.

3. *Reference availability.* The County shall make a copy of the DEP "Information Form to Assess and Reduce Impacts to Marine Turtles" available for review. As design and performance standards are developed or upgraded and become available, the County may provide additional references.

4. *Controlled use, design and positioning of lighting.*

a. Any and all light fixtures shall be designed or positioned such that they do not cause direct or indirect illumination of areas seaward of the primary dune and the source of light is not directly visible from the beach.

b. All lights on balconies shall be shielded from the beach.

c. The use of lighting for decorative and accent purposes, within line of sight of the beach, such as that emanating from spotlights or floodlights, is prohibited.

d. The use of lights for safety and security purposes shall be limited to the minimum number required to achieve their functional roles.

e. Lighting used in parking lots within line of sight of the beach shall be:

(1) Set in a base which raises the source of light no higher than 48 inches off the ground.

(2) Positioned or shielded such that the source of light is not visible from the beach.

5. *Use of window treatments.* To prevent interior lights from illuminating the beach, one or a combination of the following window treatments are required on all windows of single- and multi-story structures:

a. Blackout draperies or shade screens.

b. Window tint/film with a shading coefficient (the percent of incident radiation passing through a window) of 0.37 to 0.45.

6. *Design of vehicular circulation and parking areas.*

a. Parking lots and roadways, including any paved or unpaved area upon which motorized vehicles will operate, shall be designed and/or positioned such that vehicular headlights do not cast light on the beach.

b. Vehicular lighting shall be shielded from the beach through the use of hedges, dune vegetation and/or other ground level barriers.

7. *Lighting for pedestrian traffic.*

a. Beach access points, dune crossovers, beach walkways, piers or any other structure on or seaward of the primary dune designed for pedestrian traffic shall use the minimum amount of light necessary to ensure safety.

b. Lighting for pedestrian traffic shall be of low intensity and be recessed or shielded so that the source light is not directly visible from the beach.

8. *Beachfront lighting approval.* Prior to the issuance of a certificate of occupancy by the County, each STPP shall be inspected for compliance as follows:

a. Upon completion of construction activities, a registered Florida architect or professional engineer shall conduct a site inspection, which includes a night survey with all beachfront lighting turned on.

b. The inspector shall prepare and report the inspection findings in writing to the County identifying:

(1) Date and time of initial inspection;

(2) Extent of compliance with this division;

(3) All areas of potential and observed noncompliance with this division;

(4) Any actions taken to remedy observed noncompliance, if applicable; and

(5) Date and time of remedial inspections, if applicable.

c. The inspector shall sign and seal the inspection report, which includes a certification that all beachfront lighting:

(1) Has been constructed in accordance with the STPP, if applicable;

(2) Does not illuminate areas seaward of the primary dune at the time of night inspection;

(3) And is not directly or indirectly visible from the beach at the time of night inspection.

9. *Approval not exclusive.* Approval of compliance with the beachfront lighting standards set out in the STPP shall not relieve persons from complying with all other applicable conditions set out in this division or from mitigating against subsequent negative impacts to sea turtles, their nests or eggs, resulting from the approved activity.

4.111.F. *Standards for beach access points.* All beach access points shall comply with the following standards:

1. *Pedestrian traffic.* Pedestrian traffic shall be directed and limited to beach access points provided with dune crossovers.

2. *Information sign requirements.* Permanent sea turtle information signs shall be conspicuously posted at all public beach access points provided with dune crossovers and all such private beach access points, except property developed with single-family dwellings. The information signs shall be:

   a. Standardized by the County; and

   b. Installed and maintained by the property owner.

3. *Standardized information requirements.* Information printed on the signs shall inform beach users:

   a. That sea turtles use the beach as a nesting habitat;

   b. Of potential penalties for the possession, molestation, disturbance, harassment or destruction of sea turtles, their nests or eggs; and

   c. Of a contact address or phone number for public use in obtaining additional information.

4. *Sign maintenance requirements*. Standardized sea turtle information signs shall be maintained in perpetuity such that information printed on the signs remains legible and the signs are positioned such that they are conspicuous to persons accessing the beach.

5. *Sign removal.* Removal of information signs by anyone other than those authorized by the County is prohibited.

4.111.G. *Beach/dune preservation stabilization, restoration.* All coastal construction within jurisdictional boundaries associated with beach/dune preservation, stabilization and restoration, approved by the County, shall comply with the following standards as well as those set out by DEP:

1. *Design and location of structures.* Buried, emergent or aboveground structures shall be designed or located such that they do not act as traps to adult sea turtles or their hatchlings or significantly reduce usable areas of nesting habitat.

2. *Restored beaches.* Restored beaches shall, to the maximum extent possible, resemble the characteristics of pre-existing or adjacent natural beaches in terms of sediment grain size, compaction, refractivity and beach slope.

3. *Restored dunes.* Restored and stabilized dunes shall, to the maximum extent possible, be similar in appearance to the pre-existing or adjacent natural dunes in terms of profile, vegetation and sediment characteristics.

4. *Use of native dune vegetation.* The use of natural, native dune vegetation shall be required and the design and operation of sprinkler systems to sustain dune vegetation shall:

   a. Be approved by the County prior to installation;

   b. Be timed and operated so as not to interfere with the normal development of sea turtle eggs in the nests or adversely affect emergent hatchlings; and

   c. Not broadcast water seaward of the primary dune.

5. *Consultation with other agencies.* The County shall confer with DEP, permitted companies and State agencies whenever necessary to determine compliance with any of the standards set out in this division.

4.111.H. *Standards for mechanical beach cleaning.* All mechanical beach cleaning activities approved by the State after the effective date of this division, designed to remove debris from the beach, alter beach profiles or disturb more than the upper two inches of beach sediment through the use of motorized vehicles or other mechanical means, shall comply with the following standards, and the standards shall be incorporated into a STPP, as applicable:

1. *Compliance with County and State beach/dune preservation policies.* Equipment, methodologies and points of access shall be consistent with long-term beach/dune preservation policies established by the County and State.

2. *Daylight cleaning only.* Beach cleaning shall be confined to daylight hours.

3. *Mode of operations.* During the nesting season (March 1 through October 31) the following beach cleaning regulations shall apply:

   a. Beach cleaning operations shall be limited to the strand line (previous high tide mark) whenever possible.

   b. Lightweight motorized vehicles having wide, low profile, low pressure tires or hand raking shall be used to conduct beach cleaning operations.

   c. Devices used for removing debris shall be designed or operated such that they do not penetrate beach sediments by more than two inches.

4. *Sea turtle protection plan exemption.* An STPP may not be required for mechanical beach cleaning activities, if it is demonstrated to the County that the proposed operation will have no adverse effects on the normal development and viability of eggs and hatchlings in sea turtle nests and habitats, pursuant to the following procedures:

   a. The County shall be notified in writing by the applicant that the protective/mitigative measures of section 4.111.C.4 shall not be required as part of the State permit.

   b. The County shall grant an exemption from the STPP upon consultation with the State and receipt of a copy of the State permit prior to commencement of the mechanical beach cleaning activities.

5. *Coordination of beach cleaning with State-sanctioned studies.* All beach cleaning operations shall be coordinated through the State to ensure that these operations do not interfere with State-sanctioned scientific studies of sea turtle nesting activities.

4.111.I. *Enforcement of sea turtle protection standards.* In areas where compliance with the lighting conditions and other mitigative measures within this division are not evidenced, property owners that are not in compliance shall be sent a notice of violation and shall be required to implement appropriate protective measures, developed in consultation with the County and DEP. Mitigative measures shall be implemented in addition to penalties and fines, if applicable. Any mitigation program implemented as a result of a notice of violation shall remain in effect until such time that compliance with this division is documented in the following manner:

1. Submittal to the County of a signed and sealed inspection report by a registered architect or professional engineer. The inspection report shall certify that all provisions of this division have been met.

2. The inspection report shall be prepared and include standard information in accordance with this division.

(Code 1974, § 33-72(K); Ord. No. 462, pt. I, 6-6-1995)

Secs. 4.112—4.140. Reserved.

FOOTNOTE(S):

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Cross reference— Stormwater management and flood control, § 4.381 et seq. (Back)

DIVISION 5. WELLFIELD PROTECTION [5]

Sec. 4.141. Short title; applicability; construction.

4.141.A. This division shall be known as the "Wellfield Protection Ordinance."

4.141.B. All provisions of this division shall be effective within the incorporated and unincorporated areas of Martin County, Florida, and shall set restrictions, constraints, and prohibitions to protect existing and future public potable water supply wells from degradation by contamination from deleterious substances.

4.141.C. This division shall be liberally construed to effectuate the purposes set forth herein.

(Code 1974, § 12-100; Ord. No. 428, pt. 2, 7-27-1993; Ord. No. 437, pt. I, 3-8-1994)

Sec. 4.142. Purpose and intent.

The purpose and intent of this division is to protect the health and welfare of the residents and visitors of the County by providing criteria for regulating deleterious substances and contaminants, and by regulating the design, location and operation of development and activities which may impair existing and future public potable water supply wells.

(Code 1974, § 12-101; Ord. No. 428, pt. 2(A), 7-27-1993)

Sec. 4.143. Definitions.

For the purposes of this division, the following terms are defined:

Aquifer means a groundwater-bearing geologic formation or formations that are saturated and permeable enough to yield significant quantities of water.

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

DEP means the Florida Department of Environmental Protection.

EPA means the United States Environmental Protection Agency.

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

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

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

Petroleum product includes fuels (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils (new and used), hydraulic fluids and other similar petroleum products.

Protection zone means that area surrounding a public potable water supply well that is protected by the provisions of this division.

Public potable water supply well means wells withdrawing potable water from the surficial aquifer that serve and are operated by regional water systems. For purposes of this division, "regional water systems" shall mean any municipality, special district, County-owned or other water systems that have a DEP rated capacity of at least 500,000 gpd (0.5 MGD) and a South Florida Water Management District (SFWMD) individual water use permit.

Regional water system means a system [of] either government-owned or investor-owned potable water facilities that provide water, for a fee, to specific geographic areas within the County. These systems are designed and located so as to offer service to a relatively large area. This term is not intended to designate a single, County-wide potable water system.

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

Regulated substances means:

1. Substances which are classified as one or more of the following:

a. A priority toxic pollutant and hazardous substance by EPA (40 CFR 122.21).

b. A hazardous substance by EPA under CERCLA (40 CFR 302).

c. An extremely hazardous substance by EPA (40 CFR 355, appendices A and B).

d. A hazardous waste (40 CFR part 261, subpart D) and hazardous constituents (40 CFR appendix VIII).

e. A degradation product which is toxic and includes petroleum-based products.

f. A restricted use pesticide pursuant to F.S. ch. 487, as set forth in F.A.C. chs. 5E-2 and 5E-9, and having the following physical characteristics:

(1) Prone to be persistent in the environment; or

(2) Water-soluble or prone to pass downward through surface soils, to enter into and mix with groundwater, and transported by the movement of groundwater.

2. Regulated substances shall include, but are not limited to, those set forth in the list entitled "Public Potable Well Water Supply Regulated Substances," which shall be maintained by the Growth Management and the Utilities Departments.

Retail sales activities means an establishment that is licensed for retail sales and that stores or handles consumer products that contain regulated substances, for resale in their original unopened containers.

Secondary containment shall mean a level of containment that is external to and substantially separate from the primary containment, which will prevent the contained material from being discharged and will allow for leak detection capability between the two levels of containment.

SFWMD means the South Florida Water Management District.

Well means a hole sunk into the earth for the distinct purpose of reaching a supply of potable water for drinking.

(Code 1974, § 12-102; Ord. No. 428, pt. 2(B), 7-27-1993)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.144. Applicability.

This division shall apply within all incorporated and unincorporated areas of the County. The provisions shall set restrictions, constraints and prohibitions to protect existing and future public potable water supply wells from degradation by contamination from deleterious substances.

(Code 1974, § 12-103; Ord. No. 428, pt. 2(C), 7-27-1993)

Sec. 4.145. Regulated area maps.

4.145.A. The regulated area maps shall illustrate existing and future public potable water supply wells and their zones of protection and shall be reviewed and, if necessary, updated annually to include any amendments, additions, or deletions which are adopted by the Board of County Commissioners. Any entity that operates a well protected by this division shall assist the County in preparing the regulated area maps by delivering to the County a surveyed location sketch of each well and corresponding protection zone. Every development approval package that contains a site for a public potable water supply well shall include a resolution adding the well site to the County's regulated

area maps. These maps shall be maintained by the Utilities Department and shall be on file with the Growth Management Department.

4.145.B. The boundaries of the wellfield protection areas reflect the best hydrogeologic information available as of the date of the map. Where these bounds are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where the boundaries should be properly located. At the request of the owner(s), the County may engage a professional geologist, hydrogeologist, engineer, or other qualified expert trained and experienced in hydrogeology to determine more accurately the location and extent of an aquifer or recharge area, and may charge the owner(s) for the entire cost of the investigation.

(Code 1974, § 12-104; Ord. No. 428, pt. 2(D), 7-27-1993)

Sec. 4.146. Regulated areas.

The regulated areas comprise three zones, protection zone 1, protection zone 2, and protection zone 3. The effective date for zone 3 requirements is January 1, 1997. The size of the regulated areas is provided by resolution of the Board of County Commissioners.

(Code 1974, § 12-105; Ord. No. 428, pt. 2(E), 7-27-1993)

Sec. 4.147. Prohibited activities within regulated areas.

4.147.A. *Regulated substances.* Nonresidential activities, other than retail sales and offices exempted by section 4.149.A, B, which store, handle, produce or use any regulated substance within protection zone 1 shall be prohibited if its quantities are greater than those listed in section 4.150.H.

4.147.B. *Septic tanks.* Nonresidential septic tank drainfields shall not be located within 200 feet of a public potable water supply well.

4.147.C. *Stormwater retention/detention areas.* Stormwater retention/detention areas (wet), as defined by the SFWMD (volume VI, section 3.2.2.4), shall not be located within 300 feet of a public potable water supply well.

4.147.D. *Wastewater effluent discharges.* Wastewater treatment plant effluent discharges, including but not limited to percolation ponds, spray irrigation, surface water discharge, land application, or drainfields, shall not be located within 500 feet of a public potable water supply well unless otherwise allowed in accordance with DEP 17-610.

4.147.E. *Nonresidential use of regulated substances.* If a nonresidential building proposes to contain, use, handle or store regulated substances and is located partially within a protection zone, then the entire building shall be governed by the restrictions applicable to that zone or to the more restrictive zone, if two zones are covered.

4.147.F. *New wells.* No new wells shall be constructed within 200 feet of an existing or proposed public potable water supply well, except for the following purposes:

1. Wells constructed by a public utility for water production or groundwater monitoring;
2. Wells constructed to replace existing wells to meet additional standards;
3. Wells or test borings required as part of an approved contamination assessment plan where contamination exists or is suspected; or
4. Wells or test borings required as part of an approved remedial action plan to prevent further groundwater contamination; and

5. Serves individual household residence.

4.147.G. *Negative water supply impacts.* No development shall be approved that negatively impacts a public potable water well (see SFWMD volume III regulations). Impacts shall include potential supply limitations by excessive drawdown, saltwater contamination, or other quality problems.

(Code 1974, § 12-106; Ord. No. 428, pt. 2(F), 7-27-1993; Ord. No. 437, pt. II, 3-8-1994)

Sec. 4.148. Requirements within the regulated areas.

4.148.A. *Protection zone 1.* Nonresidential activities containing regulated substances shall be subject to the following requirements except as exempted by this division.

1. *Inventory.* Prepare and record an inventory of regulated substances.

2. *Containment of regulated substances.* Leakproof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size and construction to handle all spills, leaks, overflows, and rainfall until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any regulated substance loss to the external environment. Containment systems shall be sheltered so that the intrusion of rainfall is prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering only after approval of the design by the County Utility Department's Technical Services Division. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to aboveground and underground storage areas. A generic list of secondary containers shall be provided. The list is provided by resolution of the Board of County Commissioners. Containers that require construction or containers beyond the scope of the list shall warrant certification by a professional engineer.

3. *Emergency collection devices.*

   a. Vacuum suction devices, absorbent scavenger materials or other devices shall be present on-site or available within two hours (one hour in zone 1) by contract with a cleanup company in sufficient magnitude or capacity to control and collect the existing total quantity of regulated substances. Employees shall be trained to use the equipment. The equipment shall be inspected and tested on a regular basis to assure that it is in working order. The presence of such emergency collection devices shall be indicated in the operating permit application for existing activities.

   b. If emergency devices are to remain on-site, then a generic list of emergency collection devices shall be provided. The list is provided by resolution of the Board of County Commissioners. Devices that are beyond the scope of the list shall warrant certification by a professional engineer registered in the State of Florida. The professional engineer shall certify that the emergency collection devices are sufficient to control and collect the existing total quantity of regulated substances. Certification shall be provided to the County Utility Department's Technical Division upon applying for an operating permit. The owner shall provide an affidavit stating that the emergency collection devices shall remain on-site.

4. *Emergency plan.* An emergency plan shall be prepared and filed with the operating permit application indicating the procedures that will be followed if a regulated substance is spilled. The plan is to control and collect all such spilled material in such a manner as to prevent as much spillage as possible from reaching any storm or sanitary drains or the ground.

5. *Regular maintenance of containment and emergency equipment.* Regular maintenance procedures shall be established for the quarterly in-house inspection, testing and maintenance of containment and emergency equipment. Such procedure shall be in writing, a regular checklist and schedule of maintenance shall be established, and a log shall be kept of

inspections and maintenance. Such logs and records shall be kept up-to-date and available for inspection by the County Utility Department's Technical Services Division.

6. *Inspection.*

   a. A responsible person designated by the permittee who stores, handles, uses or produces the regulated substances shall check, every day of operation, for breakage or leakage of any container holding the regulated substances. Electronic sensing devices may be employed as part of the inspection process, provided the sensing system is checked daily for malfunctions.

   b. The manner of daily inspection shall not necessarily require physical inspection of each container provided the location of the containers can be inspected to a degree that reasonably assures the County Utility Department's Technical Services Division that breakage or leakage can be detected by the inspection. Monitoring records shall be kept and made available to the County Utility Department's Technical Division at all reasonable times for examination.

7. *Reporting spills.* For the purpose of this division, any spill in excess or equal to the threshold limits (see section 4.150.H.1) of a regulated substance shall be reported by telephone to the County Utility Department's Technical Division within 24 hours of discovery of the spill. Cleanup shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to the County Utility Department's Technical Division within 15 days of discovery of the spill. A section of the report shall also include a prevention plan to reduce the recurrence of another spill. If the property is being leased, then a certified letter shall be sent to the landowner, informing the owner of the spill.

8. *Monitoring for regulated substances in groundwater monitoring wells.*

   a. Groundwater monitoring well(s) shall be provided at the expense of the permittee. The criteria to determine which nonresidential activity shall install monitoring wells are provided by resolution of the Board of County Commissioners. Except for existing wells found by the division to be adequate for this provision, the required well or wells shall be installed by a State-licensed water well contractor. A leak detection system is acceptable for double-walled tanks that are consistent with the Department of Environmental Protection's regulations. Samples shall be taken by the State-certified laboratory doing the analyses, or its authorized representative following standard chain of custody procedures.

   b. Analytical reports prepared by a State-certified laboratory of the quantity present in each monitoring well of the regulated substances listed in the activity's operating permit shall be filed at least annually, or more often, as determined by the County Utility Department's Technical Division, based upon site conditions and operations. If the division determines that a monitoring well(s) are required, then a proposed nonresidential activity shall have the well(s) in place at the time the certificate of occupancy is issued.

9. *Disposal manifest required.* The permittee shall maintain a disposal manifest(s) which, at a minimum, provides the name and quantity of any regulated substance disposed of by the permittee, the method and place of disposal, and the name of the person or firm who transported the regulated substance to its ultimate place of disposal. Upon request, the permittee shall make the disposal manifest available to the County utilities or solid waste department.

10. *Alterations and expansion.*

   a. The County Utility Department's Technical Division shall be notified in writing prior to expansion, alteration or modification of an activity holding an operating permit. Such expansion, alteration, or modification may result from increased square footage of production or storage capacity, or increased quantities of regulated substances, or

changes in types of regulated substances beyond those square footages, quantities, and types upon which the permit was issued.

b. Excluded from notification prior to alteration or modification are changes in types of regulated substances used in laboratory or laboratories designated as such in the valid permit that do not exceed the nonaggregate limits in section 4.150.H (Quantities less than threshold limits) and that are within the generic substances listed in said permit based upon the generic substance list attached hereto and incorporated herein as exhibit A [following section 4.154].

c. Should a facility add new regulated substances that individually are below the nonaggregate limits, it shall notify the County Utility Department's Technical Division on an annual basis of the types and quantities of such substances added and the location of the use, handling, storage, and production of said substances. If the total quantity of such additions exceed the total limit, then notification is required. Any such expansion, alteration or modification shall be in strict conformity with this division.

d. Except as provided herein, any existing operating permit shall be amended to reflect the introduction of any new regulated substances resulting from the change. The reported introduction of any new regulated substance shall not prevent the revocation or revision of any existing operating permit.

e. If the County Utility Department's Technical Division thinks such introduction substantially or materially modifies, alters or affects the conditions upon which the existing operating permit was granted or the ability to remain qualified as a general exemption, then the County Utility Department's Technical Division shall notify the permittee in writing within 60 days of receipt of the permittee's notice. The notification shall state that the division proposes to revoke or revise the permit. Also, it shall state the grounds which the existing operating permit was granted or the ability to remain qualified as a general exemption, if applicable, or to continue to satisfy any conditions that have been imposed as part of a special exemption, if applicable. The County Utility Department's Technical Division shall notify the permittee in writing that the permit will be revised or revoked within 60 days of receipt of the permittee's notice.

11. *Reconstruction after catastrophe.*

a. Reconstruction of any portion of a structure or building in which there is any activity subject to the provisions of this regulation and which is damaged by fire, vandalism, riot, flood, explosion, collapse, wind, war or other catastrophe shall be in strict conformity with this division. This provision shall not apply to retail sales activities and offices governed by section 4.149.

b. Any expansions or modifications or alterations shall be in conformance with paragraph 10 above.

4.148.B. *Protection zone 2.* Those persons in zone 2 who store, handle, use or produce any regulated substance may continue or propose to do so in agreement with the provisions and exemptions set forth in this division. They shall be subject to the requirements as listed above under subsection A.

4.148.C. *Protection zone 3.*

1. The effective date for zone 3 requirements is January 1, 1997.

2. Those activities involving the storage, handling, production or use of regulated substances in zone 3 which are in existence on the effective date of this division [January 1, 1994], or any new activity established thereafter, unless specifically exempted, shall be subject to the following requirements:

a. *Inventory.* Prepare and record an inventory of regulated substances.

b. *Emergency collection devices.*

(1) Vacuum suction devices, absorbent scavenger materials or other devices shall be present on-site or available within two hours (one hour in zone 1) by contract with a cleanup company in sufficient magnitude or capacity to control and collect the existing total quantity of regulated substances. To the degree feasible, emergency containers shall be present and of such capacity to hold the total quantity of regulated substances and the absorbent material. Employees shall be trained to use the equipment. The equipment shall be inspected and tested on a regular basis to assure that it is in working order. The presence of such emergency collection devices shall be indicated in the operating permit application for existing activities.

(2) If emergency devices are to remain on-site, then a generic list of emergency collection devices shall be provided. The list is provided by resolution of the Board of County Commissioners. Devices that are beyond the scope of the list shall warrant certification by a professional engineer registered in the State of Florida. The professional engineer shall certify that the emergency collection devices are sufficient to control and collect the existing total quantity of regulated substances. Certification shall be provided to the County Utility Department's Technical Division upon applying for an operating permit. The owner shall provide an affidavit stating that the emergency collection devices shall remain on-site.

c. *Reporting spills.*

(1) Any spill in excess or equal to the threshold limits (see section 4.150.H.1) of a regulated substance shall be reported by telephone to the County Utility Department's Technical Division within 24 hours of discovery of the spill. Cleanup shall commence immediately upon discovery of the spill.

(2) A full written report including the steps taken to contain and clean up the spill shall be submitted to the County Utility Department's Technical Division within 15 days of discovery of the spill. A section of the report shall also include a prevention plan that is approved by the County Utility Department's Technical Services Division to reduce the recurrence of another spill. If the property is being leased, then a certified letter shall be sent to the landowner, informing the owner of the spill.

(Code 1974, § 12-107; Ord. No. 428, pt. 2(G), 7-27-1993; Ord. No. 437, pts. III, IV, 3-8-1994)

Sec. 4.149. Other activities.

4.149.A. *Retail sales activities.* Retail sales establishments in any regulated areas that store and handle regulated substances for resale in their original unopened containers shall be subject to the requirements as listed for protection zone 1, section 4.148.A.1, 3 and 7. The criteria to determine which retail sales activities shall comply with the above requirements are provided by resolution of the Board of County Commissioners. Activities that do not meet the criteria are exempt.

4.149.B. *Offices.* Offices in any regulated areas that use regulated substances for the daily operation of the business shall be subject to the requirements as listed for protection zone 1, section 4.148.A.1, 3 and 7. The criteria to determine which offices shall comply with the above requirements are provided by resolution of the Board of County Commissioners. Offices that do not meet the criteria are exempt.

(Code 1974, § 12-108; Ord. No. 428, pt. 2(H), 7-27-1993)

Sec. 4.150. Exemptions.

The following shall be exempt from the requirements of this division to the extent indicated:

4.150.A. *Previous approvals.* Development projects that applied for master or final plan approval before October 25, 1988, and are in compliance with the timetable and all terms of the development approval order shall be exempt from the prohibition based on the quantities of regulated substances set forth in section 4.148.A. Such activity shall be subject to all other requirements of this division.

4.150.B. *Transfer of ownership.* A new owner of an existing nonresidential activity whose intent is to operate the same business activity shall be exempt from the prohibition based on the quantities of regulated substances set forth in section 4.148.A. Such activity shall be subject to all other requirements of this division.

4.150.C. *Continuous transit.* The transportation of any regulated substance, provided that the transporting vehicle is passing or moving through protection zones 1 and 2 and the vehicle is not used for storage of regulated substances within those zones. This exemption includes the use of regulated substances in vehicle and lawn maintenance equipment provided that the regulated substance is necessary for the proper functioning of the vehicle or equipment.

4.150.D. *Vehicular fuel and lubricant use.* The use of any regulated substance solely as operating or hydraulic fuel in a vehicle or lawn maintenance equipment, as a lubricant provided that it is necessary for the proper functioning of the vehicle or equipment.

4.150.E. *Pesticides, herbicides, fungicides and rodenticides.* The application of substances used as pesticides, herbicides, fungicides and rodenticides in recreation, agriculture, pest control and aquatic weed control activities shall be exempt from the provisions of this division provided that:

1. The property owner of a nonresidential activity shall register all services to the Technical Services Division of the Utilities Department that apply pesticides, insecticides, fungicides and herbicides within protection zone 1. The licensed applicator spraying within zone 1 shall register residential and nonresidential areas that are sprayed within zone 1 on a monthly basis. A monthly report shall indicate the name of the substance sprayed, the location, and the approximate quantity of substance used in the application. This requirement does not apply to indoor applications. Licensed applicators shall obtain a wellfield protection permit.
2. Chemicals shall not be stored within protection zone 1.
3. In all regulated areas the application is in strict conformity with the use requirement as set forth in the EPA substances' registries, as indicated on the containers in which the substances are sold.
4. In all regulated areas the application is in strict conformity with the requirements as set forth in F.S. chs. 482 and 487 and F.A.C. chs. 5E-2 and 5E-9. This exemption only applies to the application of pesticides, herbicides, fungicides and rodenticides.
5. Excess application is not exempt. Manufacturer's instructions or recommendations are not to be exceeded.
6. The quantity of pesticide handled by the operator and present in zones of protection 1 and 2 does not exceed 1,000 gallons of formulation at any one time.

4.150.F. *Fertilizers.* The use of fertilizers containing any form of nitrogen, provided that the application of the fertilizer is in accordance with manufacturer's directions or in accordance with the recommendations of the County Agricultural Extension Agent.

4.150.G. *Water plants/potable water facilities.* Potable water utility activities (e.g., well construction and water treatment) that are directly related to and required for the provision of potable water

service shall be exempt from this division. Maintenance and refueling of utility vehicles are not exempt.

4.150.H. *Quantities less than threshold limits.* Any nonresidential activity that uses, handles, produces or stores the following quantities of regulated substances shall be allowed if all three criteria are met:

1. The total sum of all quantities of any one regulated substance for any one nonresidential activity at a given facility, building or property at any one time does not exceed six gallons where said substance is a liquid, or 25 pounds where said substance is a solid. If the reportable quantity under EPA 40 CFR 302.4 regulations is lower (a smaller quantity is considered hazardous, toxic, etc.), then only the lower quantity will be allowed.

2. The total sum of all regulated substances for any one nonresidential activity at one facility, building or property at any one time does not exceed 100 gallons if said substances are liquids, or 500 pounds where said substances are solids, and the total sum of all quantities of any one regulated substance does not exceed the reference limits in subparagraph 1 above.

3. Where regulated substances are dissolved in or mixed with other nonregulated substances, the total volume of the mixture present shall be used to determine compliance with this division, unless it can be documented that the mixture itself does not have hazardous and toxic substance characteristics as defined herein.

4.150.I. *Special exemptions.* An affected person in zones 1 or 2 may file an application for a special exemption from the prohibited activities set forth in section 4.147 herein.

1. *Criteria.* In order to obtain a special exemption, a person must demonstrate, by competent, substantial evidence, that:

   a. Special or unusual circumstances and adequate technology exists and shall be implemented to isolate the facility or activity from the potable water supply as required by this division; and

   b. In granting the special exemption, the Board may prescribe any additional appropriate conditions and safeguards which are necessary to protect the wellfield.

2. *Procedures.* The following special exemption application and review procedures shall apply to facilities or activities claiming a special exemption:

   a. *Application.* A special exemption application claiming special or unusual circumstances and adequate protection technology shall be signed by the applicant and a professional engineer or professional geologist registered or licensed in the State of Florida. A special exemption application shall be filed with the County Utility Department's Technical Division;

   b. *Basis for application.* The application shall contain a concise statement by the applicant detailing the circumstances that the applicant feels entitles the applicant to special exemption, pursuant to this section; and

   c. *Fee.* A fee shall be required as established by resolution of the Board to defray the costs of processing such application.

   d. *Submittal requirements.* An applicant for special exemption shall submit an application for a wellfield protection permit as required in section 4.151 herein. A special exemption application shall be submitted concurrently with the following required information:

      1) A site plan of the facility including all storage, piping, dispensing, shipping, etc., facilities.

      2) A Phase I Environmental Site Assessment report of the proposed site.

3) A groundwater monitoring plan detailing well(s) installation, sampling and analysis described in section 4.148.A.8 herein. Groundwater monitoring shall be required for a special exemption. The frequency of such monitoring (daily, weekly, monthly, quarterly, semi-annual or annual) shall be determined by the County in its sole discretion on a case by case basis.

4) A hydrogeologic assessment of the site which shall address, at a minimum, soil characteristics and around water levels, directional flow, and quality.

5) Any other reasonable information deemed necessary by the County Utility Department's Technical Division or the Board due to site specific circumstances.

6) Certificates of insurance demonstrating the applicant has at a minimum the following types and amounts of insurance: a) commercial general liability insurance with limits of at least $1,000,000.00 each occurrence including bodily injury/property damage liability, personal and advertising injury and contractual liability; b) pollution/environmental impairment liability insurance of not less than $1,000,000.00 each claim; c) umbrella liability if applicable. Coverage shall respond as primary and non-contributory. Waivers of subrogation are required in favor of the County. The amount and types of insurance required may be increased and/or amended including the requirement for umbrella liability based on specific operations and individual circumstances of the applicant, the County reserves the right to review, modify, amend, reject or accept any required policies of insurance, including limits, coverages or endorsements, herein from time to time. The certificates shall name the Martin County Board of County Commissioners as additional insured. Policies must be endorsed to specifically grant the County 30 days notice of cancellation or change/reduction in insurance coverage.

e. *Notice.*

1) The applicant shall provide written notice by regular mail and certified mail return receipt requested of its application to all owners of public potable water supply wells within the applicable wellfield protection zone. Proof of such notice shall be filed with the County Utility Director.

2) The owners of public potable water supply wells within the applicable zone shall, following receipt of the notice required in subsection 1) above, notify its customers using its customer notification system of the filing of the special exemption 4.151.E. herein. Upon revocation or revision, the activity will immediately be subject to the enforcement provisions of this division.

6. *Other agency requirements.* Any special exemption granted pursuant to this division shall not relieve the exemptee of the obligation to comply with any other applicable federal, state, regional, or local regulation, rule, ordinance or requirement. Nor shall said exemption relieve any exemptee of any liability for violation of such regulations, rules, ordinances or requirements.

7. *New regulations.* Upon adoption of any amendment to this division or any regulation that supersedes this division, the special exemption shall be subject to the newly adopted regulations.

(Code 1974, § 12-109; Ord. No. 428, pt. 2(I), 7-27-1993; Ord. No. 437, pts. V—VIII, 3-8-1994; Ord. No. 949, pt. 1, 2-18-2014)

Sec. 4.151. Wellfield protection permits.

4.151.A. *Permits required.*

1. *Wellfield protection permits.* This section provides the requirements and procedures for the issuance of permits by this division.

2. An application shall satisfy the requirements of the applicable protection zone to receive a permit. If the applicant fails to satisfy these requirements or has three citations of this division, then the County Utility Department's Technical Division may deny a permit. If the prior history of the applicant's operation demonstrates an inability to comply with the requirements of the applicable zone, then the applicant shall not receive a permit.

3. An operating permit shall remain valid for one year for zone 1, two years for zone 2, and three years for zone 3, provided the permittee is in compliance with the terms and conditions of the permit.

4. A wellfield protection operating permit shall be renewed annually for zone 1, and every two years for zone 2, and every three years for zone 3. Applications for renewal of permit shall be made at least 90 days prior to the permit expiration date.

4.151.B. *Types of permits required.* The applicant shall receive all applicable permits, including the following permits in relation to wellfield protection:

1. *Wellfield protection operating permit.* Any activity coming under this regulation in zone 1 shall apply for a wellfield protection operating permit within 90 days of the effective date of this division [January 1, 1994]. Any activity in zone 2 shall apply for a permit within one year of the effective date of this division. Any activity in zone 3 shall apply for a permit within three years after the effective date of this division. A permit shall be received within 180 days of the date that the application was received.

2. *Construction permit.* Any activity that requires constructing secondary containment or installation of any other structural requirements shall obtain a construction permit from the County Utility Department's Technical Division. The applicant shall provide assurances (i.e., engineering certification, manufacturer's recommendations, etc.) that the containment has been designed, installed and is working properly. A permit is required for secondary structures by January 1995. An operating permit shall not be issued until the applicant demonstrates that the construction is operating properly.

3. *Closure permit.* When any activity coming under this regulation is to be permanently terminated, the permittee shall obtain a closure permit from the County Utility Department's Technical Division confirming that all regulated substances are to be or have been removed.

4.151.C. *Permit applications.*

1. *Wellfield protection operating permit.* Copies of reports to any other agency containing substantially similar information to that required hereunder shall constitute satisfaction of reporting required hereunder. The applicant shall submit a copy of the report to the Technical Services Division of the Utilities Department. All applications shall provide the following information:

   a. A list of the regulated substances stored, handled, used or produced in the activity being permitted, including their quantities.

   b. A detailed description of the nonresidential activities that involve the storage, handling, use or production of the regulated substances. The description shall indicate the unit quantity in which the substances are contained or manipulated and the square footage of the facility in which the activity is situated. If applicable, a professional engineer, registered and licensed in the State of Florida, shall certify that construction has been completed in a technically acceptable manner.

   c. A description of the inventory record that will be instituted to comply with the restrictions required for zones 1, 2 and 3 as set forth by this division.

d. A description of the emergency collection devices for zones 1, 2 and 3.

e. A description of the containment, the emergency collection containers, and the emergency plan that will be employed to comply with the restrictions required for zones 1 and 2 as set forth above. For zone 3, this particular documentation will be required only with an application for a new wellfield protection operating permit following any spillage.

f. A description of the daily monitoring records that will be instituted to comply with the restrictions for zones 1 and 2.

g. A description of the proper and adequate regular maintenance of containment will be required for zones 1 and 2. For zone 3, this particular documentation will be required only with an application for a new wellfield protection operating permit following any spillage.

h. A description of the proper and adequate regular maintenance of emergency equipment that will be required for zones 1, 2 and 3.

i. If applicable, a description of the groundwater monitoring wells that have been or will be installed, other pertinent well construction information, or leak detection systems for double-walled tanks, and the arrangements that have been made or that will be made for certified analyses for specified regulated substances.

j. Existing nonresidential activities shall have 12 months to install structural requirements as identified in the permit. Proposed nonresidential activities shall have structural requirements in place to qualify for the certificate of occupancy.

2. *Wellfield protection closure permit.* All applications shall provide the following information:

a. A schedule of events to complete the closure of an activity that does store or did store, handle, use, or produce regulated substances. As a minimum, the following actions shall be addressed:

(1) Disposition of all regulated substances and contaminated containers.

(2) Cleanup of the activity and environs to preclude leaching of unacceptable levels of residual regulated substances into the aquifer.

(3) Certification by a professional engineer, registered and licensed in the State of Florida, that disposal and cleanup have been completed in a technically acceptable manner. The requirement for certification by a professional engineer may be waived if the applicant provides evidence to the County Utility Department's Technical Division that all of the following items are applicable:

(a) The entire operation is maintained inside the building(s) of the facility.

(b) The approved method of removing operating waste is not by septic tank, sewer mains, or floor drains.

(c) There is no evidence of spills permeating floors or environs.

(d) There are no outstanding past notices of violation from any regulatory agency concerned with hazardous, industrial or special waste.

(e) There is no evidence of past contamination in the public drinking water well(s) associated with the facility in zone 1.

(f) The applicant shall provide a sworn statement that disposal and cleanup have been completed in a technically acceptable manner.

(4) Liability of closure runs with the land.

3. *Permit conditions.* The permit conditions shall be such to comply with all the prohibitions and restrictions as set forth in this regulation.

4.151.D. *Fee schedule.* The fees are provided by resolution of the Board of County Commissioners. All applicants within the protection zones shall pay the fees for the wellfield protection permits.

1. *Operating permit fee.* All applicants for a wellfield protection operating permit shall pay a nonrefundable operating fee. The operating fee shall be paid prior to acceptance of the permit application for review.
2. *Operating permit renewal fee.* All applicants that have an existing operating permit shall pay a fee for the annual renewal.
3. *Construction permit fee.* All applicants that are required to construct secondary containment shall pay a fee for a construction permit.
4. *Closure permit fee.* All applicants that close an activity that stores or did store, handle, use, or produce regulated substances are required to pay a fee for a closure permit.
5. *Permit transfer fee.* A fee shall be required for transfer of an operating permit or closure permit to defray the cost of processing the transfer. Application for transfer of permit is to be made within 60 days of transfer of ownership of the activity.

4.151.E. *Revocation or revision of the permit.*

1. *Revocation.* Any permit or exemption issued under the provisions of this division shall not become vested in the permittee. The County Utility Department's Technical Division may revoke any issued permit by first issuing a written notice of intent to revoke if it finds that the permit holder:
   a. Has failed or refused to comply with any of the provisions of this division, including but not limited to permit conditions; or
   b. Has submitted false or inaccurate information in the operating permit application; or
   c. Has failed to submit operational reports or other information required by this division; or
   d. Has refused lawful inspection; or
   e. Is subject to revocation under other sections (alterations and expansions, spills).

   The notice shall be sent certified mail return receipt requested, or hand delivered.
2. *Excess spillage.* A permittee's permit for zone 3 shall be revised to be in accordance with the requirements listed in zone 1, section 4.148.A.1 through 10, if any spillage is in excess or equal to the threshold limit (section 4.150.H.1) of a regulated substance.
3. *Revision.* The County Utility Department's Technical Division may revise any permit as set forth above or by first issuing a written notice of intent to revise (certified mail return receipt requested, or hand delivery).
4. *Spills.*
   a. A spill in excess or equal to the threshold limit (section 4.150.H.1) of a regulated substance that is not reported in accordance with section 4.148.A.7 could result in revocation or revision of the permit. Within 30 days of a spill in protection zone 1, 2, or 3, the County Utility Department's Technical Division shall review for possible revocation or revision of the permit.
   b. Upon such review, the County Utility Department's Technical Division may issue a notice of intent to revoke or revise that shall be subject to the provisions set forth above, or elect not to issue such notice. In consideration of whether to revoke or revise the permit, the County Utility Department's Technical Division may consider the intentional nature or degree of negligence, if any, associated with this spill and the extent to which containment or cleanup

is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to the spill.

5. *Notice.*

a. For any revocation or revision of an operating permit containing a special or administrative exemption permitting certain land uses or activities, the County Utility Department's Technical Division shall issue a notice of intent to revoke or revise the permit that shall state that the County Utility Department's Technical Division intends to revoke or revise the operating permit.

b. The written notice of intent to revoke or revise shall contain the following information:

(1) The name and address of the permittee, if any, and property owner, if different.

(2) A description of the facility that is the subject of the proposed revocation or revision.

(3) Location of the spill, if any.

(4) Give a concise explanation and specific reasons for the proposed revocation or revision.

(5) A statement stating "Failure to file a petition with the clerk of the board within 20 days after the date upon which permittee receives written notice of the intent to revoke to revise shall render the proposed revocation or revision final and in full force and effect."

c. Failure of a permittee to file a petition as set forth above shall render the proposed revocation or revision final and in full force and effect. Nothing in this section shall preclude or be deemed a condition precedent to the County Utility Department's Technical Division's seeking a temporary or permanent injunction.

4.151.F. *Reconstruction after catastrophe.*

1. Reconstruction of any portion of a structure or building in which there is any land use or activity subject to the provisions of this division, which structure is damaged by fire, vandalism, riot, flood, explosion, collapse, wind, war or other catastrophe, shall be in strict conformity with this division.

2. Within 90 days of the receipt of written notice from the County Utility Department's Technical Division, all owners of existing land uses shall file or activities regulated by this division that use, handle, store, or produce regulated substances shall file an application for an operating permit. Any owner of such land use or activity that fails to apply for an operating permit shall file for a closure permit within 120 days of the receipt of written notice from the County Utility Department's Technical Division. Said permit application shall be prepared and signed by a professional engineer registered and licensed in the State of Florida. Within 30 days of receipt of said notice, the owner shall file with the County Utility Department's Technical Division proof of retention of said engineer. If application is made for an operating permit, such permit shall be issued or denied within 60 days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within 12 months of the denial and an application for a closure permit shall be filed with the County Utility Department's Technical Division within 120 days of the denial of the operating permit.

(Code 1974, § 12-110; Ord. No. 428, pt. 2(J), 7-27-1993; Ord. No. 437, pts. IX—XII, 3-8-1994)

Cross reference— Development review procedures, art. 10.

Sec. 4.152. Restrictions on new activity permits and licenses.

4.152.A. Every application for a rezoning, special exception, occupational license, change of occupancy, development order, certificate of occupancy, or building permit shall indicate whether or not the property, or any portion thereof, lies within a protection zone. The applicant shall be informed of this division if located within a protection zone and instructed to apply for an appropriate wellfield protection permit(s) at the Technical Services Division of the Utilities Department.

4.152.B. Every application which involves property located wholly or partially within a protection zone shall be reviewed by the County Utility Department's Technical Division. The County Utility Department's Technical Division shall then issue a notice as to whether or not the proposed use or activity meets the requirements of this division.

4.152.C. No request for a rezoning, special exception, special permit, development order, certificate of occupancy, building permit, change of occupancy or occupational license for any activity regulated by this division shall be granted that is contrary to the restrictions and provisions provided in this division. Permits or occupational licenses issued in violation of this division confer no right or privilege on the grantee, and such invalid permit or licenses will not vest rights.

(Code 1974, § 12-111; Ord. No. 428, pt. 2(K), 7-27-1993)

Sec. 4.153. Protection of future wells.

The prohibitions and restrictions set forth in this division and any regulations promulgated pursuant hereto shall apply to any future public potable water supply well sites adopted by the Board of County Commissioners by resolution. A protected future well is permitted by the SFWMD. If a permit has not been obtained then the following criteria must be met:

4.153.A. The proposed well site is included in a water use application with the SFWMD;

4.153.B. The SFWMD application is not over three years old;

4.153.C. A notification has been placed in the newspaper;

4.153.D. Adjacent landowners within the corresponding protection zone 1 have been contacted;

4.153.E. Preliminary approval has been received from the Wellfield Protection Division; and

4.153.F. A DEP water construction permit has been received for site approval.

(Code 1974, § 12-112; Ord. No. 428, pt. 2(L), 7-27-1993)

Sec. 4.154. Enforcement.

4.154.A. The County is hereby authorized and empowered to make inspections at reasonable hours of all land uses or activities regulated by this division within wellfield protection zones in order to determine if applicable provisions of this division are being followed.

4.154.B. Any person subject to this division shall be liable for any damage caused by a regulated substance present on or emanating from the person's property, for all costs of removal or remedial action incurred by the County, and damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss resulting from the release or threatened release of a regulated substance. Such removal or remedial action by the County shall include, but is not limited to, the prevention of further contamination of groundwater, monitoring, containment and cleanup or disposal of regulated substances resulting from the spilling, leaking,

pumping, pouring, emitting or dumping of any regulated substance or material that creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

(Code 1974, § 12-113; Ord. No. 428, pt. 2(M), 7-27-1993)

EXHIBIT A. PUBLIC WATER SUPPLY WELL GENERIC SUBSTANCE LIST

Acid and basic cleaning solutions.

Antifreeze and coolants.

Arsenic and arsenic compounds.

Bleaches, peroxides.

Brake and transmission fluids.

Brine solution.

Casting and foundry chemicals.

Caulking agents and sealants.

Cleaning solvents.

Corrosion and rust prevention solutions.

Cutting fluids.

Degreasing solvents.

Disinfectants.

Electroplating solutions.

Explosives.

Fire extinguishing chemicals.

Food processing wastes.

Formaldehyde.

Fuels and additives.

Glues, adhesives and resins.

Greases.

Hydraulic fluid.

Indicators.

Industrial and commercial janitorial supplies.

Industrial sludges and stillbottoms.

Inks, printing and photocopying chemicals.

Laboratory chemicals.

Liquid storage batteries.

Medical, pharmaceutical, dental, veterinary and hospital solutions.

Mercury and mercury compounds.

Metal finishing solutions.

Oils.

Paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds.

Painting solvents.

PCBs.

Pesticides and herbicides.

Plastic resins, plasticizers and catalysts.

Photo development chemicals.

Poisons.

Polishes.

Pool chemicals.

Processed dust and particulates.

Radioactive sources.

Reagents and standards.

Refrigerants.

Roofing chemicals and sealers.

Sanitizers, disinfectants, bactericides and algaecides.

Solders and fluxes.

Stripping compounds.

Tanning industry chemicals.

Transformer and capacitor oils/fluids.

Water and wastewater treatment chemicals.

(Code 1974, ch. 12, art. VII, exhibit A; Ord. No. 437, pt. XIII, 3-8-1994)

Secs. 4.155—4.180. Reserved.

FOOTNOTE(S):

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Cross reference— Excavation, filling and mining, § 4.341 et seq.; stormwater management and flood control, § 4.381 et seq. (Back)

DIVISION 6. POTABLE WATER [6]

SUBDIVISION 1. - GENERALLY

SUBDIVISION 2. - POLICY ON POTABLE WATER SYSTEMS

FOOTNOTE(S):

--- (6) ---

Cross reference— Subdivisions, § 4.911 et seq.; adequate public facility standards, art. 5; impact fees, art. 6. (Back)

SUBDIVISION 1. GENERALLY

Sec. 4.181. Definitions.

Applicant means any individual, partnership, corporation, owner, developer, subdivider, or builder who requests an extension of water service for any property or properties, area, development or subdivision.

Capital facility charge (CFC) is a charge made for capital cost of water supply, treatment and transmission facilities which shall consist of construction and associated costs. Construction costs include the cost of installation of plants, pipelines, special fittings, valves, pumps and appurtenances and the cost of acquiring permanent and construction rights-of-way. Associated costs include engineering, legal, and fiscal services, contingencies and administrative costs. The capital facility charge does not include the cost of constructing a distribution system.

Connection charge shall consist of a meter charge and a lateral charge (if required). The meter charge shall include the cost of the meter and the meter box for meter sizes up to and including two inches, and the meter only for meters larger than two inches. The connection charge does not include unusual extensions of a service lateral.

Distribution line charge is a charge made for the capital cost of constructing distribution lines to a local service area.

Distribution lines is the network of lines receiving water from the transmission main for the purpose of distributing water to the local service areas and to the service lateral.

Equivalent residential connection (ERC) shall be a factor used to convert a given average daily flow (ADF) to the equivalent number of units required for connection to the County system. For residential purposes other than affordable housing, all single-family units, including but not limited to each single-family unit contained in a duplex, triplex or multifamily structure, shall constitute one equivalent residential connection. For nonresidential use and for rental multifamily residential uses which qualify as affordable housing for very low or low income households under the Martin County Comprehensive Plan, and which use a common meter, one equivalent residential connection shall equal 250 gallons per day.

Fire sprinkler service charge is a monthly charge for providing water service to a fire sprinkler system.

Initial construction is the period of time beginning when the County issues a notice to proceed with construction of the water treatment plant and ending on a date agreed on by both the County and the Farmers Home Administration.

Installation cost or *construction cost* shall mean the cost of materials, labor, engineering supervision, equipment, and all other incidental costs necessary for complete water service extension.

Lateral charge is the charge due for installing the service lateral.

Nonresidential unit shall consist of a nonresidential building or structure, or portions of residential buildings dedicated to nonresidential use, connected to the water system of the County, including but not limited to hotels, motels and boardinghouses, wholesale and retail businesses, professional offices, warehouses and, without limitation, all other structures of a commercial nature, public and quasipublic buildings and structures, and those portions of nonresidential areas within multiple-family residences.

Residential unit shall consist of a residential living unit or structure directly or indirectly connected to the water system of the County, including but not limited to single-family dwellings, and each separate living unit of duplexes, apartment houses, townhouses, condominiums and cooperative apartments.

Service availability is the reservation of water service in the County system. Service availability may be provided by the County to the owner if available.

Service availability charge (SAC) is the periodic charge which shall be paid at each regularly scheduled monthly billing period following the County's agreement to reserve service availability in its system.

Service charge is the periodic charge for water service which shall be paid at each regularly scheduled monthly billing period after connection to the system.

Service lateral is the line from the main to the meter.

Special service charge is a charge due for additional or unusual services to customer not otherwise defined in this subdivision.

Transmission line is the network of mains receiving water from the treatment supply point for the purpose of transporting water to the distribution lines.

Water service extension or *main extension* or *water line extension* shall mean all necessary water mains and lines, valves, fittings, hydrants and appurtenances.

(Code 1974, § 31-42; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 291, pt. 1, 2-11-1986; Ord. No. 310, pt. 1, 9-23-1986; Ord. No. 386, pt. 1(A), 9-25-1990)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.182. General standards.

The following provisions apply only to the Martin County Waterworks system:

4.182.A. *Public easement required.* No facilities will be installed under the provisions outlined herein and accepted by the County for maintenance unless it is in a dedicated public right-of-way or dedicated public easement. Said easement shall be accessible and traversable by standard maintenance equipment. No natural or manmade obstruction shall be planted, built or otherwise created within the limits of this easement or right-of-way without written permission from the Utilities Director.

4.182.B. *Ownership.* All utility facilities and appurtenances up to and including the meter and meter box, when constructed and accepted by the County, shall become and remain the property of the County and the consumer shall so agree and does so agree in making an application for utility service. No person shall, by payment of any charges provided herein, or by causing any construction of facilities accepted by the County, acquire any interest or right in any of these facilities, or any portion thereof, other than the privilege of having their property connected thereto for utility services in accordance with these rules, procedures and regulations.

4.182.C. *Fire protection.* Hydrants shall be installed on mains constructed in the Martin County waterworks system at such locations as deemed appropriate by the Fire Marshal and the National Fire Code. All such facilities must be located within public rights-of-way or easements in accordance with section 4.182.A. Private fire protection system connections shall be paid for by those benefitted.

4.182.D. *Extent of County maintenance.*

1. All facilities that have been accepted by the County shall become the property of the County and will be operated and maintained by the County. No person shall do any work or be reimbursed for any work, or in connection with any work, on the system unless written authorization from the County was received prior to the work being accomplished.

2. The County shall make a reasonable effort to inspect and keep its facilities in good repair, but assumes no liability for any damage caused by the system that is beyond the control of normal maintenance or due to situations not previously reported to the department. This shall include damage due to breaking of pipes, poor quality of water caused by unauthorized or illegal entry of foreign material into the system, faulty operation of fire protection facilities or damage not caused by the negligence of the County.

4.182.E. *Water quality.* The County shall use its best efforts to meet or exceed all of the Federal and Florida minimum safe drinking water standards and to produce water suitable for domestic use.

4.182.F. *Location of water service line [in relation] to septic systems.* Pursuant to F.A.C. 10D-6.46, as may be amended, no potable water lines shall be connected to the County waterworks system unless the water lines are located at least ten feet from the drain trenches, absorption beds or other septic system. Water lines may only be located within ten feet from the nearest portion of the septic system if the lines are encased in at least six inches of concrete or lines are placed within a sleeve of similar material pipe to a distance of at least ten feet from the nearest portion of the drainfield. F.A.C. ch. 10D-9, as amended, shall be used to determine water distribution pipe material and installation requirements.

(Code 1974, § 31-42.1; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 310, pt. 1, 9-23-1986)

Sec. 4.183. Right to refuse service.

No payment of any costs, submitting of any petition or any other act to receive utility service shall guarantee such service. The County shall have the right, at all times, to refuse to provide service if water is not available.

(Code 1974, § 31-43; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 310, pt. 1, 9-23-1986)

Sec. 4.184. Monthly charge or rate for water service; connection charge; service availability charge; capital facility charge; distribution line charge; service charges.

4.184.A. Any user of the services of the waterworks system shall pay a monthly charge or rate for water service as provided for by resolution.

4.184.B. There shall be a connection charge, a capital facility charge, a distribution line charge, a service availability charge, a monthly fire sprinkler service charge, special service charges, and a monthly service charge at the rates provided for by resolution.

4.184.C. When charges are due.

1. The capital facility charge is due when water service to a property has been approved by the County.
2. The connection charge shall be due when the request for connection is made.
3. A service availability charge (SAC) is due monthly after water service has been approved by the County. Where the County has constructed and financed a water system pursuant to F.S. ch. 153, all owners of vacant buildable lots shall pay the applicable minimum reserve availability charge.
4. Special service charges are due whenever special services are provided to the customer.
5. The distribution line charge is due when water service to a property has been approved by the County. Where the distribution lines have been installed by a developer or an applicant at no cost to the County, the distribution line charge shall be waived.

(Code 1974, § 31-44; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 310, pt. 1, 9-23-1986)

Sec. 4.185. Unlawful connection.

4.185.A. No person shall be allowed to connect into the waterworks system without the written consent of Martin County, and then the connection with such system shall only be made under the direction and supervision of Martin County. Any person who shall make any connection without such consent of Martin County shall, upon conviction, be subject to the penalties hereinafter provided.

4.185.B. All meters, valves, pipes, fire hydrants, fittings and appurtenances comprising the County system shall be under the control of the County. It shall be unlawful to molest or disturb them in any way. Duly authorized employees or agents of the County shall have free access at all times to all parts of any premises to which water is or may be supplied to make necessary inspections of pipes and fittings and fixtures. No person shall make any attachment on existing water utility fixtures, or remove, disconnect or damage in any way whatsoever any meter, box, pipe, valve, fitting, fire hydrant or fixture belonging to the County.

(Code 1974, § 31-45; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 310, pt. 1, 9-23-1986)

Sec. 4.186. Connecting old plumbing.

Whenever it is desirable to connect existing plumbing with the waterworks system, the owner or plumber contemplating doing such work shall notify the Martin County Building Department or such department as Martin County may authorize, who will inspect said plumbing and notify the owner or plumber what alterations will be necessary to place said plumbing in an acceptable condition for connection with the waterworks system. Any owner or plumber who shall make any connection without the approval of said department shall, upon conviction, be subject to the penalties hereinafter provided.

(Code 1974, § 31-46; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 310, pt. 1, 9-23-1986)

Sec. 4.187. Installation of transmission and distribution lines.

4.187.A. If, at the time an owner of property requests the County to provide water service to the owner's property, it is necessary, as determined by the County, to install a transmission line which will provide service to that owner's property, the County will allow a portion of the capital facility charge as a credit towards the transmission line construction. The County at its sole discretion shall determine the proportion of the CFC charge to be credited against the transmission line construction. Any transmission line construction cost in excess of the proportion of the CFC charge shall be rebated to the property owner for a period not to exceed five years. Said rebate will be from CFC charges collected by the County from property owners who abut the transmission line constructed. The County shall only pay 35 percent of the CFC charges collected during said five-year period.

4.187.B. The cost and expenses of constructing, operating, repairing and maintaining the installation necessary to provide service from the prospective user's water meter to his building shall be that of said user.

4.187.C. Property owners shall not have the right to install lines or interconnect to the water facilities of County until formal written application has been made to County and approval for such interconnection has been granted. Water meters shall be installed at the expense of prospective users of water service.

(Code 1974, § 31-47; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 242, pt. 1, 6-26-1984; Ord. No. 310, pt. 1, 9-23-1986)

Sec. 4.188. Maintenance of plumbing; inspection of plumbing; cross connections prohibited.

4.188.A. The owner of the property shall be responsible for maintaining all plumbing on such property and the pipe leading and connecting from the waterworks system distribution lines.

4.188.B. The County reserves the right to make a special meter reading and/or inspect all plumbing at the owner's property. This will be done in a situation where an abnormally large bill is to be rendered, in cases of suspected extreme wastage, or use detrimental to the system. In other cases where a customer desires such inspection service or a meter tested, he may receive them only after payment of the cost as estimated by the department.

4.188.C. Cross connection by the consumer with any other water source (i.e., private wells) is strictly prohibited. Water from private wells may only be used for irrigation purposes and may not be used within a residential or nonresidential unit under any circumstances within the County waterworks system.

(Code 1974, § 31-48; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 310, pt. 1, 9-23-1986)

Sec. 4.189. Cross connection control; backflow prevention devices.

The following provisions apply only to users of the Martin County utilities system:

4.189.A. The Manual of Cross-Connection Control and Backflow Prevention, identified for purposes of this section as attachment A, is hereby adopted and incorporated by reference as part of this section.

4.189.B. Copies of the manual have been duly deposited with the clerk of the board and shall be kept in this office for public use, inspection and examination. Copies of the manual may be obtained from the Utilities Department.

4.189.C. Backflow preventers, as specified in the manual, shall be required, tested and maintained where the use of a substance or process water is such as to subject the public water supply to deterioration in sanitary quality and to permit its entry into the public water system.

4.189.D. Backflow preventers may be required by the Director of the Martin County Utilities Department or his designee for other facilities if deemed necessary to protect the water system from possible contamination.

4.189.E. The owner of the property shall be responsible for the proper installation of backflow prevention devices required by this section.

4.189.F. Service of water to any premises shall be disconnected by Martin County utilities if a required backflow prevention device is not installed, tested and maintained or has been removed or bypassed, or if unprotected cross connections exist on the premises and there is inadequate backflow protection at the service connection. Water service will not be restored until such conditions or defects are corrected. All turn-off and turn-on service charges shall be paid by the consumer.

(Code 1974, § 31-48.1; Ord. No. 276, pt. 1, 12-3-1985)

Sec. 4.190. Payment of fees and bills required.

4.190.A. *Deposit required; adjustments.* All users shall make a deposit with Martin County equal to two months' estimated use as determined by the County or $50.00, whichever is greater, prior to providing service. Such deposit may be adjusted when the water user or the County demonstrates a permanent change in the pattern of use, as determined by the County. A refund of the deposit will be made if the account is free of delinquency notices for a 25-consecutive-month period.

4.190.B. *Discontinuance of service.* Bills for the monthly charges hereinbefore mentioned shall be submitted by Martin County and shall be paid by the users monthly. If any monthly bill for water service shall be and remain unpaid on and after 45 days from the date of submission of such bill, the water service to the consumer may be discontinued and shall not be reconnected until all past due and current charges shall have been fully paid, together with a shutoff fee for nonpayment as provided for in the appropriate rate resolution adopted by the Board of County Commissioners.

(Code 1974, § 31-49; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 194, pt. 1, 5-25-1982; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 310, pt. 1, 9-23-1986; Ord. No. 335, pt. 1, 10-6-1987; Ord. No. 374, pt. 1, 2-13-1990; Ord. No. 836, pt. 1, 12-1-2009)

Sec. 4.191. No free service; discontinuing service.

4.191.A. No water shall be furnished free of charge to any person, firm or corporation whatsoever, and Martin County and each and every agency, department or instrumentality which uses the waterworks system shall pay therefor at the rates fixed by this division. In the event water service or related services are requested in a form which is not covered by this division, the County Administrator or his designee shall negotiate or establish a service charge subject to Board of County Commissioners' approval which will be in accordance with the County's covenants with bond holders.

4.191.B. The County may discontinue water service to any customer due to an infraction of these procedures and regulations, nonpayment of bills, for tampering with any service (including meter and appurtenances), for plumbing cross connections with another water source, or for any reason that may be detrimental to the system. The County has the right to withhold service until the condition is corrected and all costs due the County are paid. These costs may include delinquent billings, turn-off and turn-on fees, and payment for any drainage caused to the system. Should a discontinued service be turned on without authorization, then the department shall remove the meter and make an additional charge as shown in the appropriate rate resolution adopted by the Board of County Commissioners.

(Code 1974, § 31-50; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 310, pt. 1, 9-23-1986)

Sec. 4.192. System to be fully metered.

4.192.A. Each and every connection shall be metered. The County reserves the right to determine the meter size and type that will be required for the service rendered.

4.192.B. Unauthorized use of water and water used without being metered shall be considered as having used 100,000 gallons of water for each and every occurrence. The cost of said water will be charged at the current rate against the connection being used and must be paid before application for service will be accepted or service reinstated.

(Code 1974, § 31-51; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 310, pt. 1, 9-23-1986)

Sec. 4.193. Affordable housing commitment.

Where equivalent residential connections are determined based on a rental multifamily residential use qualifying as affordable housing under the Martin County Comprehensive Plan for very low or low income households, a commitment must be provided by the property owner, in a form satisfactory to the County, which requires the property being served to retain its status as affordable housing for such households in perpetuity, unless such restriction is released by the Board of County Commissioners.

(Code 1974, § 31-51.1; Ord. No. 386, pt. 1(B), 9-25-1990)

Sec. 4.194. Penalties.

Any person, firm or corporation violating any of the provisions of this division shall, upon conviction, be deemed guilty of a misdemeanor of the second degree and punished as provided by law.

(Code 1974, § 31-52; Ord. No. 178, pt. 1, 6-9-1981)

Sec. 4.195. Effective date.

This subdivision shall take effect upon receipt of official acknowledgment from the office of Secretary of State that Ordinance No. 178 has been filed in that office, or upon acquisition of the water system by the County, whichever is later.

(Code 1974, § 31-53; Ord. No. 178, pt. 1, 6-9-1981)

Secs. 4.196—4.220. Reserved.

SUBDIVISION 2. POLICY ON POTABLE WATER SYSTEMS

Sec. 4.221. Purpose and intent.

The purpose and intent of this subdivision is to provide safe and economical potable water service in a timely, cost-efficient manner to the County's primary urban service district, to protect the public health and welfare, and to promote efficient land use patterns by encouraging compact urban development and discouraging urban sprawl. Nothing in this subdivision is intended, however, to change the laws or requirements of the State or Public Service Commission.

(Code 1974, § 31-54; Ord. No. 454, pt. 2, 2-14-1995)

Sec. 4.222. Definitions.

For the purposes of this subdivision, the following terms are defined.

Adjacent to means adjoining, contiguous, bordering any common property line.

DEP means the Florida Department of Environmental Protection.

Development has the meaning given it in F.S. § 380.04.

Easement means a vested or acquired right to use land for a specific purpose, such right being held by someone other than the owner of said land.

Fire flow means the minimum volume of water required, measured in gallons per minute, as recommended by the National Fire Protection Association. Required flow is based on size of building, use, and type of construction.

Individual potable water treatment system means a potable water well, treatment and supply system which serves nonresidential uses with a flow rate of less than or equal to 2,000 gallons per day, and where treatment is mandated by governing agencies.

Individual potable water well means a potable water well and supply system which generally serves residential uses and where treatment is not mandated by governing agencies, but is optional.

Interim water system means any potable water treatment and supply system, other [than] an individual potable water well, approved by the County for use until connection to a regional potable water system is mandated pursuant to this subdivision.

Master water pipe network plan means a facilities planning document assembled to predict future water transmission system sizing and routing requirements based on historical consumption and population growth projections.

Package water treatment plant means a water treatment plant which accommodates flows greater than 2,000 gallons per day, but less than 500,000 gallons per day, and is not certified as a regional potable water system.

Potable water means water that is satisfactory for drinking, culinary and domestic purposes which is subject to current State and Federal drinking water standards.

Regional potable water system means a system supplying potable water service by either government-owned or investor-owned public water facilities, for a fee, to specific geographic areas within Martin County. These systems have a DEP rated capacity of 500,000 gallons per day or greater. These systems are designed and located to offer service to a relatively large area.

SFWMD means the South Florida Water Management District.

Well means an excavation that is constructed to conduct groundwater from an aquifer to the ground surface, by pumping or artesian flow.

(Code 1974, § 31-55; Ord. No. 454, pt. 2, 2-14-1995)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.223. Applicability.

This subdivision shall apply to all development in unincorporated Martin County unless specifically exempted.

(Code 1974, § 31-56; Ord. No. 454, pt. 2, 2-14-1995)

Sec. 4.224. Restrictions.

All future development of a use or intensity that requires regional potable water facilities will not be permitted outside the primary urban service district. Construction of regional potable water facilities outside the primary urban service district shall also be prohibited unless otherwise exempted below:

4.224.A. Regional potable water treatment plants, wells and other related facilities which are either existing or planned in Martin County's current five-year Capital Improvement Element (CIE) prior to the adoption of this subdivision. As of the date of the adoption of this subdivision [Ordinance No. 454, adopted February 14, 1995], a portion of the Tropical Farms Wastewater Treatment Plant is the only facility planned in the CIE which is located outside the primary urban service district.

4.224.B. Future regional raw potable water wells or other raw water sources, and the nonservice mains which convey raw water to existing or proposed regional potable water treatment plants inside the primary urban service district.

4.224.C. Regional potable water transmission mains which cross outside the primary urban service district to provide potable water or fire protection service to a separate portion of the primary urban service district, when no other cost-effective alternative is feasible.

4.224.D. Regional potable water treatment plants, wells and other related facilities which are either existing or proposed by regional potable water systems which are already regulated by the Public Service Commission and the Department of Environmental Protection.

(Code 1974, § 31-57; Ord. No. 454, pt. 2, 2-14-1995; Ord. No. 1036, pt. 1, 11-14-2017)

Sec. 4.225. Exemptions.

This subdivision shall not affect the remodeling, rebuilding or reconstruction of existing buildings on any residential or nonresidential site utilizing an existing individual potable water well or individual potable

water treatment system, provided the intensity of the use is not increased, or that the improvements do not increase the potable water consumption rate for the entire site development.

(Code 1974, § 31-58; Ord. No. 454, pt. 2, 2-14-1995)

Sec. 4.226. Required system connections.

4.226.A. All new development within the primary urban service district requiring site planning or platting shall connect to a regional potable water system if a water line with sufficient available capacity exists within one-quarter mile of the development as accessed via public easements or rights-of-way, and the regional potable water system has available capacity.

4.226.B. Developments required to extend lines to connect to a regional potable water system shall do so in accordance with the requirements of that regional potable water system. For County-owned and/or operated systems, the routing and size of the main extension shall be in accordance with the County's master pipe network plan to be adopted by resolution. Where urban land use designations require future extension of water mains, the mains shall be required to be extended the full length of the right-of-way or easement which is adjacent to the property.

4.226.C. All residential and nonresidential properties obtaining building permits after adoption of this subdivision [Ordinance No. 454, adopted February 14, 1995] must connect to a regional potable water system within 365 days of the date that a water main with sufficient available capacity is adjacent to the property within an easement or right-of-way.

4.226.D. When the Martin County Board of County Commissioners makes a determination, based upon facts and evidence presented to it, proving that:

1. The potable water being supplied to a parcel of property by an individual potable water well or private water system constitutes a health hazard or a potential health hazard; and
2. Connection to a regional potable water system is a reasonable means of avoiding such health hazard;

then the owner of such lot or parcel of land shall be required to connect to a regional potable water system. All such connections shall be made in accordance with rules and regulations that provide for charges for these connections as determined by the Board of County Commissioners or the private regional potable water utility.

4.226.E. Once a service connection is made to a regional water system, disconnection from that regional water system is prohibited.

(Code 1974, § 31-59; Ord. No. 454, pt. 2, 2-14-1995)

Sec. 4.227. Individual potable water well regulations.

4.227.A. A permit from the Florida Department of Health is required for all development proposing the use of individual potable water wells prior to the issuance of a building permit from Martin County.

4.227.B. The use of individual potable water wells shall be limited to the following when a safe and dependable water supply is assured:

1. New subdivisions for single-family dwellings on lots of a minimum one acre of usable upland area if a regional potable water system line with sufficient available capacity does not exist within one-quarter mile of the development as accessed via public easements or rights-of-way, and/or the regional potable water system does not have available capacity.

a. For purposes of this section, the term "usable upland area" shall not include:

(1) Street rights-of-way.

(2) Drainage easements.

(3) Utility easements, except those allowing only overhead wires.

(4) Wetlands.

(5) Streams, lakes or similar bodies of water.

2. Single-family dwellings on existing legally created residential lots of record as of April 1, 1982, provided all other provisions of this subdivision are met.

3. Single-family lots created between April 1, 1982, and December 16, 2014 shall comply with the following:

a. Each individual potable water well shall be located on a lot.

b. Each lot shall have a usable minimum area of one-half acre per unit.

4. Any allowable residential or nonresidential use outside the primary urban service district on a lot of a minimum one acre of usable upland area per unit provided that such use generates a potable water demand at total site buildout of no more than 2,000 gallons per day and water treatment is not mandated by governing agencies. For nonresidential or agricultural uses permitted by the future land use designation and zoning district, the BCC may waive the 2,000 gpd limitation pursuant to Policy 10.2A.8.9 of the Comprehensive Plan. In no event shall the waiver allow total site buildout flows to exceed 5,000 gpd. Total site buildout shall be as determined by the Florida Department of Health.

For residential and nonresidential uses, the potable water demand shall be calculated in accordance with the following:

a. For any use, the allowed potable water demand must match the allowed sewage flow. Allowed flows for potable water cannot exceed allowed flows for sanitary sewage and vice versa. The potable water demand shall be calculated in accordance with the Standards for On-Site Sewage Treatment and Disposal Systems, of the State of Florida Department of Health, Chapter 64E-6, Florida Administrative Code.

5. Agricultural uses.

6. Testing uses.

7. All other residential and nonresidential uses inside the primary urban service district as provided under the interim potable water system regulations section of this subdivision.

(Code 1974, § 31-60; Ord. No. 454, pt. 2, 2-14-1995; Ord. No. 1036, pt. 1, 11-14-2017)

Sec. 4.228. Individual potable water treatment system regulations.

4.228.A. A permit from the Florida Department of Health or the Department of Environmental Protection is required for all development proposing the use of individual potable water treatment systems prior to the issuance of a building permit from Martin County.

4.228.B. The use of individual potable water treatment systems shall be limited to the following:

1. Nonresidential uses outside the primary urban service district, provided that such use generates a potable water demand at total site build-out of no more than 2,000 gallons per day and water treatment is mandated by governing agencies, except where a waiver has been granted

pursuant to Policy 10.2A.8.9 of the Comprehensive Plan. The nonresidential potable water demand shall be calculated in accordance with the following:

a. For any use the allowed potable water demand must match the allowed sewage flow. Allowed flows for potable water cannot exceed allowed flows for sanitary sewage and vice versa. The potable water demand shall be calculated in accordance with the Standards for On-Site Sewage Treatment and Disposal Systems of the State of Florida Department of Health. Chapter 64E-6 Florida Administrative Code.

2. All other residential and nonresidential uses inside the primary urban service district as provided under the interim potable water system regulations section of this subdivision.

(Code 1974, § 31-60.1; Ord. No. 454, pt. 2, 2-14-1995; Ord. No. 1036, pt. 1, 11-14-2017)

Sec. 4.229. Package water treatment plant regulations.

4.229.A. No new package plants shall be allowed except for those projects specified in Policy 10.1A.11 of the Comprehensive Plan. No connections to existing package plants shall be allowed if enforcement action by FDEP would preclude such connections.

4.229.B. Existing customers of package plants will be connected to regional systems when:

(1) The useful life of the package plant has been exhausted; or

(2) Doing so is cost-effective; or

(3) A package plant falls into noncompliance with FDEP regulations and is required to connect by consent order.

4.229.C. When package plants are connected to regional systems not purchased by the County, property owners receiving the benefit of connection shall pay all applicable connection costs, including capital facility charges.

4.229.D. In accordance with Policy 11.1F.4 of the CGMP, if water lines become available in a public easement or right-of-way within 500 feet of Seven J's or Martingale Commons, the respective property will be required to connect to these lines within 365 days of notice of the availability of the lines. All properties deriving a special benefit from the connection shall pay for the expenses that are properly attributable to providing such connection under generally accepted accounting principles including, but not limited to, expenses related to the line extension, reimbursement to the County for any funds advanced, and all connection costs or other applicable capital facility charges. Such expenses shall be apportioned to and collected from such properties in a manner that fairly and reasonably apportions such expenses based upon an objectively determinable methodology in accordance with Section 71.103 of the Martin County Code, or other similar method of cost recovery permitted under Florida law.

(Code 1974, § 31-60.2; Ord. No. 454, pt. 2, 2-14-1995; Ord. No. 1036, pt. 1, 11-14-2017)

Sec. 4.230. Regional potable water systems.

Regional potable water systems which are defined in this subdivision, whose service areas are shown in the Comprehensive Plan, and which meet the standards contained in the Comprehensive Plan and the Adequate Public Facilities Ordinance shall qualify to provide potable water service to development in Martin County. It is not the intent of this subdivision to further regulate utilities already regulated by the Public Service Commission and the Department of Environmental Protection.

(Code 1974, § 31-60.3; Ord. No. 454, pt. 2, 2-14-1995)

Sec. 4.231. Sailfish Point systems.

This water treatment system shall have special status as noted in the Comprehensive Plan. While not large enough to qualify as a regional system serving a larger area, it is not an interim system and will not be required to connect to a regional system.

(Code 1974, § 31-60.4; Ord. No. 454, pt. 2, 2-14-1995; Ord. No. 1036, pt. 1, 11-14-2017)

Sec. 4.232. Reserved.

Editor's note— Ord. no. 1036, pt. 1, adopted November 14, 2017, repealed § 4.232. Former § 4.232 pertained to interim potable water system regulations and derived from the Code of 1974; Ord. No. 454, adopted February 14, 1995; and Ord. No. 96-489, adopted January 23, 1996.

Sec. 4.233. Developments unable to satisfy regulations.

Developments that do not qualify for the use of individual potable water wells, treatment systems, or package water treatment plants, that cannot connect to a regional potable water system, and that cannot qualify for the use of an interim potable water system shall not be approved.

(Code 1974, § 31-60.6; Ord. No. 454, pt. 2, 2-14-1995)

Sec. 4.234. Location of Martin County utilities water meters.

The Martin County utilities shall have sole discretion as to the proper location of water meters. Consumers can, however, express their preference as to the location of the water meters. Where meters are installed on private property the consumer shall give the County the necessary easements to install, operate, read and repair all meters and related equipment, and the consumer shall so agree and does agree in making his application for utility service.

(Code 1974, § 31-60.7; Ord. No. 178, pt. 1, 6-9-1981; Ord. No. 210, pt. 1, 4-26-1983; Ord. No. 235, pt. 1, 4-24-1984; Ord. No. 310, pt. 1, 9-23-1986; Ord. No. 273, pt. 1, 6-23-1987; Ord. No. 454, pt. 2, 2-14-1995)

Sec. 4.235. Conflict with regulatory authority of the South Florida Water Management District.

To the extent that portions of this subdivision conflict with regulations promulgated by the South Florida Water Management District, the regulations promulgated by the South Florida Water Management District shall govern.

(Code 1974, § 31-60.8; Ord. No. 219, pt. 1, 8-23-1983; Ord. No. 454, pt. 2, 2-14-1995)

Secs. 4.236—4.260. Reserved.

DIVISION 7. WASTEWATER DISPOSAL SYSTEMS [7]

SUBDIVISION 1. - GENERALLY

SUBDIVISION 2. - WASTEWATER DISPOSAL IN UNINCORPORATED AREAS

FOOTNOTE(S):

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Cross reference— Subdivisions, § 4.911 et seq.; adequate public facility standards, art. 5; impact fees, art. 6. (Back)

SUBDIVISION 1. GENERALLY

Sec. 4.261. Purpose and policy.

This division sets forth uniform requirements for users of the Martin County wastewater collection and treatment systems, and enables the County to comply with applicable State and Federal laws.

(Code 1974, § 31-120; Ord. No. 314, pt. 1, 12-2-1986)

Sec. 4.262. Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this division, shall have the meanings hereinafter designated:

Capital facility charge (CFC): A charge made for the capital cost of the wastewater transmission and treatment facilities.

Composite sample: A mixture of samples obtained at regular intervals over a time period where the volume of each sample is proportional to the discharge flow rate for the sampling interval. The minimum time period for composite sampling shall be four hours.

County: Martin County, Florida, as represented by the County Administrator, or his authorized representative.

Domestic sewage: Sewage that consists of water and human excretions or other waterborne wastes incidental to the occupancy of a residential building.

Equivalent residential connection (ERC): Shall be a factor used to convert a given average daily flow (ADF) to the equivalent number of units required for connection to the County system. For residential purposes, all single-family units, including but not limited to each single-family unit contained in a duplex, triplex or multifamily structure, shall constitute one equivalent residential connection. For nonresidential units, one equivalent residential connection shall equal 250 gallons per day (250 gpd).

Grab sample: A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Industrial users: All users generating wastewater from industrial processes, trade or business.

Nonresidential unit: Shall consist of a nonresidential building or structure, or portions of residential buildings dedicated to nonresidential use.

Service availability: The reservation of wastewater service in the County system.

Service availability charge (SAC): The charge which shall be paid at each regularly scheduled billing period following the County's agreement to reserve service availability in its system.

Service lateral: The connecting pipe extending from the wastewater system main to the property line or easement line.

Special services: Additional or unusual services to customer, for which a charge is not otherwise designated in this division.

Standard Methods: The latest edition of Standard Methods for the Examination of Water and Waste Water, prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

Toxic pollutant: Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of section 307(a) of the act [Federal Water Pollution Control Act] or other acts.

User: Any person who contributes, causes or permits the contribution of wastewater to the wastewater system.

Wastewater service charge: The charge for wastewater service which shall be paid at each regularly scheduled billing period after connection to the system.

Wastewater system: The wastewater collection, transmission and treatment system owned by Martin County.

(Code 1974, § 31-121; Ord. No. 314, pt. 1, 12-2-1986)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.263. Connections to wastewater system.

4.263.A. *Authorization required.* No person shall uncover, make any connections with or opening into, or alter, repair or disturb any portion of the wastewater system unless authorized by the County to do so.

4.263.B. *Notification of change.* Any person proposing a new discharge other than domestic sewage into the wastewater system or a substantial change in the volume or character of pollutants that are being discharged into the wastewater system shall notify the County in writing at least 45 days prior to the proposed change or connection.

4.263.C. *Inspections.* A connection to the wastewater system can be made only after the building's plumbing has been approved by the County Building Inspector in order to ensure that the County's minimum standards are met for the installation. No trench containing a connection to the wastewater system shall be backfilled until the County has completed an inspection of and approved the work; provided, however, that the County shall make the required inspection within 48 hours, excluding weekends and holidays, of the developer giving notice to inspect to the County Utilities Department.

4.263.D. *Owner to bear costs.* All costs and expenses incidental to connecting to the wastewater system shall be borne by the owner. The owner shall be responsible to the County for any loss or damage that may directly or indirectly be occasioned by the connection.

4.263.E. *Prohibited connections.* No person shall make any connection which allows surface runoff or groundwater to enter the wastewater system.

4.263.F. *Licensed plumbers to make connections.* No connection to a service lateral shall be made except by a plumber licensed in the State of Florida or Martin County.

4.263.G. *Responsibility for maintenance—User.* The user shall be responsible for the maintenance of all plumbing from the service lateral into and including the building plumbing. The County shall have the right to inspect the plumbing to determine that it is maintained in a sanitary and effective operating condition.

4.263.H. *Responsibility for maintenance—County.* The County shall be responsible for the maintenance of the wastewater system up to and including the service lateral. A cleanout shall be provided by the property owner at the connection to the service lateral.

(Code 1974, § 31-122; Ord. No. 314, pt. 1, 12-2-1986)

Sec. 4.264. County ownership of utility facilities, easements and rights-of-way.

4.264.A. *Public easement or utility easement required.* No facilities will be accepted by the County for maintenance unless they are in a dedicated public right-of-way or dedicated utility easement. Said easement shall be accessible and traversable by standard maintenance equipment.

4.264.B. *Ownership.* All utility facilities and appurtenances to be maintained by the County pursuant to this division shall be granted to the County by the property owner by an appropriate bill of sale.

(Code 1974, § 31-123; Ord. No. 314, pt. 1, 12-2-1986)

Sec. 4.265. Powers and authority of inspectors; right of access for repairs.

Duly authorized employees of the County bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this division.

(Code 1974, § 31-124; Ord. No. 314, pt. 1, 12-2-1986)

Sec. 4.266. Monthly charges or rates for sewer service; service availability charge (SAC); capital facility charge (CFC); special service charges.

4.266.A. All users of the services of the wastewater system shall pay the charges or rates for service as provided for by resolution of the Board of County Commissioners.

4.266.B. There shall be a capital facility charge, a service availability charge, wastewater service charges, and special service charges as provided for by resolution.

4.266.C. When charges are due.

1. The capital facility charge (CFC) is due when wastewater service to a property has been approved by the County.
2. A service availability charge (SAC) is due monthly after wastewater service has been approved by the County.
3. A wastewater service charge is due monthly when customer has received wastewater service.
4. Special service charges are due whenever special services are provided to the customer.

(Code 1974, § 31-125; Ord. No. 314, pt. 1, 12-2-1986)

Sec. 4.267. Payment of fees and bills required.

4.267.A. *Deposit required; adjustments.* All users shall make a deposit with Martin County in an amount to be determined by the Martin County Board of County Commissioners by resolution. A refund of the deposit will be made if the account is free of delinquency notices for a 25-consecutive-month period.

4.267.B. *Discontinuance of service.* Bills for the charges hereinbefore mentioned shall be submitted by Martin County and shall be paid by the users. If any bill for wastewater service shall be and remain unpaid for a period of 45 days from the date of submission of such bill, the wastewater service to the user may be discontinued and shall not be reconnected until all past due and current charges shall have been fully paid, together with a shutoff fee for nonpayment as provided for by resolution.

(Code 1974, § 31-126; Ord. No. 314, pt. 1, 12-2-1986; Ord. No. 335, pt. 2, 10-6-1987; Ord. No. 374, pt. 2, 2-13-1990)

Sec. 4.268. No free service; discontinuing water and/or wastewater service.

4.268.A. No wastewater service shall be furnished free of charge to any person, firm or corporation whatsoever, and Martin County and each and every agency, department or instrumentality which uses the wastewater system shall pay therefor at the rates fixed by this division. In the event wastewater service or related services are requested in a form which is not covered by this division,

the County Administrator or his designee shall negotiate or establish a service charge subject to Board of County Commissioners' approval which will be in accordance with the County's covenants with bond holders and creditors.

4.268.B. The County may discontinue water and/or wastewater service to any customer due to failure to pay charges, an infraction of any procedure or regulation contained in this division, or for any act that may be detrimental to the wastewater system.

(Code 1974, § 31-127; Ord. No. 314, pt. 1, 12-2-1986)

Sec. 4.269. Unmetered connection rates.

Where the wastewater system user has an unmetered water supply or no County water supply, the wastewater service charge shall be based upon 125 percent of the average monthly bill for a similar class of water customer whose water use is metered. The appropriate wastewater service charge shall be applied thereon. The County may at its option require metering of the water supply to determine proper wastewater service charges.

(Code 1974, § 31-128; Ord. No. 314, pt. 1, 12-2-1986)

Sec. 4.270. Public building rate.

All public buildings, post offices, schools, and churches shall be considered commercial customers for wastewater service and the applicable rates shall apply.

(Code 1974, § 31-129; Ord. No. 314, pt. 1, 12-2-1986)

Sec. 4.271. Prohibited constituents.

4.271.A. A user shall not contribute the following types of substances to the wastewater system:

1. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater system.
2. Substances which may cause obstruction to the flow or other interference with the operation of the wastewater system.
3. Any wastewater capable of causing damage or hazard to structures, equipment or personnel of the wastewater system.
4. Any wastewater containing toxic pollutants.
5. Any substance which may cause the wastewater system's effluent, or any other product of the wastewater system, to be unsuitable for an economically feasible disposal process.

4.271.B. A list of specific substances prohibited under the provisions of A.1 through 5 of this section is on file with and can be obtained from the County.

(Code 1974, § 31-130; Ord. No. 314, pt. 1, 12-2-1986)

Sec. 4.272. Industrial users.

4.272.A. *Self-monitoring.* All industrial users discharging into the wastewater system shall perform such self-monitoring of their discharge as shall be reasonably required by the County to assure that prohibited wastes are not being discharged into the wastewater system.

4.272.B. *Monitoring facilities.*

1. The County may require industrial users to provide and operate, at their expense, monitoring facilities to allow County inspection, sampling and flow measurement of the user's wastewater. The monitoring facility should normally be situated on the user's premises, but the County may, when such allocation would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
2. There shall be ample room in or near such monitoring facility to allow accurate sampling and preparation of samples for analysis. The facility and the sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
3. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the County requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days of written notification by the County, or within such longer period as may be permitted by the County.

4.272.C. *Standards for tests, samples, etc.* All measurements, tests and analysis of the characteristics of wastewater to which reference is made in this section shall be determined in accordance with the latest edition of the Standard Methods. Sampling methods, location, times, duration and frequencies are to be determined on an individual basis by the County.

4.272.D. *Federal standards.* Upon the promulgation of any Federal categorical pretreatment standard for a particular industrial subcategory, the Federal standard, if more stringent than limitations imposed under this subdivision for sources in that subcategory, shall supersede the limitations imposed under this section.

4.272.E. *Dilution no substitute for treatment.* No user shall increase the use of process water for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal categorical pretreatment standards, or any specific pollutant limitations developed by the County.

4.272.F. *Accidental discharges of prohibited wastewater—Reporting required.* Immediately upon detection of an accidental discharge, the user shall cease such discharge and verbally notify the County and describe the type and quantity of such discharge. Within five days following an accidental discharge, the user shall submit to the County a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences.

4.272.G. *Same—Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge of prohibited wastewater. Employers shall ensure that all employees responsible for the proper handling of process water are advised of the emergency notifications procedure.

(Code 1974, § 31-131; Ord. No. 314, pt. 1, 12-2-1986; Ord. No. 1036, pt. 1, 11-14-2017)

Secs. 4.273—4.300. Reserved.

SUBDIVISION 2. WASTEWATER DISPOSAL IN UNINCORPORATED AREAS

Sec. 4.301. Purpose and intent.

The purpose and intent of this subdivision is to provide safe and economical sanitary sewer service in a timely, cost-efficient manner to the County's primary urban service district, to protect the public health and welfare, to protect surface and groundwater quality, and to promote efficient land use patterns by encouraging compact urban development and discouraging urban sprawl. Nothing in this subdivision is intended, however, to change the laws or requirements of the State or Public Service Commission.

(Code 1974, § 31-132; Ord. No. 460, pt. 2, 5-2-1995)

Sec. 4.302. Definitions.

For the purposes of this subdivision, the following terms are defined:

Adjacent to means adjoining, contiguous, bordering any common property line.

Commercial sewage waste means nontoxic, nonhazardous wastewater from commercial facilities which is usually similar in composition to domestic wastewater, but which may occasionally have one or more of its constituents exceed domestic ranges.

DEP means the Florida Department of Environmental Protection.

Development has the meaning given it in F.S. § 380.04.

Domestic sewage waste means human body waste and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste and other similar waste from household or establishment appurtenances.

Easement means a vested or acquired right to use land for a specific purpose, such right being held by someone other than the owner of said land.

Industrial, hazardous, or toxic sewage waste means wastewater not otherwise defined in this subdivision as domestic sewage waste or commercial sewage waste. Wastewater carried off by floor drains and equipment drains located in buildings in industrial or commercial zoned areas, wastewater from commercial laundry facilities, and wastewater from car and truck washes are included in this definition.

Interim wastewater system means any wastewater treatment and disposal system approved by the County for use until connection to a regional wastewater system is mandated pursuant to this subdivision.

Master wastewater pipe network plan means a facilities planning document assembled to predict future wastewater collection and transmission system sizing and routing requirements based on historical consumption and population growth projections.

On-site sewage treatment and disposal system means a sewage treatment and disposal facility which contains a drainfield system and an anaerobic or aerobic treatment system, installed or proposed to be installed on land of the owner, as further defined in the Standards for On-Site Sewage Treatment and Disposal Systems, of the State of Florida Department of Health, Chapter 64E-6, Florida Administrative Code, as may be amended from time to time.

Package wastewater treatment plant means a wastewater treatment plant which accommodates flows greater than 2,000 gallons per day, but less than 500,000 gallons per day, and is not certified as a regional wastewater system.

Regional wastewater system means a system supplying wastewater service by either government-owned or investor-owned public wastewater facilities, for a fee, to specific geographic areas within Martin County. These systems have a DEP-rated capacity of 500,000 gallons per day or greater. These systems are designated and located to offer service to a relatively large area.

(Code 1974, § 31-133; Ord. No. 460, pt. 2, 5-2-1995; Ord. No. 910, pt. 1, 3-27-2012)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.303. Applicability.

This subdivision shall apply to all development in unincorporated Martin County unless specifically exempted.

(Code 1974, § 31-134; Ord. No. 460, pt. 2, 5-2-1995)

Sec. 4.304. Restrictions.

All future development of a use or intensity that requires wastewater facilities will not be permitted outside the primary urban service district. Construction of regional wastewater facilities outside the primary urban service district shall also be prohibited unless otherwise exempted below:

4.304.A. Regional wastewater system treatment plants, effluent disposal systems, and other related facilities which are either existing or planned in Martin County's current five-year Capital Improvement Element (CIE) prior to the adoption of this subdivision. As of the date of the adoption of this subdivision [May 2, 1995], a portion of the Tropical Farms Wastewater Treatment Plant is the only facility planned in the CIE which is located outside the primary urban service district.

4.304.B. Future regional wastewater effluent disposal systems, and the nonservice mains which convey the effluent from the regional wastewater system treatment plants inside the primary urban service district.

4.304.C. Regional wastewater system collection, transmission, and reclaimed water mains which cross outside the primary urban service district to provide sanitary sewer service to a separate portion of the primary urban service district, when no other cost-effective alternative is feasible.

4.304.D. Regional wastewater system treatment plants, effluent disposal systems, and other related facilities which are either existing or proposed by regional wastewater systems which are already regulated by the Public Service Commission and the Department of Environmental Protection.

(Code 1974, § 31-135; Ord. No. 460, pt. 2, 5-2-1995; Ord. No. 1036, pt. 1, 11-14-2017)

Sec. 4.305. Exemptions.

This subdivision shall not affect the remodeling, rebuilding or reconstruction of existing buildings on any residential or nonresidential site utilizing an existing on-site sewage disposal system, provided the intensity of the use is not increased, or that the improvements do not increase the potable water consumption rate for the entire site development.

(Code 1974, § 31-136; Ord. No. 460, pt. 2, 5-2-1995)

Sec. 4.306. Required system connections.

4.306.A. All new development within the primary urban service district requiring site planning or platting shall connect to a regional wastewater system if a wastewater collection or transmission line with sufficient available capacity exists within one-quarter mile of the development as accessed via public easements or rights-of-way, and the regional wastewater system has available capacity.

4.306.B. Developments required to extend lines to connect to a regional wastewater system shall do so in accordance with the requirements of that regional wastewater system. For County-owned and/or operated systems, the routing and size of the wastewater collection and/or transmission main extension shall be in accordance with the County's master wastewater pipe network plan to be adopted by resolution. Where urban land use designations require future extension of wastewater collection and/or transmission mains, the mains shall be required to be extended the full length of the right-of-way or easement which is adjacent to the property.

4.306.C. All single-family and duplex residential properties obtaining building permits after adoption of this subdivision must connect to a regional wastewater system within 365 days of the date that a gravity sewer collection main with sufficient available capacity is adjacent to the property within an easement or right-of-way, and the regional wastewater system has available capacity.

4.306.D. All multifamily and nonresidential properties obtaining building permits after adoption of this subdivision must connect to a regional wastewater system within 365 days of the date that a gravity sewer collection or a wastewater transmission (force) main with sufficient available capacity is adjacent to the property within an easement or right-of-way, and the regional wastewater system has available capacity.

4.306.E. When the Martin County Board of County Commissioners makes a determination, based upon facts and evidence presented to it, proving that:

1. The sanitary sewer service being supplied to a parcel of property by an on-site sewage disposal system constitutes a health hazard or a potential health hazard; and

2. Connection to a regional wastewater system is a reasonable means of avoiding such health hazard;

then the owner of such lot or parcel of land shall be required to connect to a regional wastewater system. All such connections shall be made in accordance with rules and regulations that provide for charges for these connections as determined by the Board of County Commissioners or the private regional wastewater utility.

4.306.F. Once a service connection is made to a regional wastewater system, disconnection from that regional wastewater system is prohibited.

(Code 1974, § 31-137; Ord. No. 460, pt. 2, 5-2-1995)

Sec. 4.307. On-site sewage disposal system regulations.

A permit from the Florida Department of Health for all development proposing the use of an on-site sewage disposal system is required to be obtained prior to applying for a building permit from Martin County.

4.307.A. The use of on-site sewage disposal systems to provide sanitary sewer service shall be limited to the following:

1. Single-family dwellings on existing legally created residential lots of record as of April 1, 1982, provided all other provisions of this subdivision are met.

2. Duplex units on existing legally created residential lots of record as of April 1, 1982, provided all other provisions of this subdivision are met and provided that:

   a. The lot of record is serviced by a regional potable water system.

   b. The duplex is located in a subdivision which is zoned for duplex use and is designated for medium density or high density use on the future land use map of the Comprehensive Plan, and which was three-fourths developed in duplex use on April 1, 1982.

   c. A regional wastewater system gravity sewer collection main is not available within 1,000 feet of the subject duplex lot.

   d. An agreement is executed with the County to connect to a regional wastewater system within one year from the date that a gravity sewer collection main with sufficient available capacity is adjacent to the property within an easement or right-of-way, and the regional wastewater system has available capacity.

3. Single-family lots created between April 1, 1982 and December 16, 2014, shall comply with the following:

   a. Each septic system shall be located on a lot.

   b. Each lot shall have a usable minimum area of one-half acre per unit when the development is serviced by a private well.

   c. Each lot shall have a usable minimum area of one-third acre per unit when the development is serviced by a regional or interim water supply system.

   d. The septic tank must be set back 75 feet from a drinking water well and 50 feet from an irrigation well.

4. New subdivisions for single-family dwellings, serviced by individual potable water wells, on lots of a minimum one acre of usable upland area if a regional wastewater system collection or transmission line with sufficient available capacity does not exist within one-

quarter mile of the development as accessed via public easements or rights-of-way, and/or the regional wastewater system does not have available capacity. For purposes of this section, the term "usable upland area" shall not include:

a. Street rights-of-way.

b. Drainage easements.

c. Utility easements, except those allowing only overhead wires.

d. Wetlands.

e. Streams, lakes or similar bodies of water.

5. New subdivisions for single-family dwellings, serviced by regional or interim potable water systems, on lots of a minimum one-third acre of usable upland area if a regional wastewater system collection or transmission line with sufficient available capacity does not exist within one-quarter mile of the development as accessed via public easements or rights-of-way, and/or the regional wastewater system does not have available capacity.

6. Any allowable new residential or nonresidential use outside the primary urban service district on a lot of a minimum one acre of usable upland area per unit provided that such use generates a potable water demand at total site build out of no more than 2,000 gallons per day. For nonresidential or agricultural uses permitted by the future land use designation and zoning district, the BCC may waive the 2,000 gpd limitation pursuant to Policy 10.2A.8.9 of the Comprehensive Plan. In no event shall the waiver allow total site buildout flows to exceed 5,000 gpd. Total site buildout shall be determined by the Florida Department of Health.

   All uses shall be in compliance with the following:

   a. For nonresidential and residential uses, the potable water demand shall be calculated in accordance with the Standards for On-Site Sewage Treatment and Disposal Systems, of the State of Florida Department of Health, Chapter 64E-6, Florida Administrative Code, as may be amended from time to time, or by documented potable water consumption volumes generated by similar development(s).

7. Nonresidential use of septic tanks. Septic tanks can serve nonresidential uses when a government-owned or investor-owned sewerage system is not available. In addition, the use must be deemed by the Florida Department of Health not to constitute a high expected failure level.

   An on-site sewage disposal system (septic tanks) shall not be approved:

   a. Where an existing sanitary sewer (either government-owned or investor-owned) is available for connection, which means the system: (1) is not under an FDEP moratorium, (2) has adequate hydraulic capacity to accept the quantity of sewage to be generated by the proposed establishment, and (3) complies with the following conditions:

      (1) For estimated sewage flows of 600 or fewer gallons per day, there is a gravity sewer line in a public easement or right-of-way abutting or within 100 feet of the property, and gravity flow can be maintained from the building drain to the sewer line.

      (2) For estimated sewage flows of 601 to 1,200 gallons per day, there is a gravity sewer line, force main or lift station in a public easement or right-of-way within 100 feet of the property.

(3) For estimated sewage flows of 1,200 to 2,000 gallons per day, there is a gravity sewer line, force main or lift station in a public easement or right-of-way within 500 feet of the property.

b. For treatment and disposal of industrial, hazardous or toxic wastes; or

c. For onsite sewage treatment and disposal systems in excess of 2,000 gpd flows within the PUSD.

8. All other residential and nonresidential uses inside the primary urban service district as provided under interim wastewater system regulations section of this subdivision.

4.307.B. The following standards shall apply to all on-site sewage disposal system installations:

1. All on-site sewage disposal systems shall be designed, located and installed in accordance with the "Standards for On-Site Sewage Treatment and Disposal Systems," State of Florida Department of Health, Chapter 64E-6, Florida Administrative Code, as may be amended from time to time, or as otherwise required by this subdivision, whichever is the more restrictive.

2. On-site sewage disposal systems (including the drainfield) shall not be located within ten feet of designated upland preserve areas.

3. Where fill is used, the property owner shall be responsible for assuring adequate drainage so adjacent parcels will not be adversely affected.

4. When a parcel of land contains wetlands or other surface waters an on-site sewage treatment and disposal system shall be placed on the side of the parcel farthest from and at least 75 feet from the surface water or wetland. An on-site sewage treatment and disposal system shall be located at least 75 feet from wetlands or other surface waters that exist off site. This requirement shall be designated on the final plat of any approved subdivision that contains wetlands or other surface waters or where off site wetlands or other surface waters are within 100 feet of the subdivision. In the case of a lot of record created prior to April 1, 1982, the requirement set forth in this subsection shall be waived in cases of severe hardships. The Growth Management Department director may approve such a waiver in writing upon a finding that requiring the 75-foot setback would prevent any reasonable use of the lot and upon an affirmative recommendation of the Florida Department of Health. A severe hardship does not exist if the building(s), driveways or other features on the property can be moved and still comply with all the current codes.

5. Subdivisions to be served by on-site sewage disposal systems and wells shall identify the required locations for on-site sewage disposal systems and wells on the proposed lots. The required locations of wells and on-site sewage disposal systems shall be identified by a subdivision analysis approved by the Florida Department of Health.

6. Each septic tank utilized must be equipped with a septic tank effluent filter. These filters must be maintained by the property owner and must remain in service for the life of the septic tank. A list of approved filters is available at the Florida Department of Health.

7. The installation of an on-site sewage disposal system shall not be permissible when the use is determined by the Florida Department of Health to constitute a high expected failure level.

8. Septic systems shall be set back a minimum of 15 feet from the design high-water line of a retention or detention area designed to contain standing or flowing water for less than 72 hours after a rainfall, or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention area.

4.307.C. The following standards shall apply to all on-site sewage disposal systems that require repair or replacement:

1. Each existing septic tank must be equipped with a septic tank effluent filter. These filters must be maintained by the property owner and must remain in service for the life of the septic tank. A list of approved filters is available at the Florida Department of Health.
2. If the existing on-site sewage disposal system is located within 75 feet of wetlands or other surface waters, the effluent disposal portion of the system must be relocated to at least 75 feet from wetlands or other surface waters. If potable water wells, property size, or other similar site restraints exist that prevent the relocation of the effluent disposal system to the proper setback, then the effluent disposal system must be moved as far as possible from wetlands and other surface waters, as approved by the Florida Department of Health.

(Code 1974, § 31-138; Ord. No. 460, pt. 2, 5-2-1995; Ord. No. 910, pt. 1, 3-27-2012; Ord. No. 1036, pt. 1, 11-14-2017)

Sec. 4.308. Package wastewater treatment plant regulations.

4.308.A Package treatment plants shall be prohibited except within the Seven Js Industrial Area and Martingale Commons PUD, provided that the respective project is proceeding in accordance with its timetable of development and conditions of approval.

4.308.B. In accordance with Policy 10.1A.12 if there is a gravity sewer line, force main or lift station in a public easement or right-of-way within 500 feet of Seven J's or Martingale Commons, the respective property will be required to connect to these facilities and the construction and/or utilization of package treatment plants or onsite treatment and disposal systems within these developments shall be prohibited. All properties deriving a special benefit from the connection shall pay for the expenses that are properly attributable to providing such connection under generally accepted accounting principles including, but not limited to. expenses related to the line extension, reimbursement to the County for any funds advanced, and all connection costs or other applicable capital facility charges. Such expenses shall be apportioned to and collected from such properties in a manner that fairly and reasonably apportions such expenses based upon an objectively determinable methodology in accordance with Section 71.103 of the Martin County Code, or other similar method of cost recovery permitted under Florida law. Until such time as facilities are available for connection, the use of on-site sewage treatment and disposal systems up to 2,000 gpd flows shall be allowed. Any existing uses on on-site sewage treatment and disposal systems must connect to the regional sewage system within 365 days of the date of receiving notice of the availability of the facilities.

(Code 1974, § 31-139; Ord. No. 460, pt. 2, 5-2-1995; Ord. No. 1036, pt. 1, 11-14-2017)

Sec. 4.309. Regional wastewater systems.

4.309.A. Regional wastewater systems which are defined in this subdivision, whose service areas are shown in the Comprehensive Growth Management Plan, and which meet the standards contained in the Comprehensive Growth Management Plan and the adequate public facilities ordinance, shall qualify to provide sanitary sewer service to development in Martin County. It is not the intent of this subdivision to further regulate utilities already regulated by the Public Service Commission and the Department of Environmental Protection.

4.309.B. All regional wastewater system effluent disposal systems shall comply with the Martin County wellfield protection standards.

(Code 1974, § 31-140; Ord. No. 460, pt. 2, 5-2-1995)

Sec. 4.310. Sailfish Point systems.

This wastewater treatment system shall have special status as noted in the Comprehensive Growth Management Plan. While not large enough to qualify as a regional system serving a larger area, it is not an interim system and will not be required to connect to a regional system.

(Code 1974, § 31-140.1; Ord. No. 460, pt. 2, 5-2-1995; Ord. No. 1036, pt. 1, 11-14-2017)

Sec. 4.311. Reserved.

Editor's note— Ord. No. 1036, pt. 1, adopted November 14, 2017, repealed § 4.311. Former § 4.311 pertained to interim wastewater system regulations and derived from the Code of 1974; Ord. No. 460, adopted May 2, 1995; and Ord. No. 96-490, adopted January 23, 1996.

Sec. 4.312. Developments unable to satisfy regulations.

Developments that do not qualify for the use of an on-site sewage disposal system or a package wastewater treatment plant, that cannot connect to a regional wastewater system, and that cannot qualify for the use of an interim wastewater system shall not be approved.

(Code 1974, § 31-140.3; Ord. No. 460, pt. 2, 5-2-1995)

Secs. 4.313—4.340. Reserved.

DIVISION 8. EXCAVATION, FILLING AND MINING [8]

Sec. 4.341. Purpose and intent.

It is the intent of the Board of County Commissioners to provide for the health, safety, and welfare of the residents of Martin County by requiring that excavation, filling, and mining activities are not harmful to the natural resources of the county and are consistent with the goals, objectives and policies of the Martin County Comprehensive Growth Management Plan (Comprehensive Plan) by:

4.341.A. Ensuring that excavation, filling, and mining activities do not adversely impact the health, safety, and welfare of the citizens of Martin County.

4.341.B. Preventing the immediate and longterm negative environmental and economic impacts of undesirable land development practices.

4.341.C. Requiring the use of environmentally sound excavation, filling, and mining practices.

4.341.D. Protecting existing and future use of surrounding properties from the negative effects of excavation, filling, and mining.

4.341.E. Ensuring that mined lakes do not become public safety hazards or sources of water resource degradation or pollution.

4.341.F. Preventing public nuisances, safety hazards, and damage to private and public lands.

4.341.G. Maintaining environmental integrity and the water quality of groundwater and surface waters.

4.341.H. Preserving the county's right to deny any application for excavation, filling or mining which does not comply with the provisions of this division the Comprehensive Plan, the LDR or the Code, or which is harmful to the natural resources of the county, interferes with the legal rights of others, is inconsistent with the overall objectives of the county or is otherwise contrary to the public interest.

4.341.I. Requiring that the proposed activity is compatible with any existing county stormwater plan for the area, and consistent with existing drainage patterns.

4.341.J. Requiring that excavating, filling and mining shall not create a public nuisance, such as excessive noise or dust and airborne pollution.

4.341.K. Requiring that no wetlands will be impacted and that native upland habitat and listed wildlife species will be protected.

4.341.L. Ensuring that the rivers and estuaries of Martin County will be improved and not be adversely impacted by changes to the rate, volume, timing and quality of stormwater runoff.

(Ord. No. 549, pt. 1, § 4.8.1, 7-13-2000; Ord. No. 592, pt. 1, § 4.8.1, 7-10-2001)

Sec. 4.342. Applicability.

Any person proposing to excavate, fill or mine any real property in unincorporated Martin County shall first obtain a Martin County excavation and filling permit in accordance with the requirements of this division unless such activity is specifically exempted.

4.342.A. *Excavation or filling of less than 100 cubic yards.* Any excavation or filling of less than 100 cubic yards shall not be required to file a separate application for an excavation and filling permit. Compliance with all applicable Comprehensive Plan, LDR and Code provisions and county engineering standards and good engineering practices is required for any excavation and filling in conjunction with an exempted application for proposed development approval. However, such activities are exempted from any requirement for littoral, upland and transitional zone planting.

4.342.B. *Excavation and/or filling of 100 cubic yards up to, but not including, 10,000 cubic yards.*

1. Any excavation or filling of 100 cubic yards up to, but not including, 10,000 cubic yards in conjunction with an application for a building permit or other development order shall not be required to file a separate application for an excavation and filling permit, or a land clearing permit. Compliance with all applicable Comprehensive Plan, LDR and Code provisions and county engineering standards and good engineering practices is required for any excavation and filling in conjunction with an application for a building permit or proposed development order.

2. Any excavation or filling of 100 cubic yards up to, but not including, 10,000 cubic yards that is not in conjunction with an application for a building permit or other development order shall be required to file an application for an excavation and filling permit. Upon determination of compliance with all requirements of the Comprehensive Plan and the LDR, the excavation and fill permit shall constitute a final site plan. A land clearing permit may be issued with the excavation and filling permit. However no land clearing permit shall be issued for the clearing of native vegetation on a residential subdivision lot prior to the issuance of a building permit except; 1) that which is necessary for roads, utilities installation and drainage improvements; or 2) within a zero lot line development with lot sizes of 6,500 square feet or less; or 3) when it is necessary to retain excess fill on site in designated areas (i.e., building pads).

4.342.C. *Excavation and/or filling of more than 10,000 cubic yards where no fill is proposed to be hauled on or off site.*

1. Any excavation and/or filling in excess of 10,000 cubic yards in conjunction with an application for a standard, minor or major development order, as defined in article 10 of the LDR, where no fill is hauled onto or off the site, shall not require a separate application for an excavation and filling permit or a land clearing permit.

2. Any excavation and or filling in excess of 10,000 cubic yards that is not in conjunction with an application for a standard, minor or major development order, as defined in article 10 of the LDR, where no fill is hauled onto or off the site, shall file an application, for an excavation and fill permit. Upon determination of compliance with all requirements of the Comprehensive Plan and the LDR, the excavation and fill permit shall constitute a final site plan. However no land clearing permit shall be issued for the clearing of native vegetation on a residential subdivision lot prior to the issuance of a building permit except: 1) that which is necessary for roads, utilities installation and drainage improvements; or 2) within a zero lot line development with lot sizes of 6,500 square feet or less; or 3) when it is necessary to retain excess fill on site in designated areas (i.e., building pads).

3. The Public Services Director may allow more than 10,000 cubic yards of fill to be hauled on-site where necessary, as part of a building permit application, to set the finished floor of a single-family residence above a drainfield.

4.342.D. *Excavation and/or filling of 10,000 cubic yards or more, where fill is hauled onto or off site, and any mining.* Any excavation or filling of 10,000 cubic yards or more, where fill is proposed to be hauled onto or off the site, and any mining shall be subject to the major development review procedures of article 10 of the LDR. No separate excavation and filling or land clearing permits will be necessary.

4.342.E. *On-site maintenance.* Maintenance of any previously permitted and constructed development, including, but not limited to, public utilities, to the limits of any previous permit or condition of approval shall not be required to file a separate application for an excavation and filling permit. Compliance with all applicable Comprehensive Plan, LDR and Code provisions and County engineering standards and good engineering practices is required. However, such activities are exempted from any requirement for littoral, upland and transitional zone planting.

4.342.F. *Bona fide agricultural activities.* Certain excavation and filling activities that are in association with bona fide agricultural activities shall not be required to file a separate application for an excavation and filling permit providing there is no hauling of fill from the site. Compliance with all applicable Comprehensive Plan, LDR and Code provisions and county engineering standards and good engineering practices is required.

1. For the purposes of this division bona fide agriculture means any plot of land outside the primary and secondary urban service district where the principal use is the raising of crops, inclusive of organic farming, or raising of animals, inclusive of aquaculture, or production of animal products such as eggs or dairy products, inclusive of a retail or wholesale nursery on an agricultural or commercial basis. Agricultural uses shall comply with the following supplementary use standards:

   a. *Designation standards.*

      (1) *Continuous use.* The use has been continuous; and

      (2) *Farming procedures.* Farming procedures have been demonstrated by past action or documented plans to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, but not limited to, fertilizing, liming, tilling, mowing, reforesting and other accepted agricultural practices; and

      (3) *Agricultural classification.*

         (a) The property has received a qualified agricultural classification pursuant to F.S. § 193.461; and

         (b) The Comprehensive Growth Management Plan future land use designation is agricultural, with agricultural ranchette specifically excluded.

   b. *Productivity standards.* The productivity or proposed net return or production of the farm operation based on net or yield for the type of agricultural production on the site is comparable to the average net or yield for the type of agriculture in Florida based on the following criteria:

      (1) *Amount of land.* The amount of land under cultivation or in agricultural use (including canal or drainage features) is greater than 60 percent of the total parcel.

      (2) *Investment.* There has been ongoing investment in and maintenance of the agricultural land use or documented plans for investment in agricultural use of the land.

      (3) *Employees.* There are typical contract laborers, seasonal or full-time employees for the agricultural operation.

      (4) *No nonagricultural development.* There is no nonagricultural development (except accessory agricultural uses) on-site.

      (5) *Duration.* The intent is that the land will be used for agricultural production for more than five years.

   c. *Additional guidelines.*

      (1) *Size.* The size of the land area, as it relates to a specific agricultural use is appropriate.

      (2) *Lease.* Whether such land is under lease, and if so, the effective length, terms and conditions of the lease.

(3) *Intent.* The intent of the landowner not to sell or convert the land for nonagricultural purposes.

(4) *Productivity.* The productivity of land in its present use.

2. These on-site activities for bona fide agriculture do not require notice to Martin County.

   a. Routine resetting or replacement of tree crops (citrus) or other crops to replace dead or diseased plants.

   b. Installation, repair or replacement of irrigation piping systems.

   c. Filling in of holes caused by domestic animals.

   d. Maintenance of drainage systems.

   e. Maintenance of cattle watering ponds.

   f. Construction of ponds with a surface area less than or equal to one-half acre and a maximum of eight feet below the wet season water table. Such activity is also exempt from any requirement for littoral, upland and transitional zone planting.

   g. Recontouring of raised beds, water furrows, and swales.

3. The following bona fide agricultural activities shall require a notice to Martin County, in a form approved by the county.

   a. New ditches.

   b. Any activities requiring a South Florida Water Management District permit.

4. The notice must be received 21 days prior to the commencement of any work. Prior to the expiration of the 21 days, Martin County may request additional information about the project. No work may commence until Martin County has received a copy of an issued South Florida Water Management District permit for the proposed work.

4.342.G. *Agricultural ranchette/rural.*

1. Excavations for agricultural activities, involving the care or raising of animals, on parcels with a future land use designation of agricultural ranchette or rural may be exempt from the littoral planting requirements provided all of the following criteria are met:

   a. An excavation and fill permit is obtained and all other requirements of the Comprehensive Growth Management Plan and the Martin County Land Development Regulations are met.

   b. Construction of ponds is limited to a surface area less than or equal to one-half acre and a maximum of eight feet below the wet season water table.

4.342.H. *Performance criteria for wetland areas.*

1. Existing functional structures within wetlands or wetland buffers may be maintained provided the maintenance is performed in the least intrusive manner possible, shall not result in additional damage to the wetland or wetland buffer zone, and:

   a. Any clearing, direct removal of vegetation, dredging, or filling within a wetland or the buffer zone surrounding a wetland shall be done in compliance with a preserve area management plan approved by the Growth Management Department.

   b. Ditches and other manmade excavations that are delineated as wetlands and are navigable and connected to waters of the State may be maintained to the width, depth, and side slopes that existed on April 1, 1982, only if there is evidence that the maintenance is required to restore historic flood protection.

c. Ditches or other excavations that existed on April 1, 1982, in natural wetlands may be maintained to the width, depth, and side slopes that existed on April 1, 1982, only if there is evidence that the maintenance is required to restore historic flood protection.

d. All materials that are cleared from the wetland or buffer zone shall be removed from the wetland or buffer zone and not piled or stored within the wetland, buffer zone or a designated upland preserve areas.

2. Where required to restore the hydroperiod of wetlands, clearing of native vegetation, dredging or filling may be allowed for new structures in the wetland or wetland buffer subject to the following conditions:

a. An alternatives analysis must demonstrate that no other feasible alternative exists, and

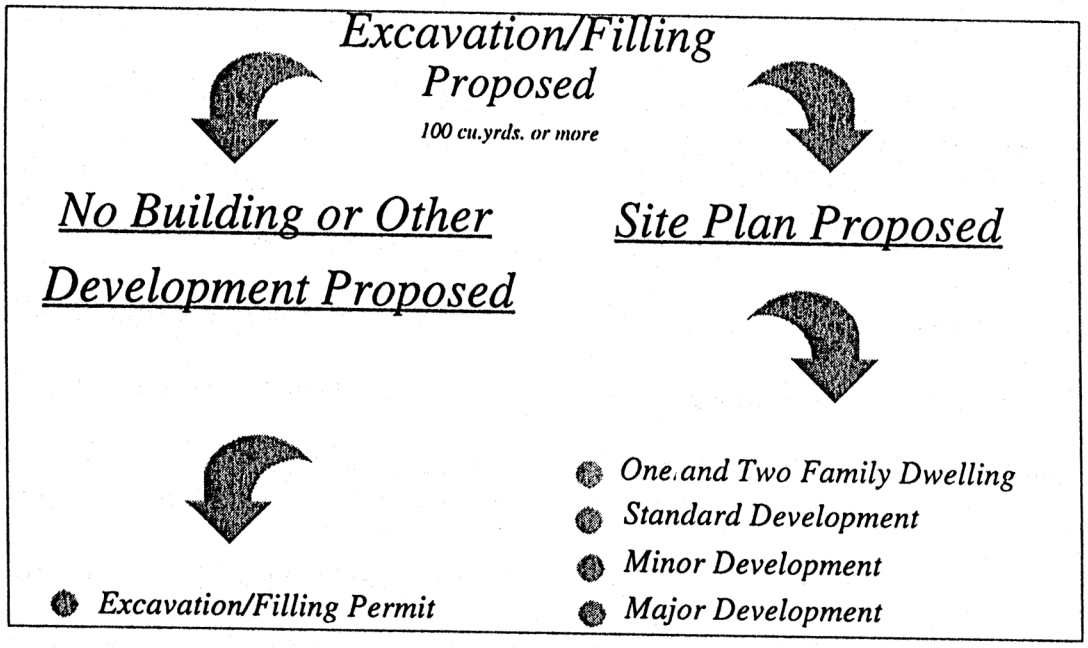
b. The project improves the functions and values of the wetland, and

c. The project serves a necessary public purpose and is clearly in the public interest for stormwater management.

(Ord. No. 549, pt. 1, § 4.8.2, 7-13-2000; Ord. No. 592, pt. 1, § 4.8.2, 7-10-2001)

Sec. 4.343. Application requirements.

Excavation and filling activities are grouped according to the proposed volume of excavated material. When excavation and/or filling is part of a proposed development and is included in a development application, the review for compliance of the proposed excavation and/or filling shall be integrated into the site plan review process, and a separate excavation and/or filling permit is not required. Any proposed excavation and/or filling which is not part of a development application may only be permitted as an excavation and/or filling permit. The following graph illustrates this process (where any difference may exist between the information provided in Graph 1 and the text of these regulations, the text shall prevail):



Excavation/Filling Proposed

Graph 1: The Excavation, Filling and Mining Permitting Process

4.343.A. *General requirements.* The following information shall be required for any application for excavating and/or filling:

1. A site plan, including a topographic survey, extending, where possible, 50 feet beyond the property boundary as specified in F.A.C. ch. 61G-17 shall be signed and sealed by a Florida registered engineer and/or land surveyor, as appropriate, showing the area of the proposed excavation or fill.
2. The location and dimensions of the stormwater and groundwater storage area.
3. The location and extent of excavation or fill including dimensions to all property lines.
4. All wells and septic systems within 100 feet of the perimeter of the excavation shall be located and shown on the site plan.
5. The location of the permit display.
6. Cross sections, signed and sealed by a Florida registered engineer and/or land surveyor, as appropriate, showing:
   a. Elevation of existing ground;
   b. Peak elevation of proposed fill;
   c. Lowest point of proposed excavation;
   d. Typical side slopes; and
   e. The littoral, upland and transitional zones.
7. A littoral, upland and transitional buffer zones plan, including a planting plan, and a lake management plan prepared by a qualified environmental consultant with experience in restoration ecology.
8. A wind and water erosion and sediment control plan showing:
   a. Where wind driven erosion is expected to occur; and
   b. Where water driven erosion is expected to occur; and
   c. Erosion control methods including location and installation detail.
9. The excavation and filling, including any limited hauling when authorized by this division, are specified and their impacts adequately addressed on the authorized site plan.
10. An environmental assessment shall at a minimum include a 1975, 1986 and current aerial photographs, a soil survey, a tabulation of on-site acreage and identification of all wetlands on- and off-site within 200 feet of the proposed excavation. Certified wetland delineations are not required for excavations under 1,000 cubic yards unless requested by the Engineering Department.

Sites that contain upland or wetland habitat shall include a detailed environmental assessment and a preserve area management plan (PAMP) conducted by a qualified environmental professional. See divisions 1 and 2 of this article for more information.

11. A dewatering plan which specifies the methods to be utilized in dewatering the excavation, shall be required when the dewatering exceeds the amounts specified in the South Florida Water Management (SFWMD) District no notice general permit requirements. The dewatering effluent shall not be discharged off-site. The plan shall indicate the size and location of on-site holding ponds and include calculations used in determining the size of holding ponds. The soils report shall document the ability of the subsurface soils to percolate the effluent directed to the holding ponds. Should the

dewatering operation exceed the SFWMD no notice general permit requirements a groundwater draw-down analysis shall be included, prepared by a geo-technical engineer or professional hydrogeologist, and which details the zone of influence for the given pumping rate over the anticipated duration of the activity. The analysis shall demonstrate that the proposed operation will not have an adverse impact on groundwater quality, wetlands, or adjacent wells. Dewatering may be allowed on a 24-hour basis only if all applicable Federal, State, and local permits, including SFWMD permits, have been obtained. If dewatering is allowed, pumps may be required to be located or encased in an insulated structure in order to comply with the Martin County Noise Control Ordinance, article 10 of chapter 67 of the Code of Ordinances.

12. Include on the site plan a statement that addresses hours of operation. All activities within the site, including, but not limited to, digging, loading trucks, excavating, dredging, rock crushing, and hauling of fill from the site shall be conducted between the hours of 7:00 a.m. and 4:00 p.m. Monday through Friday and 9:00 a.m. to 4:00 p.m. on Saturday unless otherwise determined by the BCC.

13. The plat, if applicable, the PAMP, and the restrictive covenant and property owners association documents shall contain the following statement:

"It shall be unlawful to alter the approved slopes, contours, or cross sections or to chemically mechanically, or manually remove, damage, or destroy any plants in the littoral or upland transition zone buffer areas of constructed lakes except upon the written approval of the Growth Management Director, as applicable. It is the responsibility of the owner or property owners association, its successors or assigns to maintain the required survivorship and coverage of the reclaimed upland and planted littoral and upland transition areas and to ensure ongoing removal of prohibited and invasive non-native plant species from these areas."

14. For major or other conditional development order applications when a plat is not required and there are littoral and transition zones, the following language shall be specifically provided on the final site plan:

"It shall be unlawful to alter the approved slopes, contours, or cross sections or to chemically mechanically, or manually remove, damage, or destroy any plants in the littoral or upland transition zone buffer areas of constructed lakes except upon the written approval of the Growth Management Director, as applicable. It is the responsibility of the owner or property owners association, its successors or assigns to maintain the required survivorship and coverage of the reclaimed upland and planted littoral and upland transition areas and to ensure ongoing removal of prohibited and invasive non-native plant species from these areas."

4.343.B. *Excavation and/or filling of quantities of 1,000 cubic yards up to, but not including, 10,000 total cubic yards.* In addition to the general application requirements specified above, the following information shall be included in any application for excavation and/or filling of 1,000 cubic yards up to, but not including, 10,000 cubic yards:

1. The area within 100 feet of the proposed excavation or fill, and the location of wetlands within 200 feet of a proposed excavation shall be shown on the topographic survey.

2. Project-specific erosion prevention, control, and restoration instructions detailing where and how erosion will occur and be prevented or controlled, to prevent impacts to surrounding properties.

3. Equipment refueling and maintenance areas shall be determined and their location shown on the plan. Petroleum and waste oil storage tanks shall comply with all applicable county, State and Federal laws, rules and regulations.

4.343.C. *Excavation and/or filling of 10,000 cubic yards or more, where fill is hauled onto or off site, and any mining.* In addition to the application information required above in subsections A, B, and C, the following requirements shall be included in an application for a development approval involving mining:

1. The minimum project site for mining activities shall be five acres unless otherwise approved by the Board of County Commissioners.
2. Hauling of fill on or off of the permitted site may be authorized by the PSD director.
3. A proposed hauling route shall be approved by the PSD director.
4. If private roads or easements are to be used, the written, signed and notarized permission from the property owners.
5. No load limits shall be exceeded along the haul route.
6. Mats, culverts, ramps or paved drives shall be provided at entrances and exits of haul sites to protect pavement edges, shoulders, curbs and sidewalks, and other improvements from damage.
7. A hauling fee as established by resolution of the BCC.
8. Traffic control is the responsibility of the operator. Traffic control shall be provided by the operator when deemed necessary by the county.
9. A haul route map depicting, at a minimum, the primary haul routes within two miles of the mine or mine area for operations serving general or County-wide projects.
10. Documentation that no mining activities shall occur within those upland habitats which are considered endangered, unique or rare or in designated preserve and native upland transitional buffer areas. Such habitats are sand pine/scrub oak, hardwood hammock, tropical hammock, coastal hammock and cabbage palm/oak hammocks. Refer to division 2 of this article, the Uplands LDR.

(Ord. No. 549, pt. 1, § 4.8.3, 7-13-2000; Ord. No. 592, pt. 1, § 4.8.3, 7-10-2001)

Sec. 4.344. Submittal, review and permitting procedures.

An application for an excavation and filling permit shall be submitted and processed as follows:

4.344.A. *Application.* See section 10.2, article 10, entitled "Application submittal."

4.344.B. *Completeness determination.* See section 10.2.C, article 10, entitled "Application completeness determination." The PSD director shall make the determination of completeness.

4.344.C. *Review and analysis.* Complete applications shall be reviewed by staff of the Engineering Department who shall prepare a report of the compliance findings within 30 days of the date that the application was determined to be complete. A proposed excavation and/or filling activity shall be eligible for an excavation and filling permit when the PSD director has determined and documented that the proposed activity is in compliance with all applicable provisions of the Comprehensive Plan, the LDR and the Code.

4.344.D. *Display of the permit.* The permittee shall maintain a copy of the excavation and filling permit on the site during the entire permit period, fully visible and at the location shown on the approved site plan.

4.344.E. *Permit expiration and extension.*

1. All excavation and filling permits shall automatically expire one year from the date of issuance except when otherwise limited to a shorter time period by another, more stringent Comprehensive Plan, LDR or Code requirement or development order condition of approval or except when renewed as provided herein.
2. The Board of County Commissioners shall approve a reasonable timetable of development for the completion of all mining activities. No mining permit including restoration shall be issued for a period greater than three years.
3. A request for an extension of a major or other conditional development timetable of development may be made pursuant to section 10.14 of article 10.

4.344.F. *Renewal.*

1. A request for renewal of an excavating and/or fill permit may be made for a maximum cumulative renewal period of three years beyond the original date of issuance. Each renewal shall not exceed a period of one year and shall require the updating of and re-review of the application, to include, but not to be limited to, the excavation and/or filling activity remaining to be completed, and the payment of a fee. The renewal shall subject the remaining excavation and/or filling activity to the regulations in effect at the time of the renewal.
2. A permit may be renewed by submitting to the PSD director a progress report, prepared by a Florida registered engineer, demonstrating that the permit criteria have been met and that the project is in compliance with all other applicable permits. The progress report shall include drawings of all work done to the date of the renewal application.

4.344.G. *As-built excavation and filling site plan.* An excavation and filling record drawing signed and sealed by a Florida registered engineer and/or land surveyor, as appropriate, shall be provided to the PSD director at the completion of the permitted activity. The record drawing shall contain sufficient information to document that all requirements of the permit have been met and shall include cross sections of the excavation or fill and a drawing which locates the extent of the excavation or fill and the distance to all property lines.

(Ord. No. 549, pt. 1, § 4.8.4, 7-13-2000; Ord. No. 592, pt. 1, § 4.8.4, 7-10-2001)

Cross reference— Development review procedures, art. 10.

Sec. 4.345. Inspection of the site.

The county shall be allowed reasonable access to the property that is the site of the excavation and filling permit for inspection during all times that the permit is valid.

(Ord. No. 549, pt. 1, § 4.8.5, 7-13-2000; Ord. No. 592, pt. 1, § 4.8.5, 7-10-2001)

Sec. 4.346. Suspension of an excavation and filling permit.

Suspension of the excavation and filling permit shall be governed by the provisions of section 10.8 of article 10 of the LDR. However, the PSD director shall take any action required of the PDS director.

(Ord. No. 549, pt. 1, § 4.8.6, 7-13-2000; Ord. No. 592, pt. 1, § 4.8.6, 7-10-2001)

Sec. 4.347. Fill standards.

4.347.A. *Fill quality.* Fill material for any loadbearing purpose shall be free of roots, boards, organic matter, and other debris which may adversely affect the loadbearing capacity. In order to be used for purposes other than loadbearing, fill containing muck, peat, clay, unstable soils, organic matter, trash, liquid or solid wastes, or any form of debris that is subject to consolidation, disintegration, erosion, or encourages the presence of insects, termites or vermin will require the approval of the County Engineer. Fill placed within county rights-of-way must be deemed satisfactory by the County Engineer and may require compaction and soil tests of backfill and underlying material at permittee's expense. The permittee's engineer is required to certify the type of material and method of placement in county rights-of-way.

4.347.B. *Maximum side slopes.* Side slopes shall not exceed one foot vertical to four feet horizontal except for landscaped berms, golf courses and other special cases as approved by the PSD Director who must be satisfied that maintenance and safety concerns are addressed and that adjacent properties will not be adversely impacted. Examples of special cases include, but are not limited to: dry retention areas, fill areas where retaining walls are used, and rock revetments. All slopes shall be properly stabilized to the satisfaction of the PSD Director consistent with County engineering standards and good engineering practices.

4.347.C. *Fill source.* The permit shall designate the source of fill. No fill permit shall be issued where there is not a current valid excavation permit, if required, for the source of the fill. If the source of fill is outside of the county, it shall be so stated on the application.

4.347.D. *Aesthetic berms.* Berms which are to be provided for aesthetic reasons shall have their design and placement approved by the County Engineer.

4.347.E. *Stabilization.* Areas to be filled shall be contained to prevent runoff and degradation of buffer zone vegetation within a minimum of 24 hours prior to the filling and shall be stabilized with sod or other suitable method within 30 days of vegetation removal or fill placement.

(Ord. No. 549, pt. 1, § 4.8.7, 7-13-2000; Ord. No. 592, pt. 1, § 4.8.7, 7-10-2001)

Sec. 4.348. Excavation standards.

4.348.A. *General standards.* All excavations must meet minimum design and construction standards and all water conveyance criteria, where applicable.

1. *Minimum distance from roadways.* No excavation shall be allowed within 20 feet of any road right-of-way or easement as measured from the top of bank of the excavated area unless approved by the County Engineer. The county may require, at permittee's expense, a guardrail or other suitable barrier to be placed between the right-of-way and excavation when indicated by good engineering practice.

2. *Minimum distance from property lines.* No excavation shall be permitted within 50 feet of any property line as measured from the top of bank of the excavated area unless approved by the County Engineer. Excavation for water control conveyances such as swales or ditches or for any purpose consistent with this division shall not be permitted closer than 50 feet from property lines.

3. *Wetland protection.* Water management systems shall be designed and operated such that the natural hydroperiod of wetlands shall not be altered, and wetlands shall be protected from siltation and eutrophication. The permittee shall submit for approval a written plan that includes details of the proposed methods of protecting wetlands during construction and written soil erosion and environmental management plans, including details of proposed methods of monitoring and maintaining the wetlands.

a. Excavation and/or filling shall not occur within wetlands or the buffer zone surrounding the wetlands except in compliance with a PAMP approved by the Growth Management Department.

b. A minimum 200-foot-wide separation shall be maintained between any wetland and any excavation unless an alternative plan utilizing an impermeable barrier is approved.

c. Excavation must be contained to prevent runoff and degradation of buffer zone vegetation within a minimum of 24 hours prior to the work and shall be stabilized with sod or other suitable method within 30 days of vegetation removal.

d. Wetland buffers, buffer protection areas and upland preserve areas shall be protected from excavation, construction and other building maintenance activities as set forth in division 1 of this article, Wetlands Protection.

4. If an excavation that will result in the creation of open surface water is proposed on a lot with an existing well or septic system, the excavation must be set back a minimum of 75 feet from the well or septic system. If a 75-foot setback cannot be achieved on the lot, the maximum setback attainable must be used.

5. Prior to the start of an excavation, all underground utilities shall be located by the applicant through the appropriate agencies. All underground and aboveground utilities shall be protected by the applicant for the duration of the excavation activity. Utility service shall be maintained for the duration of the construction activity. Should an interruption of utility service be required, the interruption shall be coordinated and approved by the owner of the utility.

6. Prior to the start of an excavation that creates an open body of water, the applicant shall post signs warning of the potential hazard created by the excavation. The size, color, location, and wording of the signs shall be shown on the site plan for the project.

4.348.B. *Water management standards.*

1. *Maximum lake depth.* Lake depth shall not exceed 20 feet as measured from the control elevation to the lake bottom. For any excavation proposed to exceed 15 feet below the control elevation, soil and geological assessments shall be provided to fully determine the subsurface soils and groundwater conditions, to determine the proximity to subsurface aquifers and confining layers and to address the potential impacts upon the water quality of the aquifers and surrounding wells. All such information shall be prepared by a State of Florida registered engineer qualified to provide the required information.

2. *Side slopes of artificially created water bodies.* All lakes shall comply with all other applicable governmental agency standards for wet detention/retention areas unless such rules are less restrictive than those of the county.

a. The maximum slope of lake areas from top of bank to a depth of three feet below the control elevation shall not exceed one foot vertical to four feet horizontal.

b. The slope of lake area below a depth of three feet from the control elevation shall not exceed one foot vertical to two feet horizontal.

3. [*Maximum side slope for ditches.*] The maximum side slope for ditches shall not exceed one foot vertical to two feet horizontal.

4. *Swale design.* All swale drainage shall be conducted via wide vegetated areas which meander where possible to maximize nutrient removal. Such swales shall not directly discharge to a receiving body.

5. *Preserve area requirements.* Excavation and fill projects shall conform with all applicable upland preservation requirements.

6. *Wet season water table.* The wet season water table shall be the highest water table described in either the "Detailed Soil Map Units" section or table 17, "Water Features," of the USDA Soil Survey of Martin County Area, Florida. A different water table elevation may be used if competent evidence prepared by a Florida registered engineer demonstrates, to the satisfaction of the PSD director, that the water table is different from that shown in the soil survey.

7. *Littoral upland and transitional buffer zones.* Permanent plantings consisting of native vegetation shall be established and maintained as part of the surface water management system. All landscaping, revegetation, and lake management plans shall be approved by the Growth Management Director and comply with all other applicable governmental agency permitting. Such plans shall contain designs which include:

   a. The species and number of plants to be used; the location and dimensions of the littoral, upland and transitional areas; typical cross section of planted littoral, upland and transitional areas and the methods for planting and ensuring survival of the plants.

   b. Description of how vegetation is to be established including the extent, method, type, and timing of any planting provided.

   c. Description of the water management procedures to be followed to assure the continued viability and health of the plantings.

   d. A written strategy that identifies who shall be responsible for regular monitoring and removal of noxious, pest plant, and exotic species in order to assure a continued healthy diversity in littoral zone vegetation.

4.348.C. *Reclamation.* All disturbed mining/excavation areas shall be reclaimed, and reclamation shall begin immediately following excavation or each phase of excavation, whichever occurs first. All disturbed and reclaimed areas shall be planted or seeded with a permanent native ground cover to reduce the loss of topsoil due to water and wind erosion, to prevent the establishment of prohibited plant species and to provide adequate growing conditions for reclamation planting requirements.

1. Planting of excavated lakes or ponds shall occur no later than 30 days after the completion of the excavation. The applicant shall provide as part of the PAMP a phasing plan for planting large-scale lake systems or interconnected multilake systems that would allow lake planting to be phased. For lakes within single lots, the planting shall begin within 30 days of completion of the excavation.

2. The littoral zone shall include a total area of at least ten square feet per linear foot of lake perimeter. The lake perimeter shall be measured at the control elevation of the lake. The littoral zone planting area consists of that area between one foot above control water elevation to four feet below control water elevation. With some exceptions predicated on species and exposure, extended littoral zone shelves should be located in pocketed areas of the lake and/or in areas of the lake which receive direct drainage outfall from adjacent development.

   a. Slopes for planted littoral zones shall be no steeper than ten feet horizontal to one foot vertical to a distance of five feet waterward of the designated planted littoral zone area. Shallower slopes are encouraged to promote greater success of the littoral zone plantings.

   b. The littoral zone shall be provided with a minimum of six inches of an organic topsoil mix to promote vegetative growth for those areas that do not have adequate soil conditions to ensure plant survivorship. The littoral zone shall be planted with at least five species of appropriate native wetland vegetation with an average spacing of two feet on center. Submergent vegetation, such as underwater grasses, as well as emergent vegetation may be used to satisfy the littoral planting requirement. The design and species used shall have an anticipated minimal 80 percent coverage. The Growth Management Department shall maintain a list of acceptable plant species for use in appropriate elevations within the littoral zones.

c. A minimum of one tree for every 500 square feet of littoral zone area is required. The trees must be a minimum of eight feet in height and consist of native freshwater wetland and transitional varieties.

3. *Upland and transitional zone planting area requirement.* The native upland and transitional zone buffer area shall also include a total area of at least ten square feet per linear foot of lake perimeter. The native upland and transitional zone planting area consists of that area immediately beyond the landward extent of the littoral zone planting area. The native upland and transitional zone buffer may consist of preserved or planted vegetation but shall include trees, understory and ground cover of native species only. The native upland and transitional zone and the adjacent littoral zone shall be designed and maintained to provide a continuous compatible habitat area.

a. The upland and transitional zone shall be planted with at least five native plant species which shall include trees with a minimum height of eight feet and understory seedlings with a minimum height of 18 inches. Existing native vegetation in the upland transitional zone shall qualify to help fulfill this requirement. Plants are required to be installed in accordance with the applicable standards provided in division 1 of this article. The design and species used shall have an anticipated minimum 80 percent coverage.

b. A minimum of one tree shall be planted for every 500 square feet of upland and transitional zone area. The trees must be a minimum of eight feet in height and native upland and transitional varieties.

4.348.D. *Adjacent habitat and islands.* The required area of littoral zones and upland buffer zones may be created by utilizing contiguous areas adjacent to the lake or by creating "habitat islands" within the water body to the extent that no less than 25 percent of the lake shoreline is provided with littoral zones and adjacent upland buffers a minimum of ten feet wide. Utilization of islands with native littoral zone and upland vegetation are encouraged to meet this requirement. Where habitat islands are not included in the construction of the lake, a minimum of 50 percent of the lake perimeter will be provided with a vegetated extended littoral zone shelf and upland and transitional zone.

4.348.E. *Wetland protection.* Wetlands shall be protected from any negative impacts which may result from construction, excavation, maintenance or monitoring activities.

4.348.F. *Construction period drainage.* Drainage related to the excavation shall be retained entirely on-site during construction.

4.348.G. *Siltation avoidance.* Water management systems such as swales and interconnected wetlands and lakes shall be specifically designed to inhibit siltation of the lakes and wetlands and the eutrophication process. The permittee shall submit for approval by the PDS and PSD directors a written environmental management and lake monitoring plan specifying system monitoring methods and corrective actions should siltation or eutrophication occur.

4.348.H. *Maintenance easement.* An easement acceptable to the county and a minimum of 20 feet wide shall be provided for access and maintenance of control structures. This maintenance easement shall be measured from the top of bank landward and have a slope no steeper than one foot vertical to four feet horizontal. Access to the maintenance easement from adjacent roadways is required.

4.348.I. *Structural intrusions.* Lakes shall have their littoral zones increased on a one to-one ratio to compensate for littoral space lost due to permanent structures constructed to the top of, or over, the bank of the lake. Approvals are required by the PDS and PSD directors and all other applicable governmental agencies. Maintenance easements are not required in areas around the lake where permanent structures occur. The maximum amount of shoreline that can be used for such construction shall be 40 percent of the lake frontage. Access to all easements will be required.

(Ord. No. 549, pt. 1, § 4.8.8, 7-13-2000; Ord. No. 570, pt. 1, 6-13-2000; Ord. No. 592, pt. 1, § 4.8.8, 7-10-2001)

Sec. 4.349. Mining standards.

An application for mining shall comply with the major or other conditional development provisions of article 10 and the applicable excavation and filling standards. An annual progress report shall be submitted to the PDS within 30 days of the anniversary date of the permit for all mining permits that have a duration of more than one year. The report shall be prepared by a Florida registered engineer, shall demonstrate that the permit criteria have been met to date and that the project is in compliance with all other applicable permits. The annual progress report shall include record ("as-built") drawings of all work done to the date of the report.

(Ord. No. 549, pt. 1, § 4.8.9, 7-13-2000; Ord. No. 592, pt. 1, § 4.8.9, 7-10-2001)

Sec. 4.350. Guarantee and performance bond requirement.

A three-year performance bond/security is required to ensure that restoration of the excavation and/or fill or mining site shall be completed, including items such as, but not limited to, general clean-up, grading, and revegetation of the lake banks, littoral zones and upland transition zone. The amount of the security shall be approved by the County Engineer, and shall be based on 110 percent of a cost estimate prepared by a Florida registered engineer for the general clean-up, grading, and site restoration including the required littoral zone and upland plantings by an environmental professional. The guarantees for phased projects may be bonded separately.

(Ord. No. 549, pt. 1, § 4.8.10, 7-13-2000; Ord. No. 592, pt. 1, § 4.8.10, 7-10-2001)

Sec. 4.351. Compliance certification.

Within 30 days of the completion of the excavation and/or filling or mining, a Florida registered professional engineer, a Florida registered professional surveyor and mapper, or a Florida registered professional landscape architect shall certify that the excavation was constructed in substantial conformance with the plans and specifications approved by the county. The following certification statement must also appear on the certification report:

> I hereby notify Martin County of the completion of all excavation and filling for the above referenced project and certify that they have been constructed in conformance with the plans and specifications permitted by the county including, but not limited to, all area and quantities of vegetated littoral and upland buffer zones, all excavation and fill material quantities, excavation depths, and natural resources protection. (A copy of the approved permit drawings is attached.) I hereby affix my seal this _____ day of _____ / _____ / _____ , 20 _____ .

_____
(Signature)

_____
(Seal)

_____
(Printed name)

Florida Registration No. _____

(Ord. No. 549, pt. 1, § 4.8.11, 7-13-2000; Ord. No. 592, pt. 1, § 4.8.11, 7-10-2001)

Secs. 4.352—4.380. Reserved.

FOOTNOTE(S):

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Cross reference— Wetlands protection, § 4.1 et seq.; upland protection, § 4.31 et seq.; wellfield protection, § 4.141 et seq.; nonconforming mining operations, § 8.4.B. (Back)

DIVISION 9. STORMWATER MANAGEMENT [9]

Sec. 4.381. Purpose and intent.

The purposes of this division are to ensure that development activity: enhances the water quality of downstream water bodies; does not impede or negatively alter the historic flow of stormwater runoff; and does not create additional stormwater runoff, and to promote the public health, safety and general welfare. Preventing the degradation of water quality, the disruption of freshwater flows to estuaries, and the loss of habitat is essential to maintaining a sustainable environmental system. The intent of this division is to set standards and design criteria for development activity, which will maintain water quality and historic flows of stormwater runoff.

(Ord. No. 568, pt. 1, § 4.9.1, 5-16-2000; Ord. No. 593, pt. 1, § 4.9.1, 7-24-2001; Ord. No. 969, pt. 1(Exh. A), 3-3-2015)

Sec. 4.382. Glossary.

For the purposes of this division, the following terms, words and phrases shall have the meanings set forth below:

Adverse impacts. Any modifications, alterations or effects on a feature or characteristic of water or floodprone lands, including their quality, quantity, hydrodynamics, surface area, species composition, living resources, aesthetics or usefulness for human or natural uses which are or potentially may be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation. The term includes secondary and cumulative as well as direct impacts.

Base flood means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the 100-year flood).

Construct. To build, install, enlarge, replace or substantially restore a structure, impervious surface or water management system.

Detention. The collection and temporary storage of surface water for subsequent discharge.

Development or development activity. For the purpose of administering this division, any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations, or any other land disturbing activities.

Elevation. Height in feet above mean sea level referenced to the North American Vertical Datum (NAVD).

Erosion. Wearing or washing away of soil by the action of wind or water.

Impervious surface. A surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand, lime rock, or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Predevelopment condition. Those conditions which existed before any alteration of the topography, vegetation and rate, volume, timing, quality or direction of surface or groundwater flow by development.

Receiving body. Any water bodies, watercourses or wetlands into which surface waters flow either naturally, in manmade ditches, or in a closed conduit system.

Retention. The collection and storage of runoff for disposal by percolation or evaporation.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sediment. Fine particulate material, whether mineral or organic, that is in suspension or has settled in a water body.

Water body. Any natural or artificial pond, lake, reservoir or other area which ordinarily or intermittently contains water and which has a discernible shoreline.

Water management facility. A component of a water management system.

Water management system. A system of natural or artificial water bodies, watercourses, or wetlands which store or convey water.

Watercourse means a lake, river, creek, stream, wash, arroyo, 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.

Waters. Any and all water, on or beneath the surface of the ground, including the water in any watercourse, water body or water management system, diffused surface water, water percolating, standing or flowing beneath the surface of the ground and coastal waters.

(Ord. No. 568, pt. 1, § 4.9.2, 5-16-2000; Ord. No. 593, pt. 1, § 4.9.2, 7-24-2001; Ord. No. 969, pt. 1(Exh. A), 3-3-2015)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.383. Standards for design and review.

Technical standards and design guidelines and criteria are contained in a separate document entitled "Martin County Stormwater Management and Flood Protection Standards For Design and Review", which has been adopted by resolution of the Board of County Commissioners and may be amended from time to time by the Board of County Commissioners pursuant to the provisions of that resolution. All development applications must be in compliance with the requirements of the "Martin County Stormwater Management and Flood Protection Standards For Design and Review" prior to the issuance of any development order.

(Ord. No. 568, pt. 1, § 4.9.3, 5-16-2000; Ord. No. 593, pt. 1, § 4.9.3, 7-24-2001; Ord. No. 969, pt. 1(Exh. A), 3-3-2015)

Sec. 4.384. Stormwater management submittal requirements.

4.384.A. All development applications shall be reviewed for consistency with the requirements of this division.

1. Before preparing development plans, applicants are encouraged to attend a preapplication meeting in accordance with Article 10, Development Review Procedures, section 10.2.A of the Martin County Land Development Regulations. Among others, a purpose of the preapplication meeting is to discuss the information that will be required for the applicant to, design an acceptable water management system and other matters relevant to the interpretation and administration of this division. Information may be requested in the form of maps, drawings, graphs, photographs or narrative descriptions, as deemed appropriate by the County Engineer.
2. With the initial application submitted to Martin County for a development order, the engineer of record shall provide the following certification:

   I, _____ (insert name), do certify to Martin County that the application for _____ (insert project name) has been designed in full compliance with Divisions 9 and 10 of Article 4 of the Martin County Land Development Regulations (LDR). I acknowledge that Martin County's LDR may and do include requirements that are more stringent or restrictive than the

requirements of other regulatory agencies including, but not limited to, the South Florida Water Management District (SFWMD), the U.S. Army Corps of Engineers (USACOE), the U.S. Environmental Protection Agency (EPA) and the Florida Department of Environmental Protection (FDEP). Any plans, calculations, reports, or other documents submitted to Martin County or any regulatory agency in support of the application have been prepared in full recognition of and compliance with Martin County LDR.

The certification and all documents that are submitted in support of the application shall be signed and sealed by a professional engineer licensed in the State of Florida in a manner consistent with Florida Administrative Code (FAC) Section 61G15 and F.S. ch. 471.

3. In addition to the requirements of Article 10, Development Review Procedures, the following information shall be submitted for use by the County Engineer in reviewing all development applications:

   a. *Existing site information.* A detailed description of existing environmental and hydrologic conditions on the site, including:

      (1) A drawing or map showing existing conditions on the site including existing water management facilities, areas of vegetation, wetlands, impervious surfaces and dimensions and elevation of all buildings.

      (2) Topography, mapped to one-foot contour intervals with elevations referenced to the North American Vertical Datum (NAVD).

      (3) Soils and vegetation maps.

      (4) Water levels, including seasonal fluctuations.

      (5) A description, including water quality information, of all watercourses, water bodies and wetlands on the site or into which water flows from site.

      (6) The dimensions and elevations of existing improvements, including, but not limited to buildings, impervious surfaces, roads, and water management facilities.

   b. *Proposed site alterations.* A detailed description of proposed alterations of existing conditions, including:

      (1) A drawing or map showing proposed alterations of the site including proposed excavations, dredging, grading, filling or clearing, impervious surfaces, water management facilities, and the location, dimensions and elevations of the first finished floor of all buildings to be constructed.

      (2) Description of the extent to which any watercourse, natural or manmade, will be altered or relocated as a result of proposed development.

      (3) Changes in topography by grading, filling or excavating.

      (4) Areas where vegetation will be cleared.

      (5) Areas where impervious surfaces will be constructed.

      (6) The dimensions, location and lowest floor elevation of any buildings.

   c. *Storm water management plan.* A detailed description of the proposed stormwater management system and any measures for the detention, retention, or infiltration of stormwater, the maintenance of stormwater quality, or protection from flood damage, including:

      (1) The point of discharge, channel, direction, rate of flow, volume, timing, and quality of runoff that will be conveyed from the site, with a comparison to predevelopment conditions. The wet season water table shall be the highest water table described in

either the "Detailed Soil Map Units" section or Table 17 "Water Features" of the USDA Soil Survey of Martin County Area, Florida. A different water table elevation may be used if competent evidence prepared by a professional engineer licensed in the State of Florida demonstrates, to the satisfaction of the County Engineer, that the water table is different from that shown in the soil survey.

(2) Detention and retention areas, including plans for the discharge of contained waters, maintenance plans, and predictions of water quality in those areas.

(3) Areas of the site to be constructed and reserved for percolation; analysis of that site's ability to percolate; maintenance plans; and predicted impacts on groundwater quality.

(4) A plan for the control of erosion and sedimentation which describes in detail the type and location of control measures; the stage of development at which they will be installed or used; and provisions for inspections and maintenance.

d. *Impacts of development.* A detailed description of the effects on hydrologic conditions and natural resources, including:

(1) Alterations in elevations, velocity, frequency, or duration of flooding on the site of development or on adjacent lands caused by diversion, displacement, obstruction or increases in flood discharges.

(2) Changes in groundwater levels; changes in water quality and adverse impacts on wetlands and vegetation.

(Ord. No. 568, pt. 1, § 4.9.5, 5-16-2000; Ord. No. 593, pt. 1, § 4.9.5, 7-74-2001; Ord. No. 969, pt. 1(Exh. A), 3-3-2015)

Editor's note— Ord. No. 969, pt. 1(Exh. A), adopted March 3, 2015, repealed § 4.384 and renumbered the former §§ 4.385 and 4.386 as §§ 4.384 and 4.385 as set out herein. The historical notation has been retained with the amended provisions for reference purposes. Formerly, § 4.384 pertained to flood protection and derived from Ord. No. 568, pt. 1, § 4.9.4, adopted May 16, 2000; and Ord. No. 593, pt. 1, § 4.9.4, adopted July 24, 2001.

Cross reference— Development review procedures, art. 10.

Sec. 4.385. Standards for review.

4.385.A. No development orders or permits shall be issued by Martin County for any lot, tract or parcel created after the effective date of this division until the applicant demonstrates to the County Engineer that compliance with the provisions of this section 4.385 can be achieved.

4.385.B. The following standards shall be met by all development. The cumulative effects of a proposed development in combination with other existing or proposed development shall be considered in evaluating compliance with these standards. A complete stormwater management system shall be designed and calculations presented for all areas within a proposed development including lots, streets, alleys and other areas that must be suitably drained. In addition, where runoff from outside the development passes over or through areas of the development, such runoff shall be included in the stormwater management design. Rights-of-way or easements shall be reserved by the developer for ultimate design flood frequencies.

1. Projects within a Special Flood Hazard Area as designated on the County's adopted Flood Insurance Rate Maps, shall be required to meet all of the provisions set forth in Division 10, Flood Protection, of the County's Land Development Regulations.

2. The velocity of the regulatory flood shall not be adversely altered on any watercourse.

3. No development shall be allowed that poses a significant threat of releasing harmful quantities of pollutants to surface waters during flooding.

4. Discharge from the site after development shall have approximately the same rate of flow, volume, timing and quality as runoff that would have occurred following the same rainfall under predevelopment conditions.

5. Retention and detention systems shall be used to retain and detain the increased and accelerated runoff which the development generates. Water shall be released from detention ponds into watercourses or wetlands at a rate and in a manner approximating the natural flow that would have occurred before development. Design capacity will be calculated considering variations between dry season and wet season water levels.

6. When it is not technically feasible to manage runoff on the site of development in a manner that fully meets the standards of this division runoff may be discharged into off-site stormwater management facilities provided all of the following conditions are met:

   a. The off-site stormwater management facilities and channels leading to them are designed, constructed and maintained in accordance with the requirements of this division.

   b. If off-site stormwater management facilities have been constructed by Martin County, adequate provisions must have been made for sharing construction, maintenance and operating costs. The developer may be required to pay a portion of the cost of constructing, maintaining and operating the facilities.

   c. If an applicant intends to use off-site stormwater management facilities, the applicant shall provide a written report to Martin County which documents that construction of on-site stormwater management facilities is not technically feasible. The burden of justifications shall be on the applicant. The report shall be reviewed by representatives of the Growth Management Department, Engineering Department, County Attorney's Office, and Administrative Services Department as a part of the development review process. Projects designed for maximum density shall not qualify for a determination that the construction of on-site stormwater management facilities is not technically feasible.

   d. The use of off-site facilities shall not relieve the applicant from full compliance with the requirements of this division, specifically including the rate, volume, timing and quality of the stormwater discharge from the off-site facility.

   e. The area of the site of development is less than ten net buildable acres excluding wetlands, preserve areas and buffers.

   f. The entire outfall route, from the outfall structure to the receiving body, shall be analyzed to determine if the discharge rate in this section 4.385 can be conveyed without any impacts to the conveyance, adjacent lands or receiving body.

   g. An off-site stormwater management facility is considered an accessory use. Accordingly, in order to be located on a site other than the development site, the use for which the off-site stormwater management facility is an accessory use must be a permitted use on both the development site and the site on which the off-site stormwater facility is located.

7. There shall be no alteration of mangrove stands or other shorefront vegetation which would increase potential flood damage in areas adjacent to open water, as determined by the County Engineer in accordance with good engineering practice.

8. Normally, isolated wetlands tend to fill and then overflow during floods. Flowage areas should be protected from incompatible development. Wetlands may be altered where an applicant demonstrates that encroachment of a wetland is necessary for vehicular access and no upland alternative exists. The construction of roads across such areas should be limited, and any roads

that are built shall be constructed to allow the passage of floodwaters; provided that construction of roads shall only be allowed if the Director of Growth Management certifies in writing that it is the least damaging alternative and that the applicant has submitted a proposal for mitigation which minimizes damage to the extent technically feasible.

9. Natural watercourses shall not be filled, dredged, cleared, deepened, widened, straightened, stabilized or otherwise altered without approval from the County Engineer.

10. No person shall drain into or otherwise use a county owned or maintained stormwater management outfall without approval from the County Engineer.

11. Vegetated buffer strips shall be created or, where feasible, retained in their natural state along the banks of all watercourses, water bodies or wetlands. The width of the buffer shall be sufficient to prevent erosion, trap the sediment in overland runoff, provide access to the water body and allow for periodic flooding without damage to buildings, roads or other structures.

12. Erosion and sedimentation control devices shall be installed between the disturbed area and water bodies, watercourses and wetlands before grading, cutting or filling is begun.

13. Land which has been cleared for development and upon which construction has not commenced shall be protected from erosion by appropriate techniques designed to stabilize soil and revegetate the area.

14. Wetlands and other natural water bodies shall not be used as sediment traps during development.

15. Lowest floor elevations for all structures shall be:

a. Above the predicted elevation of stormwater that will stage within a development after a 100-year storm having a three-day duration and without any discharge from the development; or

b. In accordance with Division 10, Flood Protection, of the County's Land Development Regulations for properties that are in a Special Flood Hazard Area as designated on the County's adopted Flood Insurance Rate Maps; or

c. A minimum of 18 inches above the crown of the nearest street, unless approved by the County Engineer and the Building Official, for properties that do not have an approved stormwater management system and are not in a Special Flood Hazard Area; or

d. Above minimum elevations that are required by other Federal, State or local regulations.

4.385.C. Hydraulic design criteria.

1. *Stormwater management outfalls.*

a. Natural runoff to and ultimate runoff from developments shall be conducted to positive outfalls that can be permanently, practicably and legally maintained. Outfalls to existing waterways, canals, lakes or storm sewer systems shall be designed to receive the proposed ultimate design flood flow. Side ditches along public roads may not be accepted as suitable positive outfalls unless as specifically accepted by the County Engineer, and by the Florida Department of Transportation if applicable. Drainage wells or underdrains shall not be accepted as positive outfalls.

b. The entire outfall route, from the outfall structure to the receiving body shall be analyzed to determine if the required discharge rate can be conveyed without any impacts to the conveyance, adjacent lands or receiving body. This requirement can be waived by the County Engineer if the County already has this information on file or it can be demonstrated by the applicant that a backwater profile analysis is unnecessary due to specific site conditions.

c. If the Martin County Engineer makes a determination, based upon available data, that a legal positive outfall does not exist for a project area, then approval may only be granted if the County Engineer determines, based on standard engineering practices, that the proposed development is designed for full on-site retention of a 100-year, 24-hour storm. Also, the discharge from events with a return frequency greater than a 100-year 24-hour storm shall be conveyed to the adjacent road right-of-way or as approved by the County Engineer. It shall be incumbent upon the applicant, or applicant's representatives, to substantiate the legal positive outfall question.

2. *Hydraulics of minor streams, canals, ditches and swales.* Open channels other than major waterways may be defined as minor streams, canals, ditches, and swales. Such open channels shall be designed in accordance with good accepted engineering practice adapted to local conditions. The design shall provide that the channels will not overflow their banks at design flood conditions. Cross sectional areas and hydraulic gradients shall be such that design velocities shall not result in scouring for the soil and/or turf conditions reasonably anticipated. The applicant shall demonstrate that nonerosive velocities exist throughout the channel section. Mean velocities greater than three feet per second shall be considered excessive unless permanent channel lining or other suitable protection is provided.

3. *Major waterways.* Improvement or establishment of major canals is of such significance to the County that the design of each such improvement or establishment proposed shall be developed as a separate hydraulic problem. Engineering data, criteria and suitable calculations shall be submitted to the County Engineer prior to approval of construction plans.

4.385.D. *Hydrologic design criteria.* Stormwater management facilities for development shall be designed in accordance with the following;

1. All projects shall control the volume of discharge from developed areas at predevelopment volume of discharge for the following storm events:

   a. Twenty-five-year frequency, three-day duration storm event.

   b. Three-year frequency, one-day duration storm event.

   The area under the hydrograph curve developed for predevelopment and postdevelopment conditions shall be compared over the design storm time interval. The postdevelopment value shall be approximately equal or less than the predevelopment value.

2. All project sites shall control the timing of discharges to preclude any off-site impact for any storm event.

3. Peak discharge rate shall not exceed predevelopment discharge rate for the 25-year frequency, three-day duration storm event.

4.385.E. *Wetlands stormwater criteria.* Management of water in and around wetlands is critical to the survival of a healthy wetlands system. Seasonal freshwater in-flows in appropriate volumes are critical to the health of the estuary. There is presently excess freshwater runoff to the estuary during the rainy season which may contribute to heavy pollutant loads, fish disease and freshwater imbalance. Dry season freshwater flows are currently inadequate to supply base flows for a healthy estuary. Stormwater and surface water management in and around wetlands and buffer zones shall be governed by the following regulations:

1. Maintenance of wetland hydrology and water quality.

   a. Direct discharge of untreated stormwater into wetlands or buffer zones shall be prohibited. Stormwater must be provided retention and/or detention water quality treatment prior to being discharged into wetlands or wetland buffer zones.

   b. Timing and volume of water discharge to wetlands shall be appropriate to restore and/or maintain the natural hydroperiod.

c. Retention and/or detention basins shall be designed and constructed with sediment traps and litter or trash screens. The retention and/or detention basins shall be vegetated, and the use of herbicides and pesticides within the retention and/or detention basin for vegetation and insect control shall be discouraged.

2. Any alteration of water levels within wetlands shall be prohibited unless determined necessary to restore or maintain the natural hydroperiod of the wetland system by way of a surface water management plan approved by the County Engineer and a through a preserve area management plan approved for the development. Outfall structures shall be designed to assure wet season water tables will be maintained throughout the development and that quality, rate, timing and volume will maintain sustainable on-site wetlands and healthy receiving waters.

4.385.F. *Water quality criteria.*

1. Surface water discharges from a project after development shall have approximately the same quality as runoff that would have occurred following the same rainfall under predevelopment conditions.

2. Reserved.

3. Compliance with this section 4.385.F shall be demonstrated by compliance with the following water quality treatments. Alternatives to these water quality treatments may be allowed if the applicant demonstrates, to the satisfaction of Martin County, that the annual mass pollutant load reductions provided by the alternate is equal to or greater than the annual mass pollutant load reductions provided by the following water quality treatments. The burden of proof for efficiency of requested alternative must be supported by independent analysis and verified by field testing.

4. New projects. Treatment volumes and methodologies for all development shall be calculated using the following: The required treatment volume is three inches except for agricultural projects where the required treatment volume is the runoff from three inches of rainfall. The treatment type is weighted in accordance with its efficiency; therefore the total treatment volume may be greater than the required treatment volume. The following represents the treatment type and its efficiency:

a. *Dry retention, reuse, source reduction, exfiltration trench, swales, etc.*

(1) Pond bottom minimum one foot above seasonal high groundwater table.

(2) Recovery of half of the treatment volume between 24 hours and five days.

(3) Recovery 90 percent of the 25-year three-day runoff volume in 12 days from cessation of the storm event.

(4) One acre-foot of dry retention volume is equivalent to one acre-foot of the required treatment volume.

b. *Off-line retention:*

(1) Recovery of half of the treatment volume between 24 hours and five days.

(2) Pond bottom minimum three feet above seasonal high groundwater table or a minimum of 18 inches above the seasonal high groundwater table with mounding calculations to support lower elevation.

(3) One acre-foot of off-line retention volume is equivalent to one acre-foot of the required treatment volume.

c. *Dry detention:*

(1) Pond bottom minimum one foot above seasonal high groundwater table elevation, mounding calculations required when proposed in soils with low hydraulic conductivity.

(2) Orifice or V-notch weir one inch above pond bottom.

(3) Recovery of half of the treatment volume between 24 hours and five days.

(4) Recovery 90 percent of the 25-year three-day runoff volume in 12 days from cessation of the storm event.

(5) One and one-quarter acre-foot of dry detention volume is equivalent to one acre-foot of the required treatment volume.

d. *Wet detention:*

(1) Minimum 14-day wet season residence time.

(2) Orifice elevation minimum is the seasonal high groundwater table elevation.

(3) Recovery of half of the treatment volume between 24 hours and five days.

(4) Recovery 90 percent of the 25-year three-day runoff volume in 12 days from cessation of the storm event.

(5) One and one half acre-foot of wet detention volume is equivalent to one acre-foot of the required treatment volume.

4.385.G. *Community redevelopment areas (CRA).* When it is not technically feasible to manage runoff from a CRA in a manner that fully meets the standards of this section 4.385, the CRA shall develop a master stormwater management plan that achieves a minimum of 70 percent compliance with the requirements of sections 4.385.D and 4.385.F. All other requirements of this division shall be met in the CRA master stormwater management plan. Prior to the issuance of any development order within a CRA, an individual development project shall demonstrate compliance with the approved CRA stormwater master plan. In addition, a CRA with an approved stormwater master plan shall not be required to comply with section 4.385.B.6.g.

4.385.H. *Agriculture.*

1. All new agriculture shall comply with this division.
2. Agricultural projects that change from one of the following categories to another require compliance with this division.
   a. Livestock, sod farming and poultry;
   b. Vegetables/row crops;
   c. Land in orchards/citrus;
   d. Sugar cane; and
   e. Nurseries and greenhouses.
3. For the purposes of this division agriculture shall be considered development.
4. The County Engineer shall establish an application, application submittal requirements, an application fee and review process for agricultural projects subject to the requirements of this division.

(Ord. No. 568, pt. 1, § 4.9.6, 5-16-2000; Ord. No. 593, pt. 1, § 4.9.6, 7-24-2001; Ord. No. 969, pt. 1(Exh. A), 3-3-2015)

Note— See the editor's note to § 4.384.

Sec. 4.386. Maintenance and monitoring.

All stormwater management systems constructed after the effective date of this division must have a maintenance plan approved by the County Engineer. This plan must be approved prior to the site plan approval. This maintenance plan must include, at a minimum, the following:

1. A written plan describing in detail the operation and maintenance of the stormwater management system in order to ensure the perpetual functioning of the system. This plan should include a detailed checklist of items that must be inspected on an annual basis, or more frequently as necessary, for the proper operation of the system. As-built stormwater management plans shall be submitted to the County Engineer within 60 days of the completion of the project or a phase of the project.
2. Prior to the release of the bonds of construction, a signed and sealed stormwater maintenance report shall be submitted to the County Engineer. This report shall include an evaluation of the functioning of the stormwater system, a description of any failure, deterioration, or maintenance related problems with the system, and a plan for the necessary repairs or maintenance of the system to restore the system to its approved function. After approval by the County Engineer, the proposed actions must be implemented within three months of approval.
3. The stormwater maintenance plan shall ensure that all areas within the stormwater management system have a plan for the removal of nuisance exotics. In addition, the continued monitoring of nuisance exotics shall be included in the maintenance plan to ensure that no regrowth has occurred.

(Ord. No. 568, pt. 1, § 4.9.8, 5-16-2000; Ord. No. 593, pt. 1, § 4.9.8, 7-24-2001; Ord. No. 969, pt. 1(Exh. A), 3-3-2015)

Editor's note— Ord. No. 969, pt. 1(Exh. A), adopted March 3, 2015, repealed § 4.387 and renumbered the former §§ 4.388—4.392 as §§ 4.386—4.390 as set out herein. The historical notation has been retained with the amended provisions for reference purposes. Formerly, § 4.387 pertained to duties of the floodplain administrator and derived from Ord. No. 568, pt. 1, § 4.9.8, adopted May 16, 2000; and Ord. No. 593, pt. 1, § 4.9.8, adopted July 24, 2001.

Sec. 4.387. Swales.

Swales can provide conveyance of stormwater, aquifer recharge, and water quality treatment. To provide these benefits, swales may hold water for extended periods of time. In order to provide the benefits of swales and to ensure the aesthetic values of development, swale construction shall comply with the criteria in "The Martin County Stormwater Management and Flood Protection Standards For Design and Review." Swale details, including the invert elevation, cross section, and location, shall be included in the application material and shown on the plans submitted for any development approval.

(Ord. No. 568, pt. 1, § 4.9.9, 5-16-2000; Ord. No. 593, pt. 1, § 4.9.9, 7-24-2001; Ord. No. 969, pt. 1(Exh. A), 3-3-2015)

Note— See the editor's note to § 4.386.

Sec. 4.388. Obstruction of drainage facilities.

It shall be unlawful for any person to place any trash, refuse, branches, lawn cuttings, fill, or other objects or debris in, or to obstruct in any manner, any swale, ditch, drain, canal, required water retention area, natural stream or other facility, public or private, used to drain lands in Martin County, without obtaining prior written approval to do so from the County Engineer. Such written approval shall be given only when the County Engineer determines that the proposed action or obstruction will not interfere with the drainage of adjoining or surrounding lands or with the overall drainage plans or patterns of any area of the county.

(Ord. No. 568, pt. 1, § 4.9.10, 5-16-2000; Ord. No. 593, pt. 1, § 4.9.10, 7-24-2001; Ord. No. 969, pt. 1(Exh. A), 3-3-2015)

Note— See the editor's note to § 4.386.

Sec. 4.389. Infill residential development in existing subdivisions.

4.389.A. *Lots within subdivisions with approved stormwater management plans.* In all subdivisions that have an approved stormwater management plan, all new development must be in compliance with the approved plan. A site plan, complete with topographic information that is in compliance with this division, must be submitted for review prior to the issuance of the building permit. If the lot grading plan of the approved stormwater management plan does not contain sufficient information to verify that the lot being permitted will drain in accordance with the overall plan, sufficient information must be supplied to verify that the lot drainage will comply with the overall stormwater management plan.

4.389.B. *Lots within subdivisions without approved stormwater management plans.*

1. For lots in subdivisions that do not have an approved stormwater management plan, the lot must be developed in a manner that ensures minimal impact of the runoff of the lot on adjacent property. Gutters and downspouts that direct runoff away from adjacent lots and toward the street or other suitable outfall and swales along the property lines of the lot and adjacent to the road and driveway culverts shall be required unless otherwise approved by the County Engineer. In addition, the County Engineer may require one or more of the following in order to ensure absolute minimal impact on adjacent property.
    a. Berms along the property lines of the lot.
    b. Grading of the site to direct runoff away from adjacent lots.
    c. Stem walls or extended footers.
    d. Pumps for on-site sewage disposal systems (drainfields).
    e. Other methods deemed appropriate by the County Engineer consistent with sound engineering practices to achieve the purpose of this section.
2. A site plan, complete with topographic information that is in compliance with this division, shall be submitted for review prior to the issuance of the building permit. The topographic information must be sufficient to verify the predevelopment drainage in the vicinity of the lot and the proposed post-development drainage.
3. The finished floor elevation of the structure shall not be higher than the finished floor elevation on the approved site plan unless approved by the County Engineer in cooperation with the County Building Official. A pumped drainfield shall be required if the requirements for a gravity drainfield cause the finished floor elevation to be higher than the flood protection elevation,

unless the applicant can demonstrate to the satisfaction of the County Engineer that the increased floor elevation will not impact the adjacent properties.

4. Fill placed on the lot shall be limited to the minimum necessary for construction of the building.
5. The maximum slope of fill on the lot must not exceed 5:1; fill slope for a septic system must not exceed 4:1 (H:V).
6. The toe of the fill must be set back a minimum of two feet from the property line to allow for the construction of required side and rear lot swales necessary to direct the runoff from the lot to the street or other suitable outfall as approved by the county engineer.
7. Roadside swales shall be constructed to provide conveyance of runoff that conforms with the subdivision's existing stormwater management system.
8. A swale shall be constructed around either the perimeter of the lot or the filled area of the lot. This swale shall convey runoff to the roadside swale or other approved outfall. This swale shall have the capacity to retain on the lot one-half inch of runoff from either the entire lot or the filled area of the lot, which ever is the lesser volume, unless the applicant can demonstrate to the satisfaction of the County Engineer that the lot can be developed without the swale and still avoid impact to the adjacent properties.
9. Off-site runoff that flows to or through the lot shall be conveyed to the roadside swale or approved outfall. This flow shall not be blocked by the new construction.

(Ord. No. 568, pt. 1, § 4.9.11, 5-16-2000; Ord. No. 593, pt. 1, § 4.9.11, 7-24-2001; Ord. No. 816, pt. 1, 2-24-2009; Ord. No. 969, pt. 1(Exh. A), 3-3-2015)

Note— See the editor's note to § 4.386.

Sec. 4.390. Enforcement.

4.390.A. Pursuant to article 10, section 10.8, suspension of development orders for failure to comply, of the LDR, development activity shall be in compliance with the development order at all times. Failure to comply with a development order or unauthorized development activity may result in the suspension of the current development order, and the cessation of county processing of all applications for development on the subject property and any associated phases, or termination of the development order. Any person, including the BCC or any member of the Board of County Commissioners, may file a complaint with the County Administrator alleging that there has been a failure to comply with the development order or unauthorized development activity has occurred. In the event that such a complaint is filed, the procedures specified in section 10.8 of the Land Development Regulations shall be followed.

4.390.B. If a violation of this division is found, such violation may be processed pursuant to the provisions of article 4, Code Enforcement Board, of chapter 1, Administration, of the Code.

4.390.C. Nothing contained in this section 4.390 shall prohibit the Board of County Commissioners from enforcing this division by any other means.

(Ord. No. 568, pt. 1, § 4.9.12, 5-16-2000; Ord. No. 593, pt. 1, § 4.9.12, 7-24-2001; Ord. No. 969, pt. 1(Exh. A), 3-3-2015)

Note— See the editor's note to § 4.386.

Secs. 4.391—4.420. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 969, pt. 1(Exh. A), adopted March 3, 2015, changed the title of Div. 9 from "Stormwater Management and Flood Control" to "Stormwater Management." See Div. 10 for provisions pertaining to flood protection. (Back)

Cross reference— Wetlands protection, § 4.1 et seq.; barrier island protection, § 4.101 et seq.; wellfield protection, § 4.141 et seq.; roadway design, § 4.841 et seq.; subdivisions, § 4.911 et seq.; adequate public facilities standards, art. 5; impact fees, art. 6. (Back)

DIVISION 10. FLOOD PROTECTION

Sec. 4.421. General.

4.421.A. *Scope.* The provisions of this division shall apply to all development that is wholly within or partially within any Special Flood Hazard Area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles: installation of swimming pools; installation of emergency generators and electric facilities, and any other development.

4.421.B. *Purpose and intent.* The purposes of this division and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in Special Flood Hazard Areas to:

(1) Minimize unnecessary disruption of commerce, access, and public service during times of flooding;

(2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;

(3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;

(4) Manage the alteration of Special Flood Hazard Areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;

(5) Minimize damage to public and private facilities and utilities;

(6) Help maintain a stable tax base by providing for the sound use and development within the Special Flood Hazard Areas;

(7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

(8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in 44 CFR 59.22.

4.421.C. *Coordination with the Florida Building Code.* This division is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

4.421.D. *Warning.* The degree of flood protection required by this division and the Florida Building Code, as amended by Martin County, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This division does not imply that land outside of mapped Special Flood Hazard Areas, or that uses permitted within such Special Flood Hazard Areas, will be free from flooding or flood damage. The Special Flood Hazard Areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of 44 CFR 59 and 60, may be revised by the Federal Emergency Management Agency, thereby requiring Martin County to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this division.

4.421.E *Disclaimer of liability.* This division shall not create liability on the part of the Martin County Board of County Commissioners or by any officer or employee thereof for any flood damage that results from reliance on this division or any administrative decision lawfully made thereunder.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.422. Applicability.

4.422.A. *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

4.422.B. *Areas to which this division applies.* This division shall apply to all Special Flood Hazard Areas within the unincorporated Martin County, as established in section 4.422.C of this division.

4.422.C. *Basis for establishing Special Flood Hazard Areas.* The Flood Insurance Study for Martin County, Florida and Incorporated Areas dated March 16, 2015, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this division and shall serve as the minimum basis for establishing the Special Flood Hazard Areas. Studies and maps that establish Special Flood Hazard Areas are on file in the Engineering Department.

4.422.D. *Other laws.* The provisions of this division shall not be deemed to nullify any provisions of local, state, or federal law.

4.422.E. *Abrogation and greater restrictions.* This division supersedes any ordinance in effect for management of development in Special Flood Hazard Areas. However, it is not intended to repeal or abrogate any existing regulations or ordinances including but not limited to provisions of the Martin County Land Development Regulations, the Martin County Code of Ordinances, or the Florida Building Code. In the event of a conflict between this division and any other regulation or ordinance, the more restrictive shall govern. This division shall not impair any deed restriction, covenant, or easement, but any land that is subject to such interests shall also be governed by this division.

4.422.F. *Interpretation.* In the interpretation and application of this division, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.423. Acronyms and definitions.

4.423.A. *Acronyms.*

FEMA	Federal Emergency Management Agency
FIRM	Flood insurance rate map
FIS	Flood insurance study

4.423.B. *Definitions.* Unless otherwise expressly stated, the following words and terms shall, for the purposes of this division, have the meanings shown in this section. Where terms are not defined in

this division and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code. Where terms are not defined in this division or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

Alteration of a watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard, or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of this division.

ASCE 24. A standard titled *Flood Resistant Design and Construction* that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood. A flood having a one percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "one-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the North American Vertical Datum (NAVD) as specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 1612.2.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 1612.2.]

Coastal construction control line. The line established by the State of Florida pursuant to F.S. § 161.053, and recorded in the official records of Martin County, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions.

Coastal high hazard area. A Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V. [Note: The FBC, B defines and uses the term "flood hazard areas subject to high velocity wave action" and the FBC, R uses the term "coastal high hazard areas."]

Design flood. The flood associated with the greater of the following two areas [also defined in FBC, B, Section 1612.2]:

(1) Area with a floodplain subject to a one percent or greater chance of flooding in any year; or

(2) Area designated as a Special Flood Hazard Area on the County's Flood Insurance Rate Maps, or otherwise legally designated.

Design flood elevation. The elevation of the design flood, including wave height, relative to the datum specified on the County's Flood Insurance Rate Maps. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two feet. [Also defined in FBC, B, Section 1612.2.]

Development or *development activity.* For the purpose of administering this division, any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations, or any other land disturbing activities.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a Special Flood Hazard Area which may impede or alter the flow capacity of riverine Special Flood Hazard Areas.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before June 15, 1981. [Also defined in FBC, B, Section 1612.2.]

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before June 15, 1981.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or *flooding.* A general and temporary condition of partial or complete inundation of normally dry land from [also defined in FBC, B, Section 1612.2]:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 1612.2.]

Flood insurance rate map (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated the Special Flood Hazard Areas and the risk premium zones applicable to the Martin County. [Also defined in FBC, B, Section 1612.2.]

Flood insurance study (FIS). The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 1612.2.]

Floodplain. Any land area susceptible to being inundated by water from any source.

Floodplain Administrator. The office or position designated and charged with the administration and enforcement of this division.

Floodplain approval. An official document or certificate issued by the Floodplain Administrator or designee, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in Special Flood Hazard Areas and that are determined to be compliant with this division.

Floodway. The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. [Also defined in FBC, B, Section 1612.2.]

Floodway encroachment analysis. An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified professional engineer licensed in the State of Florida using standard engineering methods and models.

Florida Building Code. The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential: Florida Building Code, Existing

Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings.

Letter of map change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of map change include:

Letter of map amendment (LOMA). An amendment based on technical data showing that a property was incorrectly included in a designated Special Flood Hazard Area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a Special Flood Hazard Area.

Letter of map revision (LOMR). A revision based on technical data that may show changes to flood zones, flood elevations, Special Flood Hazard Area boundaries and floodway delineations, and other planimetric features.

Letter of map revision based on fill (LOMR-F). A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the Special Flood Hazard Area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the County's Flood Protection Division of the Land Development Regulations.

Conditional letter of map revision (CLOMR). A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of Special Flood Hazard Areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck. As defined in 40 CFR 86.082-2, any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less, which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

Lowest floor. The lowest floor or the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section 1612.2.]

Manufactured home. A structure, transportable in one or more sections, which is eight feet or more in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is

designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this division, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

New construction. For the purposes of administration of this division and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after June 15, 1981 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after June 15, 1981.

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. [Defined in F.S. § 320.01.]

Recreational vehicle. A vehicle, including a park trailer, which is [see F.S. § 320.01]:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

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

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

Special flood hazard area. An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]

Start of construction. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns. Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of

the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of that building or structure subsequent to March 16, 2015. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

(1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assure safe living conditions.

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Variance. A grant of relief from the requirements of this division, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this division or the Florida Building Code.

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.424. Duties and powers of the floodplain administrator.

4.424.A. *Designation.* Unless determined otherwise by the County Administrator, the County Engineer is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

4.424.B. *General.* The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this division. The Floodplain Administrator shall have the authority to render interpretations of this division consistent with the intent and purpose of this division and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this division without the granting of a variance pursuant to section 4.428 of this division.

4.424.C. *Applications and permits.* The Floodplain Administrator shall:

(1) Review applications and plans to determine whether proposed new development will be located in Special Flood Hazard Areas;

(2) Review applications for modification of any existing development in Special Flood Hazard Areas for compliance with the requirements of this division;

(3) Interpret Special Flood Hazard Area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;

(4) Provide available flood elevation and flood hazard information;

(5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;

(6) Review applications to determine whether proposed development will be reasonably safe from flooding;

(7) Issue floodplain approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this division is demonstrated, or disapprove the same in the event of noncompliance; and

(8) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in Special Flood Hazard Areas comply with the applicable provisions of this division.

4.424.D. *Substantial improvement and substantial damage determinations.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this division is required.

4.424.E. *Modifications of the strict application of the requirements of the Florida Building Code.* The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to section 4.428 of this division.

4.424.F. *Notices and orders.* The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this division.

4.424.G. *Inspections.* The Floodplain Administrator shall make the required inspections as specified in section 4.427 of this division for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect Special Flood Hazard Areas to determine if development is undertaken without issuance of a floodplain approval.

4.424.H. *Other duties of the Floodplain Administrator.* The Floodplain Administrator shall have other duties, including but not limited to:

(1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to section 4.424.D of this division;

(2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, Special Flood Hazard Area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available;

(4) Review required design certifications and documentation of elevations specified by this division and the Florida Building Code and this division to determine that such certifications and documentations are complete;

(5) Notify the Federal Emergency Management Agency when the boundaries of unincorporated Martin County are modified; and

(6) Advise applicants for new buildings and structures, including substantial improvements that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "coastal barrier resource system areas" and "otherwise protected areas."

4.424.I. *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this division and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps: letters of change: records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage: required design certifications and documentation of elevations specified by the Florida Building Code and this division; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial: and records of enforcement actions taken pursuant to this division and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection in the Martin County Engineering Department.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.425. Development orders, permits, and floodplain approvals.

4.425.A *Development orders and permits required.* Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this division, except buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any Special Flood Hazard Area, shall obtain a building permit or development order, as applicable. No such development order or permit shall be issued until compliance with the requirements of this division and all other applicable codes and regulations has been satisfied.

4.425.B. *Floodplain approvals.* Floodplain approvals shall be issued pursuant to this division for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain approval is required in addition to a building permit.

4.425.C. *Buildings, structures, and facilities exempt from the Florida Building Code.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 CFR Sections 59 and 60), floodplain approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this division:

(1) Railroads and ancillary facilities associated with the railroad.

(2) Nonresidential farm buildings on farms, as provided in F.S. § 604.50.

(3) Temporary buildings or sheds used exclusively for construction purposes.

(4) Mobile or modular structures used as temporary offices.

(5) Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

(7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

(8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

(9) Structures identified in F.S. § 553.73(10)(k), are not exempt from the Florida Building Code if such structures are located in Special Flood Hazard Areas established on Flood Insurance Rate Maps.

4.425.D. *Application for a floodplain approval.* To obtain a floodplain approval, the applicant shall first file a development review application with the Growth Management Department for the appropriate development activity. If the proposed development activity is exempt from the Florida Building Code, as described in section 4.425.C, the applicant shall provide the Floodplain Administrator with the following:

(1) The name, address, and telephone number of the owner, developer or other person having power of attorney from the owner to make the application.

(2) A description of the development to be covered by the floodplain approval.

(3) A description of the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site, a map showing the location of the site, and names and addresses of adjacent property owners.

(4) The use and occupancy for which the proposed development is intended.

(5) A site plan and construction plans and specifications documents as specified in section 4.426 of this division.

(6) The valuation of the proposed work.

(7) A signature of the applicant or the applicant's authorized agent.

(8) Other data and information as required by the Floodplain Administrator.

4.425.E. *Consultation encouraged.* For development activity that is exempt from the Florida Building Code, as described in section 4.425.C, applicants are encouraged to meet with the Floodplain Administrator before preparing construction plans and building permit applications to discuss the

information required, the availability of flood hazard data, the potential limitations on use of sites, and other matters relevant to the interpretation and design of this division.

4.425.F. *Validity of floodplain approval.* The issuance of a floodplain approval pursuant to this division shall not be construed to be a permit for, or approval of, any violation of this division, the Florida Building Codes, or any other regulation or ordinance of Martin County. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

4.425.G. *Expiration.* A floodplain approval that applies to development activity that is exempt from the Florida Building Codes, as described in section 4.425.C shall become invalid unless the work authorized by such approval is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated. A floodplain approval that applies to other development orders or permits shall become invalid with the expiration of the applicable development order or permit.

4.425.H. *Suspension or revocation.* The Floodplain Administrator is authorized to suspend or revoke a floodplain approval if the approval was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this division or any other ordinance, regulation or requirement of Martin County.

4.425.I. *Other permits required.* Floodplain approvals, development orders, and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the development activity, including but not limited to the following:

(1) The South Florida Water Management District; F.S. § 373.036.

(2) Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065 and Chapter 64E-6, F.A.C.

(3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; F.S. § 161.141.

(4) Florida Department of Environmental Protection for activities subject to the joint coastal permit; F.S. § 161.055.

(5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

(6) Federal permits and approvals.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.426. Site plans and construction documents.

4.426.A. *Information for development in Special Flood Hazard Areas.* The site plan and construction plans and specifications associated with any development activity subject to the requirements of this division shall be drawn to scale and shall include:

(1) Delineation of Special Flood Hazard Areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.

a. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with section 4.426.B(1) of this division.

b. Where floodway boundaries or base flood elevations, are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with section 4.426.B(2) or (3) of this division.

(2) Location of two proposed accessible benchmarks, referenced to the datum on the FIRM, which shall be established prior to the issuance of a building permit and shall remain until a certificate of occupancy has been issued.

(3) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide and landward of setbacks required in the Land Development Regulations.

(4) Location, extent, amount, and proposed final grades of any filling, grading, excavation, or water management facilities.

(5) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

(6) Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.

(7) Extent of any proposed alteration of sand dunes or mangrove stands or other shorefront vegetation, provided such alteration meets the requirements of article 4, Site Development Standards, division 4, Barrier Island and Sea Turtle Protection, in the Martin County Land Development Regulations and is approved by the Florida Department of Environmental Protection.

(8) Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this division but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this division.

4.426.B. *Information in Special Flood Hazard Areas without base flood elevations (approximate Zone A).* Where Special Flood Hazard Areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

(1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.

(2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.

(3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate, set the base flood elevation to be three feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than three feet.

(4) Where the base flood elevation data are to be used to support a letter of map change from FEMA, advise the applicant that the analyses shall be prepared by a professional engineer licensed in the State of Florida in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

4.426.C. *Additional analyses and certifications.* As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a professional engineer licensed in the State of Florida for submission with the site plan and construction plans and specifications:

(1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in section 4.426.D of this division and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction plans and specifications.

(2) For development activities proposed to be located in a riverine Special Flood Hazard Area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated Special Flood Hazard Area encroachments, will not increase the base flood elevation more than one foot at any point within the community. This requirement does not apply in isolated Special Flood Hazard Areas not connected to a riverine Special Flood Hazard Area or in Special Flood Hazard Areas identified as Zone AO or Zone AH.

(3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in section 4.426.D of this division.

(4) For activities that propose to alter sand dunes or mangrove stands or other shorefront vegetation in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

4.426.D. *Submission of additional data.* When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of Special Flood Hazard Areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a professional engineer licensed in the State of Florida in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.427. Inspections.

4.427.A. *General.* Development for which a development order, building permit, or floodplain approval is required shall be subject to inspection.

4.427.B. *Development other than buildings and structures.* The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this division and the conditions of issued floodplain approvals.

4.427.C. *Buildings, structures and facilities exempt from the Florida Building Code.* The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this division and the conditions of issued floodplain approvals.

4.427.D. *Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:

(1) The certification of elevation of the lowest floor prepared and sealed by a professional surveyor and mapper licensed in the State of Florida if a design flood elevation was used to determine the required elevation of the lowest floor; or

(2) The documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent if the elevation used to determine the required elevation of the lowest floor was determined in accordance with section 4.426.B(3) of this division;

4.427.E. *Buildings, structures and facilities exempt from the Florida Building Code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in section 4.427.D of this division.

4.427.F. *Manufactured homes.* The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in Special Flood Hazard Areas to determine compliance with the requirements of this division and the conditions of the floodplain approval. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.428. Variances and appeals.

4.428.A. *General.* The Board of County Commissioners shall hear and decide on requests for appeals and requests for variances from the strict application of this division. Pursuant to F.S. § 553.73(5), the Board of County Commissioners shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.

4.428.B. *Appeals.* The Board of County Commissioners shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this division. A request for an appeal shall be filed, in writing, with the County Administrator within 30 days of the date of the Floodplain Administrator's decision; the matter shall be scheduled for consideration at the next available meeting of the Board of County Commissioners. Any person aggrieved by the decision of Board of County Commissioners may appeal such decision to the Circuit Court, as provided by Florida Statutes.

4.428.C. *Limitations on authority to grant variances.* The Board of County Commissioners shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in section 4.428G of this division, the conditions of issuance set forth in section 4.428.H of this division, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Board of County Commissioners has the right to attach such conditions as it deems necessary to further the purposes and objectives of this division.

4.428.D. *Restrictions in floodways.* A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in section 4.426.C of this division.

4.428.E. *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant

construction requirements of the Florida Building Code, Existing Building, Chapter 11, Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

4.428.F. *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this division, provided the variance meets the requirements of section 4.428.D, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

4.428.G. *Considerations for issuance of variances.* In reviewing requests for variances, the Board of County Commissioners shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this division, and the following:

(1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;

(4) The importance of the services provided by the proposed development to the community;

(5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

(6) The compatibility of the proposed development with existing and anticipated development;

(7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

(8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

4.428.H. *Conditions for issuance of variances.* Variances shall be issued only upon:

(1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this division or the required elevation standards;

(2) Determination by the Board of County Commissioners that:

(a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

(b) The granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public, conflict with existing local laws and ordinances, or violate other provisions of the Land Development Regulations, the Code of Ordinances or the Comprehensive Growth Management Plan; and

(c) The variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

(4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as $25.00 for $100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.429. Violations.

4.429.A. *Violations.* Pursuant to article 10, section 10.8 of the Land Development Regulations, development activity shall be in compliance with the development order at all times. Failure to comply with a development order or unauthorized development activity may result in the suspension of the current development order, and the cessation of processing of all applications for development on the subject property and any associated phases, or termination of the development order. Any person, including the Board of County Commissioners or any member of the Board of County Commissioners, may file a complaint with the County Administrator alleging that there has been a failure to comply with the development order or unauthorized development activity has occurred. In the event that such a complaint is filed, the procedures specified in section 10.8 of the Land Development Regulations shall be followed. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this division or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

4.429.B. *Authority.* For development that is not within the scope of the Florida Building Code but that is regulated by this division and that is determined to be a violation, such violation may be processed pursuant to the provisions of article 4, Code Enforcement Board, of chapter 1, Administration, of the Code of Ordinances. The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work. Nothing in this section shall prohibit the Board of County Commissioners from enforcing this division by any other means.

4.429.C. *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.430. Buildings and structures.

4.430.A. *Design and construction of buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to section 4.425.C of this division, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the

Florida Building Code that are not walled and roofed buildings shall comply with the requirements of section 4.436 of this division.

4.430.B. *Buildings and structures seaward of the coastal construction control line.* If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a Special Flood Hazard Area:

(1) Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or Florida Building Code, Residential Section R322.

(2) Minor structures and non-habitable major structures as defined in F.S. § 161.54 shall be designed and constructed to comply with the intent and applicable provisions of this division and ASCE 24.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.431. Subdivisions.

4.431.A. *Minimum requirements.* In addition to the provisions set forth in article 4, Site Development Standards, division 21, Subdivisions, subdivision proposals, including proposals for manufactured home parks, shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards; in Zone AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

4.431.B. *Subdivision plats.* Where any portion of proposed subdivisions, including manufactured home parks, lies within a Special Flood Hazard Area, the following shall be required on the final site plan and/or construction plans and specifications:

(1) Delineation of Special Flood Hazard Areas, floodway boundaries and flood zones, and design flood elevations, as appropriate;

(2) Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with section 4.426.B(1) of this division; and

(3) Compliance with the site improvement and utilities requirements of section 4.432 of this division.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.432. Site improvements, utilities and limitations.

4.432.A. *Minimum requirements.* All proposed new development shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards; in Zone AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

4.432.B. *Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6. F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems. Where fill above the natural grade is necessary to reach required drainfield elevations, the side slopes of the filled area shall not exceed one foot vertical to four feet horizontal. No building permit shall be issued where fill will result in any increase in flood levels during the occurrence of the base flood discharge.

4.432.C. *Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

4.432.D. *Limitations on sites in regulatory floodways.* No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in section 4.426.C(1) of this division demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

4.432.E. *Limitations on placement of fill.* Subject to the limitations of this division, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

4.432.F. *Limitations on sites in coastal high hazard areas (Zone V).* In coastal high hazard areas, alteration of sand dunes and mangrove stands or other shorefront vegetation shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by section 4.426.C(4) of this division demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with section 4.436.J(3) of this division.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.433. Manufactured homes.

4.433.A. *General.* All manufactured homes installed in Special Flood Hazard Areas shall be installed by an installer that is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this division. If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.

4.433.B. *Limitations in coastal high hazard areas (Zone V).* New manufactured homes shall not be installed in coastal high hazard areas (Zone V). Existing manufactured homes in coastal high hazard areas and in existing manufactured home parks are permitted to be replaced or substantially improved only if installed in compliance with the requirements for new manufactured homes.

4.433.C. *Foundations.* All new manufactured homes and replacement manufactured homes installed in Special Flood Hazard Areas shall be installed on permanent, reinforced foundations that:

(1) Are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this division in Special Flood Hazard Areas (Zone A) other than coastal high hazard areas.

(2) Are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.3 and this division in coastal high hazard areas (Zone V).

4.433.D. *Anchoring.* All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

4.433.E. *Elevation.* Manufactured homes that are placed, replaced, or substantially improved shall comply with section 4.433.F or 4.433.G of this division, as applicable.

4.433.F. *General elevation requirement.* Unless subject to the requirements of section 4.433.G of this division, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision: (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the Special Flood Hazard Area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V).

4.433.G. *Elevation requirement for certain existing manufactured home parks and subdivisions.* Manufactured homes that are not subject to section 4.433.F of this division, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

(1) Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the Special Flood Hazard Area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V); or

(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

4.433.H. *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas, as applicable to the Special Flood Hazard Area.

4.433.I. *Utility equipment.* Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residentially Section R322, as applicable to the Special Flood Hazard Area.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.434. Recreational vehicles and park trailers.

4.434.A. *Temporary placement.* Recreational vehicles and park trailers shall not be placed in coastal high hazard areas (Zone V); in other Special Flood Hazard Areas recreational vehicles and park trailers that are placed temporarily shall:

(1) Be on the site for fewer than 180 consecutive days; or

(2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

4.434.B. *Permanent placement.* Recreational vehicles and park trailers that do not meet the limitations in section 4.434.A of this division for temporary placement shall meet the requirements of section 4.433 of this division for manufactured homes.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.435. Tanks.

4.435.A. *Underground tanks.* Underground tanks in Special Flood Hazard Areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

4.435.B. *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of section 4.435.E of this division shall:

(1) Be permitted in Special Flood Hazard Areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(2) Not be permitted in coastal high hazard areas (Zone V).

4.435.C. *Above-ground tanks, elevated.* Above-ground tanks in Special Flood Hazard Areas shall be attached to an elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable Special Flood Hazard Area.

4.435.D. *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:

(1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Sec. 4.436. Other development.

4.436.A. *General requirements for other development.* All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this division or the Florida Building Code, shall:

(1) Be located and constructed to minimize flood damage;

(2) Meet the limitations of section 4.432.D of this division if located in a regulated floodway;

(3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(4) Be constructed of flood damage-resistant materials; and

(5) Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

4.436.B. *Emergency generators.* Emergency generators shall meet the requirements for protection of mechanical and other service equipment in the Florida Building Code and fuel tanks for emergency generators shall be installed in accordance of section 4.435 of this division.

4.436.C. *Electrical facilities.* Electrical transformers and/or switching vaults, pad-mounted transformers, pad-mounted switches and related electrical facilities shall be permitted as independent structures within or outside the projected perimeter of the building(s) they are intended to serve. Such electrical facilities are permitted below base flood elevation provided they comply with ASCE 24, Chapter 7.

4.436.D. *Fences in regulated floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of section 4.432.D of this division.

4.436.E. *Retaining walls, sidewalks and driveways in regulated floodways.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of section 4.432.D of this division.

4.436.F. *Roads and watercourse crossings in regulated floodways.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of section 4.432.D of this division. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of section 4.426.C(3) of this division.

4.436.G. *Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).* In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

(1) Structurally independent of the foundation system of the building or structure;

(2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

(3) Have a maximum slab thickness of not more than four inches.

4.436.H. *Decks and patios in coastal high hazard areas (Zone V).* In addition to the requirements of the Florida Building Code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

(1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

(2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

(3) A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless

an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

(4) A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

4.436.I. *Other development in coastal high hazard areas (Zone V).* In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

(1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

(2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and

(3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

4.436.J. *Nonstructural fill in coastal high hazard areas (Zone V).* In coastal high hazard areas:

(1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.

(2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.

(3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

(Ord. No. 969, pt. 2(Exh. B), 3-3-2015)

Secs. 4.437—4.460. Reserved.

DIVISION 11. DOCK SITING AND CONSTRUCTION STANDARDS (RESERVED)

Secs. 4.461—4.500. Reserved.

Secs. 4.461—4.500. Reserved.

DIVISION 12. AIRPORT AREA HEIGHT RESTRICTIONS AND SAFETY STANDARDS

SUBDIVISION 1. - IN GENERAL

SUBDIVISION 2. - AIRPORT HEIGHT RESTRICTIONS AND SAFETY REQUIREMENTS

SUBDIVISION 3. - NOISE ABATEMENT

SUBDIVISION 1. IN GENERAL

Sec. 4.501. Authority of Commissioners in respect to airport property.

The Board of County Commissioners of Martin County, Florida, shall have the authority to acquire, [or] lease as lessor or lessee, lands for airport purposes, provided, however, that no such lease shall exceed a total of 30 years, also, to construct, reconstruct, improve, extend, enlarge, equip, furnish, repair, maintain, operate and otherwise contract with regard to any property, whether real or personal, for the purpose of developing such property for airport purposes.

(Code 1974, § 3-1; Laws of Fla. ch. 67-1708, § 1)

Secs. 4.502—4.520. Reserved.

SUBDIVISION 2. AIRPORT HEIGHT RESTRICTIONS AND SAFETY REQUIREMENTS [10]

Sec. 4.521. Short title.

This subdivision shall be known and may be cited as "Martin County Airport Height Restrictions and Safety Ordinance."

(Code 1974, § 3-21; Ord. No. 233, § 1, 4-10-1984)

Sec. 4.522. Definitions.

As used in this subdivision, unless the context otherwise requires, the following words and terms shall have the meanings respectively ascribed:

Airport. Witham Field Airport.

Airport elevation. The highest point of an airport's usable landing area, measured in feet above mean sea level.

Airport obstruction. Any structure or object of natural growth or use of land which would exceed the Federal obstruction standards as contained in 14 CFR, sections 77.21, 77.23, 77.25 and 77.28, or which obstructs the airspace required for flight of aircraft in landing and takeoff at an airport or which is otherwise hazardous to such landing or takeoff of aircraft.

Airspace height. To determine the height limits in all zones set forth in this subdivision, the datum shall be mean sea level elevation (AMSL) unless otherwise specified.

Nonconforming use. Any pre-existing structure, object of natural growth or use of land which is inconsistent with the provisions of this subdivision, or amendments thereto.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure. Any object construed or installed by man, including but not limited to: buildings, towers, smoke stacks, utility poles and overhead transmission lines.

Utility runway. A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

Visual runway. A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan, or by any planning document submitted to the FAA by competent authority.

Zoning administrator. The administrative office or agency responsible for administering zoning within each of the political subdivisions that adopt this Martin County Airport Height Restriction and Safety Ordinance.

(Code 1974, § 3-22; Ord. No. 233, § 2, 4-10-1984)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.523. Airport zones and airspace height limitations.

4.523.A. In order to carry out the provisions of this subdivision, there are hereby created and established certain zones which include all of the land lying beneath the approach, transitional, horizontal and conical surfaces as they apply to a particular airport. Such zones are shown on the Witham Field Height Restriction Map A, which is attached to Ordinance No. 233 and made a part of this subdivision. An area located in more than one of the described zones is considered to be only in

the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

4.523.B. *Public civil airport height zones and limitations.*

1. *Primary zone.* An area longitudinally centered on a runway, extending 200 feet beyond each end of that runway with the width so specified for each runway for the most precise approach existing or planned for either end of the runway. No structure or obstruction will be permitted within the primary zone that is not part of the landing and takeoff area and is of a greater height than the nearest point on the runway centerline. The width of the primary zone is as follows:

   a. Witham Field: Runways 11/29, 02/20, 15/33 and 07/25: 500 feet for visual approaches.

   b. The width of the primary zone of a runway will be that width prescribed in this section for the most precise approach existing or planned for either end of that runway.

   c. No structure or obstruction will be permitted within the primary zone that is not part of the landing and takeoff facilities and is of greater height than the nearest point on the runway centerline.

2. *Horizontal zone.*

   a. The area around each civil airport with an outer boundary the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary zone of each airport's runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 5,000 feet for all runways designated as utility or visual.

   b. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest composite value determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal zone.

   c. No structure or obstruction will be permitted in the horizontal zone that has a height greater than 150 feet above the airport height.

3. *Conical zone.* The area extending outward from the periphery of the horizontal zone for a distance of 4,000 feet. Height limitations for structures in the conical zone are 150 feet above airport height at the inner boundary with permitted height increasing one foot vertically for every 20 feet of horizontal distance measured outward from the inner boundary to a height of 350 feet above airport height at the outer boundary.

4. *Approach zone.* An area longitudinally centered on the extended runway centerline and extending outward from each end of the primary surface. An approach zone is designated for each runway based upon the type of approach available or planned for that runway end.

   a. The inner edge of the approach zone is the same width as the primary zone and it expands uniformly to a width of:

      (1) Witham Field: 1,500 feet for that end of a runway other than as utility runway with only visual approaches.

   b. The approach surface extends for a horizontal distance of 5,000 feet for all utility and visual runways.

   c. The outer width of an approach zone to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

   d. Permitted height limitation within the approach zones is the same as the runway end height at the inner edge and increases with horizontal distance outward from the inner edge as follows: Permitted height increases one foot vertically for every 20 feet of horizontal distance for all utility and visual runways.

5. *Transitional zone.* The area extending outward from the sides of the primary zones and approach zones connecting them to the horizontal zone. Height limits within the transitional zone are the same as the primary zone or approach zone at the boundary line where it adjoins and increases at a rate of one foot vertically for every seven feet horizontally, with the horizontal distance measured at right angles to the runway centerline and extended centerline, until the height matches the height of the horizontal zone or conical zone or for a horizontal distance of 5,000 feet from the side of the part of the precision approach zone that extends beyond the conical zone.

6. *Other areas.* In addition to the height limitations imposed in paragraphs 1 through 5 above, no structure or obstruction will be permitted within Martin County that would cause a minimum obstruction clearance altitude, a minimum descent altitude, a radar vectoring altitude or a decision height to be raised.

(Code 1974, § 3-23; Ord. No. 233, § 3, 4-10-1984)

Sec. 4.524. Airport land use restrictions.

4.524.A. *Use restrictions.* Notwithstanding any other provision of this subdivision, no use may be made of land or water within any zones established by this subdivision in such a manner as to interfere with the operation of an airborne aircraft. The following special requirements shall apply to each permitted use:

1. All lights or illumination used in conjunction with streets, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from a public airport or in vicinity thereof.

2. No operations of any type shall produce smoke, glare or other visual hazards within three statute miles of any usable runway of a public airport.

3. No operations of any type shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

4.524.B. *Lighting.* Notwithstanding the preceding provisions of this section, the owner of any structure over 200 feet above ground level shall install lighting in accordance with Federal Aviation Administration Advisory Circular 70/7460-1 and amendments thereto on such structure. Additionally, high intensity white obstruction lights shall be installed on a high structure which exceeds 749 feet above mean sea level. The high intensity white obstruction lights must be in accordance with Federal Aviation Administration Advisory Circular 70/7460-1 and amendments.

4.524.C. *Variances.* Any person desiring to erect or increase the height of any structures, or use his property not in accordance with the regulations prescribed in this subdivision, may apply to the Board of Adjustment for a variance from such regulations. No application for variance to the requirements of this subdivision may be considered by the Board of Adjustment unless a copy of the application has been furnished to the appropriate zoning administrator.

4.524.D. *Hazard marking and lighting.* Any permit or variance granted shall require the owner to mark and light the structure in accordance with FAA Advisory Circular 70/7460-1 or subsequent revisions. The permit may be conditioned to allow Martin County at its own expense to install, operate and maintain such markers and lights as may be necessary to indicate to pilots the presence of airspace hazard if special conditions so warrant.

(Code 1974, § 3-24; Ord. No. 233, § 4, 4-10-1984)

Sec. 4.525. Administration and enforcement.

It shall be the duty of the zoning administrator to administer and enforce the regulations prescribed herein within the territorial limits over which Martin County has authority. In the event of any violation of the regulations contained herein, the person responsible for such violation shall be given notice in writing by the zoning administrator. Such notice shall indicate the nature of the violation and the necessary action to correct or abate the violation. A copy of said notice shall be sent to the Board of Adjustment. An administrative official shall order discontinuance of use of land or building; removal of trees to conform with height limitations set forth herein; removal of buildings, additions, alterations, or structures; discontinuance of any work being done; or shall take any or all other action necessary to correct violations and obtain compliance with all provisions of this subdivision.

(Code 1974, § 3-25; Ord. No. 233, § 5, 4-10-1984)

Sec. 4.526. Board of Adjustment.

4.526.A. The Martin County Zoning Board of Adjustment shall have and will exercise the following power on matters relating to areas within the territorial limit of authority:

1. To hear and decide appeals from any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this subdivision;
2. To hear and decide special exceptions to the terms of this subdivision upon which such Board of Adjustment may be required to pass; and
3. To hear and decide specific variances.

4.526.B. The Board of Adjustment shall adopt rules for its governance in harmony with the provisions of this subdivision. Meetings of the Board of Adjustment shall be held at the call of the chairman[. The chairman], or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, and other official actions, all of which shall immediately be filed in the office of the County Clerk.

4.526.C. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision or determination which comes before it under the provisions of this subdivision.

4.526.D. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the zoning administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this subdivision, or to effect variation of this subdivision.

(Code 1974, § 3-26; Ord. No. 233, § 6, 4-10-1984)

Sec. 4.527. Appeals.

4.527.A. Any person aggrieved, or any taxpayer affected, by any decision of the zoning administrator made in the administration of this subdivision may appeal to the Board of Adjustment.

4.527.B. All appeals hereunder must be made within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the zoning administrator a notice of appeal specifying the grounds

thereof. The zoning administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed was taken.

4.527.C. An appeal shall stay all proceedings in furtherance of the action appealed unless the zoning administrator certifies to the Board of Adjustment, after the notice of appeal has been filed, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the zoning administrator and after due cause is shown.

4.527.D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the interested parties and render a decision within a reasonable time. During the hearing, any party may appear in person, by agent or by attorney.

4.527.E. The Board of Adjustment may, in conformity with the provisions of this subdivision, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination, as may be appropriate under the circumstances.

(Code 1974, § 3-27; Ord. No. 233, § 7, 4-10-1984)

Sec. 4.528. Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment may appeal to the Circuit Court as provided in F.S. § 333.11.

(Code 1974, § 3-28; Ord. No. 233, § 8, 4-10-1984)

Secs. 4.529—4.550. Reserved.

FOOTNOTE(S):

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State Law reference— Airport zoning, F.S. ch. 333. (Back)

SUBDIVISION 3. NOISE ABATEMENT

Sec. 4.551. Generally.

4.551.A. *Purpose.* The purpose of this subdivision is to enact noise abatement procedures for aircraft using Witham Field to reduce noise exposure to surrounding areas.

4.551.B. *Data survey.* The noise abatement procedures in this subdivision are based on the data collected in "A Survey of Aircraft Noise at Witham Field, Stuart, Florida," prepared by Grumman Aerospace Corporation in June of 1976.

4.551.C. *Definitions.* For the purposes of this division, the following terms are defined as follows:

Control tower. Control tower at Witham Field or other control center having authority over aircraft at Witham Field.

Jet aircraft. Aircraft powered by jet engines.

Reciprocating aircraft. Aircraft powered by reciprocating engines.

(Code 1974, § 3-31; Ord. No. 241, pt. 1, 6-26-1984)

Sec. 4.552. Noise abatement procedures—For jet aircraft; required takeoff paths.

4.552.A. All jet aircraft using Witham Field shall reduce power after takeoff so as to maintain a safe airspeed and a moderate rate of climb (1,000 feet per minute). All jet aircraft may resume a normal climb schedule after the aircraft reaches an altitude of 3,000 feet.

4.552.B. Unless otherwise directed by the control tower, all jet aircraft using Witham Field shall observe the following takeoff paths:

1. Runway 02: Climb straight out to the Indian River, then on course.
2. Runway 07: Climb straight out to the Indian River, then on course.
3. Runway 11: Climb straight out over golf course toward the St. Lucie Inlet, then on course.
4. Runway 15: Left climbing turn toward the St. Lucie Inlet, then on course.
5. Runway 20: Climb straight out.
6. Runway 25: Slight right climbing turn (avoiding high school) to the South Fork River of the St. Lucie River, then on course.
7. Runway 29: Left climbing turn to altitude.
8. Runway 33: Right climbing turn to the Indian River, then on course.

(Code 1974, § 3-32; Ord. No. 241, pt. 1, 6-26-1984)

Sec. 4.553. Same—For reciprocating aircraft.

Unless otherwise directed by the control tower, all reciprocating aircraft using Witham Field shall use the following traffic pattern:

4.553.A. All reciprocating aircraft shall use 1,000 feet mean sea level (MSL) for traffic pattern altitude.

4.553.B. All reciprocating aircraft shall make all turns to the left.

4.553.C. All reciprocating aircraft taking off on Runways 07, 15, 25 and 29 shall climb to 800 feet on runway heading before executing the first turn.

4.553.D. All aircraft taking off on Runways 02, 11, 20 and 33 shall climb to 400 feet on runway heading before executing the first turn.

(Code 1974, § 3-33; Ord. No. 241, pt. 1, 6-26-1984)

Sec. 4.554. Preferential runway system for aircraft using Witham Field during daylight hours (sunrise to sunset).

4.554.A. In a calm wind, all aircraft should use Runway 20.

4.554.B. When some wind exists, the preferred runway for all aircraft using Witham Field is Runway 20, with Runway 07 and Runway 11 next in sequence.

4.554.C. Pursuant to Federal air regulations, the pilot in command may refuse to use a designated runway if the pilot deems the runway unsafe.

(Code 1974, § 3-34; Ord. No. 241, pt. 1, 6-26-1984)

Sec. 4.555. Notice.

4.555.A. A copy of this subdivision shall be displayed in the general aviation terminal at Witham Field.

4.555.B. A sign stating "Noise Abatement Procedures Are in Effect at This Airport" shall be posted at the entrance to each runway.

(Code 1974, § 3-35; Ord. No. 241, pt. 1, 6-26-1984)

Secs. 4.556—4.580. Reserved.

DIVISION 13. HISTORIC PRESERVATION

Sec. 4.581. General provisions and definitions.

4.581.A. *Purpose and applicability.*

1. The purpose of division 13 is to establish procedures for organizing a Historic Preservation Board, for designating landmarks, sites, historic districts and archaeological sites, and for processing applications for Certificates of Appropriateness and Certificates to Dig.
2. Division 13 shall apply to the unincorporated area of Martin County and to properties owned or leased by Martin County within the incorporated areas of Martin County. Section 4.594, Tax Exemptions, shall also apply within the incorporated areas of Martin County to the extent of any ad valorem taxes levied by the Board of County Commissioners.
3. When any provision of division 13 is in conflict with any other provision of the LDRs, or the Code, division 13 shall prevail.

4.581.B. *Definition.* For the purposes of division 13, the following words, terms and phrases shall have the meanings as set forth below:

Archaeological Geo-Environmental Zone. An area which is likely to yield information on the history and prehistory of Martin County. Zones are based on prehistoric settlement patterns in Martin County. Eleven zones have been identified for protection in an Archaeological Survey of Martin County (AHC Technical Report #124) prepared by the Archaeological and Historical Conservancy, Inc. (AHC) in September 1995, and again in June 1998 (revised October 1998), AHC Technical Report #213. The zones conform to natural physiographic features which were the focal points for prehistoric and historic activities.

Archaeological site. Those sites listed in an Archaeological Survey of Martin County (AHC Technical Report #124) prepared by the Archaeological and Historical Conservancy, Inc. (AHC) in September 1995, and again in June 1998 (revised October 1998), AHC Technical Report #213 and any sites identified by a professional archaeologist during future archaeological surveys which meet the criteria for listing in the State of Florida Master Site File.

Architectural features. Architectural features shall include, but not be limited to the architectural style, scale, massing, siting, and general design of the structure. The general arrangement of the exterior of the building or structure including the type, style and color of roofs, windows, doors and appurtenances shall be regarded as architectural features. Architectural features shall also include, when applicable, interior spaces where interior designation has been given.

Building. As defined by the U.S. Department of the Interior, National Park Service, National Register of Historic Places, a building is created principally to shelter any form of human activity.

Certificate of appropriateness. A certificate, similar to a building permit, permitting certain alterations or improvements to a designated individual site or property in a designated historic district based on the guidelines for preservation approved by the HPB.

Certificate to dig. A certificate, issued by Martin County based on the guidelines for preservation approved by the HPB. A Certificate to Dig authorizes certain excavations or ground disturbing activities that may affect known archaeological sites or may involve the discovery of as yet unknown archaeological sites within an archaeological zone.

Certificate of designation. A certificate issued by the HPB recognizing properties designated pursuant to division 13.

Demolition. The intended destructive removal of a building, in whole or in part, from its site.

Demolition by neglect. Neglect in the maintenance of any building or structure resulting in one or more of the following:

A. The deterioration of a building(s) or structure, to the extent that it creates or permits a hazardous or unsafe condition as determined by the building official.

B. The deterioration, as determined by the building official, of a building or structure, characterized by one or more of the following:

1. Parts that may fall and injure persons or property;
2. Deteriorated or inadequate foundation;
3. Defective or deteriorated floor supports or floor supports insufficient to carry imposed loads safely;
4. Walls or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
5. Walls or other vertical supports that are insufficient to carry imposed loads safely;
6. Ceilings, roofs, ceiling and roof supports, or other horizontal parts of a structure which sag, split, or buckle due to defective material or deterioration or are insufficient to carry imposed loads safely;
7. Any fault, defect or condition in the building which renders the building or structure structurally unsafe or not properly water-tight
8. Unsafe electrical and/or mechanical conditions;
9. Water intrusion causing water damage to the interior of the building or structure caused by broken or missing windows, broken or missing doors and/or deterioration of roofing material; or
10. Excessive damage to exterior and interior wood framing, flooring systems, and finishes caused by termites, to the extent that the building or structure may be unsafe.

Design guidelines. Those guidelines established in "The Secretary of the Interior's Standards for the Treatment of Historic Properties, 1995."

Economic hardship. Proof that the owner cannot realize a reasonable return upon the value of the property and that an onerous and excessive financial burden upon the property would result.

Exterior. All outside surfaces of a building or structure.

Guidelines for preservation. Criteria published in The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

Historic District. A collection of archaeological sites, buildings, structures, landscape features, or other improvements that are concentrated in the same area and have been designated as a district pursuant to division 13.

Historic marker. An official marker, whose size, design and descriptive wording and placement of location has been approved by the HPB, and which complies with the state historic marker program specifications.

Historic Preservation Board (HPB). A board of citizens established for the purpose of assisting in the implementation of division 13.

Historic resource. Any prehistoric or historic district, site, building, structure, object or other real or personal property of historical, architectural or archaeological value. The properties or resources may include but are not limited to monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure troves, artifacts or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government or culture of the county, the state or the United States of America.

Historic sites survey. A comprehensive survey compiled by Martin County involving the identification, research, and documentation of buildings, sites, and structures of any historical, cultural, archaeological, or architectural importance in Martin County.

Individual site. An archaeological site, building, structure, or other improvement that has been designated as an individual site pursuant to division 13.

Interior. An area contained within the walls or confines of a building or structure.

Landscape feature. Any improvement or vegetation including, but not limited to walls, courtyards, fences, shrubbery, trees, sidewalks, planters, plantings, gates, street furniture, signs and exterior lighting used in landscaping.

Local register of historic landmarks. The master document created through the designation of various sites, buildings, structures, objects and districts.

National Register of Historic Places. A Federal listing maintained by the U.S. Department of the Interior, National Park Service, of buildings, sites, structures, objects, and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966 as amended.

Ordinary maintenance. Work done to prevent deterioration of a building or structure or decay of, or damage to, a building or structure or any part thereof by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay or damage.

Site improvements. Site improvements shall include but are not limited to site regrading, subsurface alterations, fill deposition, paving, landscaping, walls, fences, courtyards, signs and exterior lighting.

Structure. Means anything constructed or erected on the ground or attached to anything constructed or erected on the ground as distinguished from a building.

Treatments. Standards for four distinct, but interrelated, approaches to the preservation, rehabilitation, restoration or reconstruction of historic properties.

(Ord. No. 620, pt. 1, § 4.13.1, 8-6-2002; Ord. No. 893, pt. 1, 4-19-2011)

Sec. 4.582. Historic preservation board.

4.582.A. *Powers and duties.* There is hereby created an historic preservation board (HPB). The powers and duties of the HPB include, but are not limited to the following:

1. Adopt or amend rules of procedure not inconsistent with the LDR or F.S. ch. 267.
2. Designate individual sites, districts, and archaeological zones pursuant to section 4.584.
3. Approve historical markers and issue certificates of designation.

4. Establish procedures for the issuance of certificates of appropriateness and certificates to dig.

5. Recommend zoning and building code amendments to the proper authorities.

6. Promote an awareness of the benefits of historic preservation and its benefits to the community.

7. Perform periodic updates to the historic architectural survey.

8. Perform periodic updates to the archaeological survey.

9. Record and maintain records of the HPB's actions and decisions.

10. Provide an annual report to the Board of County Commissioners.

11. Review, develop, and recommend ordinances to the Board of County Commissioners that promote the preservation and rehabilitation of historic buildings.

12. Seek out worthy projects for matching grants-in-aid from sources which have as their purpose the preservation for public benefit of properties that are significant in American history, architecture, archaeology, and culture.

13. Review applications for all buildings, properties and sites in unincorporated Martin County nominated for listing on the National Register of Historic Places.

14. Establish criteria and procedures for the expedited review of certain projects by staff.

15. Seek expertise on proposals or matters requiring evaluation by a professional or a discipline not represented on the board.

4.582.B. *Membership, appointment qualifications, terms and removal.*

1. The HPB shall consist of seven members appointed by the Board of County Commissioners. Each member of the HPB shall be a resident of Martin County. The composition of the HPB shall consist of three designated seats and four at-large seats. There will be a representative of each of the following professions: one architect with professional or educational experience related to historic preservation; one realtor; and one person with demonstrated knowledge specifically related to Martin County history. The four at-large seats will comprise of citizens who, by virtue of their profession or business, have demonstrated interest and experience in historic preservation and/or archeological resources; however, appointments shall be in the sole discretion of the Board of County Commissioners.

2. Appointments shall be for a term of four years for each member.

3. A member's term of office shall terminate if the member ceases to be a resident of Martin County. If any member fails to attend three consecutive meetings in one year without cause or prior approval of the Chair, the HPB shall declare the member's office vacant. In addition, a member may be removed from office at the pleasure of the Board of County Commissioners. Any vacancy occurring on the HPB shall be filled by the Board of County Commissioners for the remainder of the unexpired term at the earliest possible date.

4. Members shall be eligible for reappointment, and shall hold office until their successors have been duly appointed. Members of the HPB shall serve without compensation, but may receive actual and necessary expenses incurred in the performance of their official duties.

4.582.C. *Officers.*

1. A chair shall be elected by the members of the HPB and shall preside at all meetings of the HPB.

2. A vice chair shall be elected by the members of the HPB and shall preside at all meetings of the HPB in the absence of the chair.

3. Election of officers shall be held at the first regular meeting and annually thereafter.

4.582.D. *Meetings.*

1. Regular meetings of the HPB shall be held as necessary to fulfill their duties.
2. Special meetings of the HPB may be called by the chair.
3. No business shall be conducted by the HPB without a quorum consisting of four members.
4. All actions of the HPB require the affirmative vote of a majority of the members present.

4.582.E. *Staffing.*

1. The County Administrator shall designate staff for the Historic Preservation Board.
2. The County Attorney or a designated assistant county attorney shall serve as legal advisor to the HPB.
3. The County Administrator or designee shall make recommendations to the HPB regarding zoning and planning issues, and design guidelines consistent with the Secretary of the Interior's Standards for Rehabilitation. In addition, the County Administrator or designee shall administer staff review of applications for certificates of appropriateness and certificates to dig.
4. The Building Department shall identify applications for building permits submitted for buildings or structures identified on a historic site's survey and immediately notify the County Administrator or designee of all such applications received. The Building Department may continue to review and evaluate any such application, but shall not issue the permit requested until the County Administrator or designee has reviewed the application, evaluated the appropriateness of such building or structure for designation, consulted with local civic groups, public agencies, or interested citizens concerning potential designation of the building or structure, and notified the applicant and the property owner of the historic significance of the building or structure and of the opportunity to apply for designation pursuant to this chapter. The Building Department may act upon any such application upon receiving written notice from the County Administrator or designee of the completion of such review, evaluation, consultation, and notification, or the expiration of 30 days from the date of receipt of the application, whichever occurs sooner.
5. The Building Department shall inspect all buildings and structures that have received certificates of appropriateness for compliance with the requirements of such certificates and of this chapter.
6. Nothing in this chapter shall limit the authority of the Building Official to enforce the provisions of this Code, and specifically the provisions concerning unsafe buildings or systems.

4.582.F. *Ex parte communications.* Members of the HPB shall comply with the provisions of section 1-11 of the Code of Laws and Ordinances of Martin County regarding ex parte communications when an action of the HPB is considered a quasi-judicial proceeding.

4.582.G. *Voting conflicts.* Members of the HPB shall comply with the provisions of F.S. § 112.2143, regarding voting conflicts.

4.582.H. *Financial disclosure.* Members of the HPB shall comply with the provisions of F.S. § 112.3145, regarding financial disclosure.

(Ord. No. 620, pt. 1, § 4.13.2, 8-6-2002; Ord. No. 725, pt. 1, 10-10-2006; Ord. No. 807, pt. 1, 9-9-2008; Ord. No. 893, pt. 1, 4-19-2011)

Sec. 4.583. Designation of individual sites, districts and archaeological ones.

4.583.A. *Criteria.* The HPB shall issue certificates of designation to designate historic sites, districts, places, buildings, structures, landscape features, archaeological sites, and other improvements or physical features that:

1. Are significant in Martin County's history, architecture, archeology or culture and possess an integrity of location, design, setting, materials, workmanship, or association; or
2. Are associated with distinctive elements of the cultural, social, political, economic, scientific, prehistoric, and architectural history that have contributed to the pattern of history in Martin County, south Florida, the Nation; or
3. Are associated with the lives of persons significant in Martin County's, the State of Florida's or the United States of America's past; or
4. Embody the distinctive characteristics of a type, period, style, or method of construction or work of a master; or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinction; or
5. Have yielded, or are likely to yield information in history, or prehistory; or
6. Are listed in the National Register of Historic Places.

4.583.B. *Properties not generally considered; exceptions.* Certain properties which include cemeteries, birthplaces, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, properties commemorative in nature, and properties that have achieved significance within the last 50 years, will not normally be considered for designation. However, such properties will qualify if they are integral parts of districts that do meet the criteria, or if they fall within the following categories:

1. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
2. A building or structure removed from its location but which is primarily significant for architectural value, or is the surviving structure most importantly associated with an historic event or person; or
3. A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his/her, productive life; or
4. A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, distinctive design features, or from association with historic events; or
5. A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own historical significance; or
6. A property or district achieving significance within the past 50 years if it is of exceptional importance.

(Ord. No. 620, pt. 1, § 4.13.3, 8-6-2002)

Sec. 4.584. Designation procedure.

4.584.A. An historic designation petition shall be filed with Martin County in a form approved by the HPB and made available to the public. At a minimum, the petition shall include the following information:

1. A copy of the recorded deed for each parcel;

2. A detailed explanation of how the site meets the criteria of section 4.583;

3. A copy of the Master Site File, if any exists for the site;

4. A map identifying the location of the site within the county; and

5. A site plan identifying the location of the site on the parcel or parcels.

4.584.B. In reference to an individual property, the petition shall be filed by the owner of the subject property or other person having a power of attorney from the owner to file the petition and to act on behalf of the owner in reference to the petition.

4.584.C. In reference to an historic district, the petition shall be filed by a property owner in the proposed district or other person having a power of attorney to file the petition and to act on behalf of the owner in reference to the petition.

4.584.D. The HPB shall consider the historic designation petition and either direct staff to begin the designation process or deny the petition.

4.584.E. Absent the filing of an historic designation petition, the HPB may direct staff to begin the designation process for those archaeological zones and sites outlined in Technical Report #124 prepared by the Archaeological and Historical Conservancy, Inc. (AHC) in September 1995, and again in June 1998 (revised October 1998), AHC Technical Report #213. The HPB may also direct staff to begin the designation process for any additional zones or sites included in any update of historical or archaeological surveys.

4.584.F. Upon being directed to begin the designation process, staff shall prepare an investigation and designation report. The format of these reports may vary according to the type of designation; however at a minimum all reports must address the following: the historical, cultural, architectural, or archaeological significance of the property or properties being considered for designation; a recommendation of boundaries for districts and archaeological zones and identification of boundaries of individual properties being considered; and where a district is proposed, the report shall identify those properties, if any, within the district which do not contribute to the period of significance. Upon completion of the report, the report shall be filed with the HPB.

4.584.G. For each individual property, district, or archaeological zone proposed for designation, a public hearing must be held no sooner than 15 days or no later than 60 days from the date a designation report has been filed with the HPB. Notice of the public hearing shall be published in a newspaper of general circulation at least 15 days prior to the public hearing.

4.584.H. The HPB shall consider the designation request at a public hearing. The public hearing may be continued by the HPB to a fixed date, time and place. After the conclusion of the public hearing, the HPB shall approve, approve with modifications or deny the request for a certificate of designation by resolution which shall constitute the final action of the HPB. Resolutions shall be recorded in the public records of Martin County and a copy provided to the applicant.

4.584.I. Owners of private property which qualifies for a certificate of designation shall be given the opportunity to accept or reject the designation. If the designation is rejected, the development of or improvements to the property will not be governed by the division 13 and the property will not qualify for incentives for historical resources preservation provided in sections 4.593 and 4.594. If a private property owner chooses to accept a certificate of designation, then the provisions of division 13 shall apply to that property and the Certificate of Designation shall be recorded in the public records of Martin County, Florida and shall be shown in the Property Appraiser's records of those properties.

(Ord. No. 620, pt. 1, § 4.13.4, 8-6-2002; Ord. No. 807, pt. 1, 9-9-2008; Ord. No. 893, pt. 1, 4-19-2011)

Sec. 4.585. Historic Preservation/GIS Overlay.

4.585.A. An Historic Preservation/GIS Overlay shall be created to depict the extent of designated properties in Martin County.

4.585.B. The overlay will contain the name of the individual property, district, or zone as furnished by the HPB.

4.585.C. An inventory by address, Master Site File number, and legal description will be maintained by Martin County of all properties contained within the GIS Overlay.

4.585.D. Amendments to or rescission of the designation of individual properties, districts, and zones will be recorded as part of the overlay.

(Ord. No. 620, pt. 1, § 4.13.5, 8-6-2002; Ord. No. 807, pt. 1, 9-9-2008; Ord. No. 893, pt. 1, 4-19-2011)

Sec. 4.586. Certificate of appropriateness procedure.

4.586.A. *Certificate required as prerequisite to alteration, etc.* A Certificate of appropriateness shall be required for designated properties prior to:

1. Any material change or alteration in the exterior appearance of existing buildings, objects or structures;
2. Demolition of any building, object or structure;
3. The movement or relocation of any building object, or structure;
4. Any new construction of principal or accessory buildings or structures;
5. Disturbance of an archaeological site; or
6. Division of a tract or parcel of a designated property into two or more lots.

4.586.B. *Application.* An application for a certificate of appropriateness shall be filed with Martin County in a form approved by the HPB. At a minimum the application must include: full plans and specifications; site plan and samples of materials to fully describe the proposed appearance, color, texture, or material, and architectural design of the buildings; and any outbuilding, wall, courtyard, fence, or landscape features. The applicant shall provide adequate information to enable the HPB to visualize the effect of the proposed action on the applicant's building and its adjacent buildings and streetscapes. If an application involves a designated archaeological site the applicant shall provide full plans and specifications of work that may affect the surface and subsurface of the archaeological site. An applicant may request a pre-application meeting with the HPB where the HPB may provide informal comments regarding any proposed action that would require a Certificate of Appropriateness.

4.586.C. *Consideration by the HPB.* The HPB shall consider the application at a public meeting within 30 days of the application being deemed complete. Notice of the meeting shall be provided to the applicant. The HPB may continue the meeting to a fixed date, time and place. After the conclusion of the public meeting the HPB shall approve, approve with modifications or deny the request for a certificate of appropriateness by resolution which shall constitute the final action of the HPB. Resolutions shall be recorded in the public records of Martin County. A copy of the resolution shall be provided to the applicant and the Building Department. The HPB may establish a procedure for the administrative review and approval of an application for a certificate of appropriateness.

4.586.D. *Demolition.*

1. In addition to other applicable provisions of division 13, the following criteria shall be utilized in evaluating applications for a certificate of appropriateness for demolition of designated properties:

   a. Is the structure of such interest or quality that it would reasonably meet national, state, or local criteria for designation?

   b. Is the structure of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense?

   c. Is the structure one of the last remaining examples of its kind in the neighborhood, the county or the region?

   d. Does the structure contribute significantly to the historic character of a designated district?

   e. Would retention of the structure promote the general welfare of the county by providing an opportunity for study of local prehistory, history, architecture and design or by developing an understanding of the importance and value of a particular culture and heritage?

   f. Are there definite plans for reuse of the property if the proposed demolition is carried out, and what will be the effect of those plans on the character of the surrounding area?

2. A certificate of appropriateness for demolition may be granted with a delayed effective date of up to six months. The effective date shall be determined by the HPB based upon the relative significance of the structure and the probable time required to arrange an alternative to demolition. During the demolition delay period, the HPB may take such steps as it deems necessary to preserve the structure. Such steps may include, but shall not be limited to consultation with civic groups, public agencies, and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one or more structures or other features, plus mitigation (salvage archaeology) as may be deemed necessary or desirable.

4.586.E. *Building permit not to be issued without certificate.* No building permit shall be issued by the Martin County Building Department for any designated property in Martin County without a certificate of appropriateness. In addition, the building department shall issue stop work orders on any work performed on a designated property which is not in compliance with an issued certificate of appropriateness.

4.586.F. *Compliance of work with certificate standards.* All work performed pursuant to the issuance of any certificate of appropriateness shall conform to the requirements of the Certificate. The County Administrator shall designate appropriate staff to make the necessary inspections and who shall be empowered to issue a stop work order if the performance of work on a designated property is not in compliance with the issued Certificate. No work shall proceed as long as a stop work order continues in effect. Copies of any inspection reports and stop work orders shall be furnished to the HPB and the applicant. The building official shall be responsible for ensuring that any work not done in compliance with an issued certificate of appropriateness is corrected prior to rescinding the stop work order.

4.586.G. *Emergency, temporary measures.* For the purpose of remedying emergency conditions determined to be dangerous to life, health, or property, nothing contained herein shall prevent the making of any necessary repairs to a designated building or site. The owner of a building damaged by fire or natural calamity is permitted to stabilize the building immediately to prevent further damage and threat to public safety without HPB approval. Further reconstruction or renovation shall require a certificate of appropriateness.

(Ord. No. 620, pt. 1, § 4.13.6, 8-6-2002; Ord. No. 807, pt. 1, 9-9-2008; Ord. No. 893, pt. 1, 4-19-2011)

Sec. 4.587. Variances.

Where, by reason of particular site conditions and restraints, or because of unusual circumstances applicable solely to the particular applicant, strict enforcement of the provisions of division 13 would result in economic hardship to the applicant, the HPB may grant variances from the requirements of division 13.

4.587.A. In any instance where there is a claim of economic hardship, the owner shall submit, by affidavit, to the HPB at least 15 days prior to a regularly scheduled meeting of the HPB, the following information:

1. For all property:
   a. The amount paid for the property, the date of purchase and the party from whom purchased;
   b. The assessed value of the land and improvements thereon according to the two most recent assessments;
   c. Real estate taxes for the previous two years;
   d. Annual debt service, if any, for the previous two years;
   e. All appraisals obtained within the previous two years by the owner or applicant in connection with his purchase, financing, or ownership of the property;
   f. Any listing of the property for sale or rent, price asked and offers received, if any;
   g. Any consideration by the owner as to profitable adaptive uses for the property; and
   h. Recent sales of similar properties in the immediate area.
2. For income producing property:
   a. Annual gross income from the property for the previous two years;
   b. Itemized operating and maintenance expenses for the previous two years; and
   c. Annual cash flow, if any, for the previous two years.

4.587.B. The HPB may require an applicant to furnish additional information by affidavit relevant to a determination of undue economic hardship. In the event that any of the required information cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information which cannot be obtained and shall describe the reasons why such information cannot be obtained.

4.587.C. The HPB shall not grant a variance unless it determines that:

1. The variance is the minimum variance required to make reasonable use of the land, building or structure.
2. The grant of the variance will be in harmony with the general purpose and intent of division 13.

(Ord. No. 620, pt. 1, § 4.13.8, 8-6-2002)

Sec. 4.588. Maintenance of designated properties.

Nothing in division 13 shall be construed to prevent ordinary maintenance or repair of any exterior elements of a designated building, or structure, or object which does not involve a change of color, design, appearance or material, and which does not require a building permit.

(Ord. No. 620, pt. 1, § 4.13.8, 8-6-2002)

Sec. 4.589. Demolition by neglect.

4.589.A. *Requirements.* Every owner of a designated site or of property within a designated historic district or archaeological zone, or of a building or other historic resource listed on the local register of historic landmarks shall keep in good repair:

1. All of the exterior portions of such buildings or structures;
2. All interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or become damaged or otherwise fall into a state of disrepair; and
3. In addition, where the historic resource is an archaeological site, the owner shall be required to maintain his property in such a manner as not to adversely affect the archaeological integrity of the site.

4.589.B. *Determining neglect.* The HPB may request that the Martin County Building Department conduct an inspection of a designated site, district or zone or resource listed on the local register of historic landmarks and file a complete report of existing conditions and remedies, to the HPB. The Martin County Building Department shall make its determination based upon the definition of demolition by neglect in section 4.581 as well as applicable building code requirements.

4.589.C. *Notification and enforcement.* Where the HPB determines that properties within a designated historic district or a designated historic property lack maintenance and repair to such an extent as to detract from the desirable character of the district or resource, the HPB shall notify the owner of record, by certified mail, within 30 days of such findings. The HPB shall request the owner of the property to appear before the HPB and the HPB shall present ways to improve the condition of the property. If the owner fails to take action within a prescribed period of time, the HPB may request that county staff initiate appropriate enforcement proceedings.

4.589.D. *Emergency conditions applicable to this part.* The Building Official shall immediately notify the HPB of cases where there are emergency conditions dangerous to life, health or property affecting a designated building, structure or archeological site or property listed on the local register of historical landmarks. After consultation with the HPB, the Chief Building Official may order the remedying of the dangerous conditions.

(Ord. No. 620, pt. 1, § 4.13.9, 8-6-2002)

Sec. 4.590. Certificates to dig.

4.590.A. *Certificates required for archaeological sites.* Within a designated archaeological site listed on the local register of historic sites no building permit shall be issued for new construction, filling, grading, grubbing, large scale digging, swimming pool excavation, the removal of trees, the planting of trees or any other ground disturbing activity that occurs at locations more than three inches below adjacent surrounding ground surface, encompasses a combined area of equal to or greater than 100 square feet, or which may disturb or reveal an interred archaeological site without the applicant first obtaining a certificate to dig.

4.590.B. *Application process.*

1. An application for a certificate to dig shall be filed with Martin County in a form approved by the HPB. Martin County may waive the requirement for a certificate to dig in those cases where alterations are regarded as minor or minimal such as, but not limited to: placement of irrigation systems, fence posts six inches or less in diameter, or ditches 12 inches or less in width and other minor or minimal alterations as determined by the criteria of the HPB.

2. Within 30 days of the application being deemed complete, staff shall approve, approve with modifications or deny the request for a Certificate to Dig. Such determination shall be based up on the designation report for the archaeological zone and any guidelines established by the HPB. Approval of the request may be subject to specified conditions including but not limited to site inspections by staff and conditions regarding site excavation. The applicant shall agree to permit a county designated archaeologist to conduct excavations for the time of the application until the effective date. The determination by staff shall be reduced to writing and provided to the applicant.

3. The applicant may request a review of the staff decision to the HPB by filing a request within 30 days of the receipt of the determination. The HPB shall consider such request at its next regularly scheduled meeting and approve, approve with modifications or deny the request by resolution which shall constitute the final action of the HPB. Resolutions shall be recorded in the public records of Martin County. A copy of the resolution shall be provided to the applicant.

4.590.C. *Work to conform to certificate; stop work order.*

1. All work performed pursuant to the issuance of a certificate to dig shall conform to the requirements of such certificate.

2. In the event that work is performed which is not in accordance with such certificate, the appropriate staff shall be empowered to issue a stop-work order and all work shall cease.

4.590.D. *Ground disturbing activities.*

1. Ground disturbing activities shall be suspended within 100 feet of the discovery of any archaeological artifact or burial and the staff of the Historic Preservation Board shall be notified within 24 hours of the discovery. This suspension may last for up to 30 days from the date of notification to allow for an initial evaluation of significance by a professional archaeologist. If human skeletal remains are found, then F.S. § 872.05, as amended, shall control.

2. If the resource is found to be potentially significant, activities shall be further suspended for up to 30 days to allow for further evaluation by a professional archaeologist.

3. Ground disturbing activities shall be undertaken with caution in the surrounding area.

(Ord. No. 620, pt. 1, § 4.13.10, 8-6-2002; Ord. No. 893, pt. 1, 4-19-2011)

Sec. 4.591. Appeals.

Appeals of final actions of the HPB shall be made to the Board of County Commissioners in a manner provided for in section 10.10.E, Appeals of Final Actions, of article 10 of the LDR.

(Ord. No. 620, pt. 1, § 4.13.11, 8-6-2002)

Sec. 4.592. Enforcement.

Enforcement of division 13 shall be consistent with chapter 1, article 4 of the Code of Laws and Ordinances.

(Ord. No. 620, pt. 1, § 4.13.12, 8-6-2002)

Sec. 4.593. Incentives and conservation easements.

4.593.A. Properties designated as individual sites or as designated properties within a district or zone may be eligible for financial assistance set aside for historic preservation by Martin County, or the State of Florida.

4.593.B. Owners are also encouraged to consider granting, selling, or leasing conservation easements, pursuant to F.S. ch. 704.

4.593.C. A residentially used historic resource located on a parcel of land within any Community Redevelopment Area may be relocated to another parcel within any of the Community Redevelopment Areas and may continue to be used for residential purposes.

4.593.D. The application, permit and other fees applicable to the relocation of a historic structure may be paid by Martin County after review and recommendation by the Historic Preservation Board and approval by the Board of County Commissioners. The approval shall be implemented through an agreement between Martin County and the applicant including, but not limited to: 1) a project completion schedule and 2) the posting of a bond, letter of credit, or other form of security to guarantee the timely completion of the project based upon the cost of such completion.

(Ord. No. 620, pt. 1, § 4.13.13, 8-6-2002; Ord. No. 696, pt. 6, 2-14-2006; Ord. No. 893, pt. 1, 4-19-2011)

Sec. 4.594. Tax exemptions for historic properties.

4.594.A. *Scope of tax exemptions.* A method is hereby created for the Board of County Commissioners, in its discretion, to allow ad valorem tax exemptions for the restoration or rehabilitation of historic properties. The exemption shall apply to up to 100 percent of the assessed value of all improvements to historic properties which result from restoration, or rehabilitation made in accordance with a Certificate of Appropriateness issued by the HPB on or after January 1, 2003. The exemption applies only to taxes levied by the Board of County Commissioners and not to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to Section 9(b) or Section 12, Article VII of the Florida Constitution. The exemption does not apply to personal property.

4.594.B. *Duration of tax exemptions.* Any exemption granted under division 13 to a particular property shall remain in effect for up to ten years. In order to retain an exemption, however, the historic character of the property, and improvements which qualified the property for exemption, must be maintained over the period for which the exemption was granted.

4.594.C. *Eligible properties and improvements.*

1. Property is qualified for an exemption if at the time the exemption is granted, the property is:
    a. Individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended; or
    b. A contributing property to a national-register-listed district; or
    c. Designated as a historic property, or as a contributing property to a historic district, under the terms of division 13.
2. In order for an improvement to an historic property to qualify the property for an exemption, the improvement must:
    a. Be consistent with the United States Secretary of the Interior's Standards of Rehabilitation; and

b. Be determined by Martin County to meet criteria established in rules adopted by the Florida Division of Historical Resources.

4.594.D. *Applications.*

1. Any person, firm, or corporation that desires an ad valorem tax exemption for the improvement of an historic property must, in the year the exemption is desired to take effect, file with Martin County a written application on a form prescribed by the Florida Division of Historical Resources. The application must include the following information:

   a. The name of the property owner and the location of the historic property;

   b. A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;

   c. Proof, to the satisfaction of Martin County, that the property to be rehabilitated or restored is an historic property under division 13;

   d. Proof, to the satisfaction of Martin County, that the improvements to the property will be consistent with the United States Secretary of the Interior's Standards for Rehabilitation and will be made in accordance with guidelines developed by the Florida Division of Historical Resources;

   e. Other information deemed appropriate by the Florida Division of Historical Resources, or requested by Martin County; and

   f. A completed application for a certificate of appropriateness for the qualifying restoration, or rehabilitation.

4.594.E. *Required covenant.* To qualify for an exemption, the property owner must enter into a covenant or agreement with Martin County for the term for which the exemption is granted. The form of the covenant or agreement must be established by the Florida Division of Historical Resources and must require that the character of the property, and the qualifying improvements to the property, be maintained during the period that the exemption is granted. The covenant or agreement shall be binding on the current property owner, transferee, and the owner's heirs, successors, or assigns. Violation of the covenant or agreement results in the property owner being subject to the payment of the differences between the total amount of taxes which would have been due in March in each of the previous years in which the covenant or agreement was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in F.S. § 212.12(3).

4.594.F. *Review by Martin County.* The County Administrator or designee will review applications for exemptions and recommend that the Board of County Commissioners either grant or deny the exemption. Such reviews must be conducted in accordance with rules adopted by the Florida Division of Historical Resources. The recommendation, and the reasons therefore, must be provided to the applicant and to the Board of County Commissioners before consideration of the application at public meeting of the Board of County Commissioners.

4.594.G. *Approval by Martin County.* A majority vote of the Board of County Commissioners shall be required to approve a written application for exemption. Such exemption shall take effect on the January 1 following substantial completion of the improvement. The County Commission shall include the following in the resolution approving the application for exemption:

1. The name of the owner and the address of the historic property for which exemption is granted;

2. The period of time for which the exemption will remain in effect and the expiration date of the exemption; and

3. A finding that the historic or archaeological property meets the requirements of F.S. § 196.1997 and division 13.

(Ord. No. 620, pt. 1, § 4.13.14, 8-6-2002; Ord. No. 807, pt. 1, 9-9-2008; Ord. No. 893, pt. 1, 4-19-2011)

Sec. 4.595. Procedure for review of nominations for the National Register Of Historic Places.

4.595.A. *Comment period.* In compliance with existing Federal regulations, appropriate local officials, owners of record, and applicants shall be given a minimum of 30 days and not more than 75 days prior to a HPB meeting in which to comment on or object to the listing of a property in the National Register to be reviewed.

4.595.B. *Objections.* Objections by property owners must be notarized to prevent nomination to the National Register.

(Ord. No. 620, pt. 1, § 4.13.15, 8-6-2002)

Secs. 4.596—4.620. Reserved.

DIVISION 14. PARKING AND LOADING [11]

Sec. 4.621. Purpose and intent.

The purpose and intent of division 14 is to set forth parking and loading facility requirements in proportion to the parking demand for each use in order to ensure functionally adequate, efficient, aesthetically pleasing, and secure off-street parking and loading facilities, and to provide for on-street parking in certain circumstances. The regulations and design standards of division 14 are intended to ensure the usefulness of parking and loading facilities, protect the public safety, and mitigate potential adverse land use impacts.

(Ord. No. 835, pt. 1, 11-17-2009)

Sec. 4.622. Applicability.

4.622.A. *Development.* Every development, as defined in section 10.1.B, LDR, established after the effective date of division 14 shall comply with the requirements of division 14. Upon a determination by the County Engineer that inadequate on-site parking in an existing use causes a recurring traffic hazard or a nuisance off-site, the owner shall increase the number of parking spaces or decrease the need for parking spaces by limiting the amount, kind, or intensity of use. Existing parking and loading spaces shall not be used for storage or other purposes that make them unavailable for parking.

4.622.B. *Residential districts.*

1. *Parking in driveways.* Driveways may be used to satisfy the parking requirements for single-family dwellings, duplexes and mobile homes provided that sufficient space is available exclusive of right-of-way or road easements.

2. *Truck parking or storage.* No required parking space shall be used for vehicle storage or other uses which interferes with normal off-street parking needs.

3. *Emergency vehicles.* Parking shall not be permitted which blocks emergency vehicles on either public or private roads.

4.622.C. *Exemptions.*

1. *Redevelopment.* Building permits and certificates of occupancy may be issued for remodeling or structural alterations in existing developments without requiring compliance with division 14 provided such redevelopment does not result in an increase in the number of required parking and loading spaces. However, in no event shall the continued use of on-street or off-site parking to meet on-site parking requirements be allowed unless one of the following criterion is met:

   a. The cost of the improvements is less than or equal to 50 percent of the Martin County Property Appraiser's assessed value of such building or structure either before the improvement is commenced or, if the property has been damaged and is being restored, before the damage occurred.

   b. The development is a historically registered structure that is unable to provide off-street parking without negatively impacting the area.

   c. The development is in a defined redevelopment area where on-street parking is included in the plan.

2. *Change of use.* The number of parking and loading spaces required by division 14 may be reduced when the use of a building is changed or reduced to a use or floor area for which fewer parking or loading spaces are required. When the use is changed to a use for which more parking or loading spaces are required, the number of spaces shall be increased to comply with the off-street parking schedule and design standards unless the cost of the improvements is less than or equal to 50 percent of the Martin County Property Appraiser's assessed value of such building or structure either before the improvement is commenced or, if the property has been damaged and is being restored, before the damage occurred. Off-street parking requirements may be met with shared or remote parking areas as described elsewhere in division 14. A change in use, substantial renovation, or expansion of an existing shopping center will not require additional parking spaces provided the cumulative change of use, renovation, or expansion is consistent with the historic mix of tenants at the center.

3. *Parking districts.* A parking exemption for land uses other than single-family residences may be approved by the Board of County Commissioners where the applicant demonstrates compliance with the following requirements:

   a. The proposed development or redevelopment is located within a district which has been previously designated by the Board of County Commissioners as a parking fee district,

which district shall be supported by public parking facilities or facilities open to the public; or

b. The applicant can demonstrate through a parking analysis that the available parking facilities can accommodate the parking demand associated with the proposed development or redevelopment; or

c. The applicant pays a parking facility fee, which fee is calculated based on a fee schedule set by the Board of County Commissioners, and updated from time to time. At the Board of County Commissioners' discretion, the applicant may substitute an interest in land in lieu of all or a portion of the fee. In determining whether or not to accept an interest in land, the county must consider the land's location and its proximity to the parking need, its size and the feasibility of constructing a parking facility on the land, and its value which must be at least equivalent to the parking facility fee that would be assessed. The land may only be accepted if it is to be utilized in connection with the provision of parking in the district.

(Ord. No. 835, pt. 1, 11-17-2009)

Sec. 4.623. Computing parking requirements.

4.623.A. *Acceptable thresholds.* As part of an approval of new construction, a change in use, substantial renovation, or expansion of an existing shopping center, the applicant shall apply the rates identified in Table 4.14.1 and:

1. For a development that requires less than 51 parking spaces, the number of required spaces may be increased or decreased by no more than 20 percent; or

2. For a development that requires 51 or more parking spaces, the number of parking spaces may be increased or decreased by no more than ten percent.

3. The number of handicapped parking spaces shall be as required by applicable Florida Statutes.

4.623.B. *Unlisted uses.* Upon receiving a development application for a use not listed in division 14, the County Administrator shall apply the parking and loading requirements for the listed use most similar in parking needs to the use for which development approval is requested.

4.623.C. *Multiple uses.* Lots containing more than one use shall provide parking in an amount equal to the total of the requirements for all uses unless a shared parking arrangement is approved pursuant to division 14.

4.623.D. *Fractions.* When calculations of the number of required spaces result in fractions, any fraction up to one-half shall be disregarded and any fraction of one-half or more shall be rounded upward to the next highest full number.

4.623.E. *Bench seating.* Where seating consists of benches or pews, each 20 linear inches shall be considered one seat.

4.623.F. *Floor area.* For the purpose of computing parking requirements which are based on the amount of square footage in buildings, calculations shall be on a gross floor area basis, unless otherwise indicated.

4.623.G. *Employees.* For the purpose of computing parking requirements based on the number of employees, calculations shall be for the largest number of persons working on any single shift, including owners and managers.

(Ord. No. 835, pt. 1, 11-17-2009)

Sec. 4.624. Parking rates.

Off-street parking spaces shall be provided in accordance with the standards contained in the following Table 4.14.1. Land uses shall be as defined in section 3.3 of Article 3, Zoning Districts of the Martin County Land Development Regulations (LDR).

Table 4.14.1
Parking Rates

Land Use	Rate
Public and Institutional Uses	
Administrative services, not-for-profit	1 space/150 sf gross floor area
Cemetery/crematory operations and columbaria	1 space/3 seats in chapel plus 1 space/300 sf all other areas
Club or lodge	1 space/100 sf gross floor area
Correctional facility	1 space/employee plus 1 space/25 inmates
Day care, commercial	1 space/employee (largest shift) plus 1 space/10 people plus adequate drop off/pickup areas
Protective and emergency services	1 space/500 sf of gross floor area
Hospital	1 space/4 beds plus 1 space/doctor plus 1 space/2 employees
Library, public	1 space/300 sf gross building area
Nursing home	1 space/4 beds plus 1 space/2 employees
Post office	1 space/100 sf gross building area

Educational Institution	
Public assembly	1 space/4 seats
Schools, colleges, universities, and technical/vocational	1 space/2 seats of classroom seating capacity
School, elementary/junior high	2.5 spaces/classroom plus 1 space/each teaching, administrative or staff
School, high	12 spaces/classroom plus 1 space/each teaching, administrative or staff
Place of worship	1 space/3 seats in main sanctuary
Residential	
Residential care facility	0.5 space/bed
Bed and breakfast inn	1 space/guest room plus 2 spaces for primary residential unit
Dwelling, multifamily	1.5 spaces/efficiency unit, 1.75 spaces/1 bedroom unit, 2 spaces/2 or more bedroom unit
Dwelling, single-family and duplex	1.5 spaces/efficiency unit, 1.75 spaces/1 bedroom unit, 2 spaces/2 or more bedroom unit
Neighborhood assisted residence	1 space/4 beds plus 1 space/employee
Hotel or motel	1 space/unit plus 1 space/3 seats for accessory restaurant or lounge plus 1 space/3 employees
Mobile home	2 spaces/unit

Amusement, Commercial and General	
Bar or cocktail lounge	1 space/100 sf gross floor area
Bowling alley	5 spaces/lane plus required parking for any other on-site use
Financial institutions	1 space/200 sf gross building area
Flea market	1 space/200 sf of sales area or outdoor display area
Golf course	3 spaces/green
Golf course driving range	1.3 spaces/tee
Golf course, miniature	2 spaces/hole plus required parking for additional uses
Health and fitness center	1 space/200 sf building area without outdoor facilities 1 space/300 sf building area with outdoor facilities
Marina, commercial	1 space/5 wet or dry slips plus 1 space/employee
Racquetball and tennis courts	3 spaces/court (public) 2 spaces/court (private)
Skating rinks	1 space/200 sf of gross floor area
Shuffleboard courts	4 spaces/5 courts
Stadiums	1 space/3 seats of the seating capacity
Swimming pools	1 space/175 sf of pool area
Theater, indoor	1 space/4 seats
Cultural or Civic Uses	

Art gallery/museum	1 space/250 sf of gross floor area
Public parks and recreation areas, passive under 50 acres	3 spaces/first 10 acres plus 1 for each additional 10 acres
Public parks and recreation areas, passive over 50 acres	7 spaces plus 1 for each additional 15 acres
Public parks and recreation areas, active	1 space/2 acres up to 10 acres, plus 1 space/5 acres in excess of 10 acres, plus 75% of the required parking for each court, rink, or field
Shooting range	1 space/firing point
Retail Sales and Services	
Convenience store	1 space/ 200 sf gross floor area
Plant nurseries and landscape services	1 space/150 sf gross floor area, accessory structures excluded
Resale shop	1 space/200 sf gross floor area
Restaurant (convenience)	1 space/70 sf for public use plus 1 space/200 sf for nonpublic use
Restaurant (general)	1.5 spaces/100 sf gross floor area
Retail	4 spaces/1,000 sf of gross leasable area, where combined cinema, restaurant. 4 spaces/1,000 sf of gross leasable area, where combined cinema, restaurant and entertainment uses are 10% or less. For each additional percent between 10% and 20%, add 0.03 spaces/1,000 sf above 20%, use "shared parking".
Vehicular Service and Maintenance	

Vehicular sales and service	2 spaces/3 employees plus 1 space/150 sf repair/service area
Vehicular service station	1 space/200 sf of sales area plus 2 spaces/service bay plus 1 space/employee
Car wash	2 spaces/bay plus 2 car lengths paved queuing area
Dry boat storage	1 space/20 storage slips
Business and Professional Uses	
Funeral home	1 space/3 seats within chapel plus 1 space/300 sf gross floor area for all
Kennel, commercial	1 space/300 sf office, administration and examination area
Medical services	1 space/175 sf gross floor area
Office, business or professional	1 space/300 sf gross floor area
Trades and skill services	1 space/300 sf gross floor area plus 1 space/company vehicle
Veterinary medical services	1 space/300 sf gross building area excluding animal runs
Warehouse	1 space/2 employees or 1 space/1,000 sf of floor area, whichever is greater
Warehouse, mini, residential storage facility	1 space/1,500 sf gross floor area
Wholesale trades and services	1 space/1,000 sf gross floor area plus 1 space/company vehicle

(Ord. No. 835, pt. 1, 11-17-2009)

Sec. 4.625. Parking rate adjustment.

4.625.A. Any deviation in parking from the acceptable thresholds set forth in section 4.623.A., shall require approval by the decision-maker, as defined in Article 10, LDR. This approval shall rely on an application for a parking rate adjustment filed with the County Administrator as defined in Article 10, LDR. At a minimum the application shall include:

1. All data, materials, and information required for site plan approval of the subject site,
2. A map of the surrounding area reflecting existing zoning,
3. A parking study that identifies the relevant facts upon which the application is based, and describes in detail the basis for the proposed rate adjustment, and
4. Documents demonstrating that the applicant controls and will continue to control the property(ies) affected by the application.

All parking areas in excess of the acceptable thresholds listed in section 4.623.A. shall be pervious parking as set forth in section 4.627.D.

4.625.B. The parking study required in section 4.625.B.3. may include, but is not limited to:

1. Local parking studies of the same land use,
2. Shared parking by mixed uses,
3. On-site trip capture from secondary trip opportunities, and/or
4. Utilization of off-site parking, employer-based or other activities and/or provisions that will result in alternative travel modes that are not dependent on on-site parking,
5. Availability of on-street parking and other relevant features which have the effect of reducing parking demand at the subject site; this must be clearly and unequivocally documented.

4.625.C. In granting a parking rate adjustment, the decision-maker shall determine that the proposed rate adjustment would not result in undesirable overflow parking, nor otherwise adversely impact the character and integrity of the surrounding area. The decision-maker may also prescribe appropriate conditions within the development order including, but not limited to, a requirement that the applicant enter into a written multiparty agreement with the County that includes, but is not limited to:

1. The location and description of parking areas designated and reserved for shared parking, if relevant, and each specific commitment put forward in the parking adjustment application and during any public hearings on the matter.
2. A requirement that the applicant consistently adhere to the executed agreement.
3. A requirement that failure in any regard will nullify the agreement and the applicant will be required to provide for the full parking requirement.

(Ord. No. 835, pt. 1, 11-17-2009)

Sec. 4.626. Types and location of parking.

4.626.A. The types of parking that shall be permitted in satisfaction of a development's or redevelopment's parking requirements shall include, but not be limited to, self-park, valet parking, tandem parking, shared parking, and mechanical or robotic parking.

4.626.B. The function and operation of the proposed parking type must be compatible with and appropriate for the type parking proposed. Back-out parking or any other type parking utilizing the public right-of-way as an access aisle is prohibited except when applied to single-family and duplex land uses or on a street where the posted speed limit is 30 mph or less.

1. *Valet and tandem parking.*

   a. Except for single-family and duplex, valet parking and tandem parking uses must be the subject of a parking agreement, which keeps in effect the proposed operation of the parking facility or revokes the use if the proposed parking operation is suspended.

   b. Valet parked areas may utilize eight feet six inches by 18 feet spaces incorporating tandem parking and gain relief from landscaping requirements in those portions of the area not visible to the public.

2. *Shared parking.*

   a. The standards and peak parking analysis contained in the most current edition of "Parking Generation" by the Institute of Transportation Engineers (ITE), is hereby adopted and shall be referenced in any calculation of shared parking.

   b. The decision-maker may permit the required parking spaces for one use to be shared with required parking spaces for one or more uses upon a finding that:

      1) The shared parking spaces are in close proximity and readily accessible to the uses served; and

      2) The uses served have different peak parking demands and operating hours; and

      3) There will be a reduction in vehicle movements by the uses served; and

      4) The design of the parking area in terms of traffic circulation, vehicular and pedestrian access, stormwater management, landscaping, open space preservation, and public safety meets the requirements set forth in division 14.

   c. It shall be the responsibility of an applicant for shared parking approval to provide a description of the uses, site plan(s), trip generation report, parking study and other information necessary to permit a finding by the decision-maker regarding the request for shared parking.

   d. In granting approval to meet the parking requirement with shared parking, the decision-maker may require an agreement for shared parking be made between or among the appropriate parties in the form of a shared parking agreement with easement(s) in recordable form acceptable to the County Attorney's office. Such document shall be recorded in the public records of Martin County, Florida.

3. *On-street parking.*

   a. On-street parking shall be permitted within traditional neighborhood developments, neighborhood and community commercial core districts, and community redevelopment areas designated by the Board of County Commissioners unless in the judgment of the County Engineer the on-street parking poses a safety hazard.

   b. On-street parking shall be permitted on local streets as defined in division 4.19, LDR, unless in the judgment of the County Engineer the on-street parking poses a safety hazard.

   c. Swale parking, or partial swale parking, within the public right-of-way is permitted on local streets as defined in division 4.19, LDR, except where specifically prohibited as determined by the County Engineer and posted by approved county signage.

4. *Loading.*

a. *Purpose and intent.* All vehicles awaiting loading, unloading, or service must be accommodated within the site plan boundaries. In no instance shall any vehicles awaiting loading, unloading or service be parked off the approved site. Loading areas shall be located and screened to avoid nuisance impacts to off-site areas with special consideration for noise impacts to adjacent residential uses.

b. *Uses handling goods in quantity.* Uses which normally handle large quantities of goods, including, but not limited to, industrial, wholesale, storage warehouses, hospitals, and retail establishments shall provide off-street loading spaces in the following amounts:

Floor Area (square feet)	Minimum Number of Spaces
5,000—20,000	1
20,001—50,000	2
50,001—80,000	3
80,001—125,000	4
125,001—170,000	5
170,001—215,000	6
215,001—260,000	7
Per additional 45,000	Plus 1

c. *Uses not handling goods in quantity.* Commercial establishments that do not handle large quantities of goods, including, but not limited to, offices, restaurants, auditoriums, funeral homes, hotels, and motels shall provide off-street loading in the following amounts:

Floor Area (square feet)	Minimum Number of Spaces
5,000—80,000	1
80,001—200,000	2

200,001—320,000	3
320,001—500,000	4
500,001—680,000	5
680,001—860,000	6
860,001—1,040,000	7
Per additional 180,000	Plus 1

d. *Loading space dimensions.*

1) For uses containing less than 20,000 square feet of floor area, each loading space shall be not less than ten feet in width and 25 feet in length.

2) For uses containing 20,000 square feet of floor area or more, each loading space shall be not less than 12 feet in width and 50 feet in length.

3) Wheel stops or curbs. Wheel stops or curbs shall be provided to prevent any vehicle using a loading space from encroaching on unpaved areas or on adjacent property.

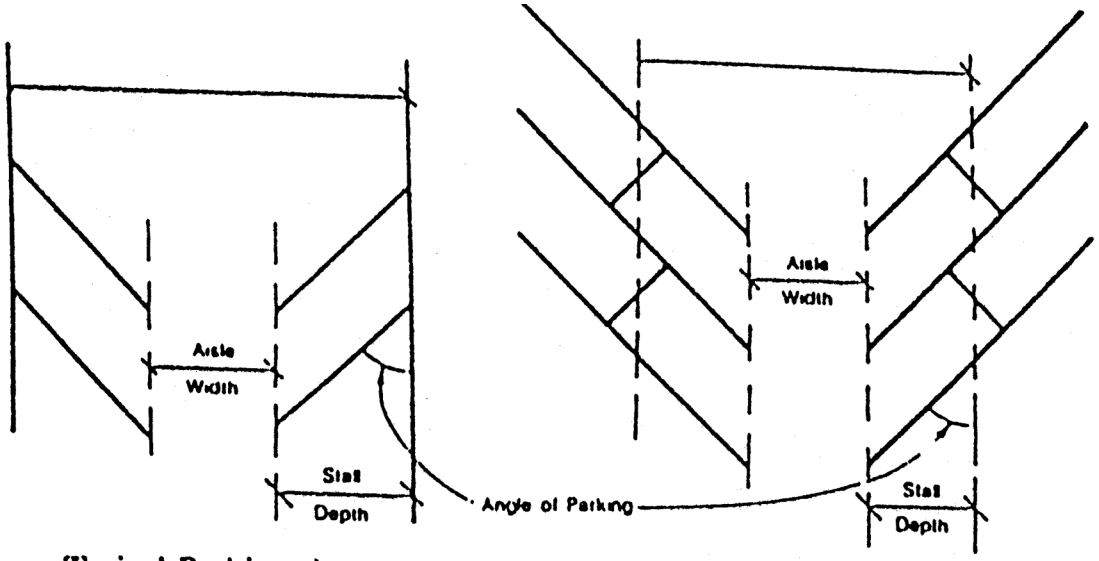
(Ord. No. 1020, pt. 1, 4-25-2017)

Sec. 4.627. Design standards.

4.627.A. *Parking stall dimensions.* A standard parking space shall provide a minimum ten-foot width and 20-foot depth. Wheel stops may be used to provide a two-foot overhang onto grassed areas or sidewalks; however, the unobstructed sidewalk width must be at least six feet. Accessible spaces shall be in compliance with the Americans with Disabilities Act and the Florida Accessibility Code for Construction.

4.627.B. *Parking lot layout.* Parallel parking shall have 0° angle while perpendicular parking shall have a 90° angle. Parking angles are generally laid out at 30°, 45°, and 60° angles in addition to the two noted above.

Standard parking nomenclature is shown on the diagram below:



Typical Parking Bay (Wall to Wall)

Typical Parking Bay (Interlocking)

Table 4.14.2 indicates the standard dimensions for the various configurations, given the standard parking ten-foot by twenty-foot dimensions.

Table 4.14.2
Parking Dimensions in Feet

	Stall Depth		Aisle Width	
Angle	Wall to Wall	Interlocking	One-Way	Two-Way
0° (parallel)	N/A	N/A	12	24
30°	18.7	14.4	12	24
45°	21.2	17.7	12	24
60°	22.3	14.8	13	24
75°	21.9	20.6	13	24
90°	20	20	24	24

4.627.C. *Design and setbacks.* It is the intent of these standards to discourage parking lots which give the appearance of an unbroken use of asphalt and that have negative impacts on adjacent land uses and aesthetics, while at the same time, to encourage pervious parking areas. Therefore:

1. Parking spaces shall be located on the same site as the principle use, except as permitted elsewhere in division 14.

2. Setbacks.

   a. A front yard setback of not less than ten feet shall be provided, except where a parking area is greater than two acres, then the front yard setback shall be increased to 15 feet. If off-site parking is proposed, the front yard setback shall be increased to 25 feet.

   b. Side yard setback of not less than ten feet shall be provided on every off-site lot, except when a nonresidential parking lot is located adjacent to property designated for residential land use or an alley-way, a setback of not less than 15 feet shall be required between the pavement or parking space and the property line.

   c. Sufficient area must be provided for required landscaping where swales are incorporated in the setback.

3. All lighting shall be shielded and directed away from residential units and adjacent roadways.

4. Entrances and exits shall be arranged to minimize hazards and must be approved by the County Engineer.

4.627.D. *Paving standards.* All parking spaces, access drives, and loading zones shall be paved in accordance with the design standards set forth in division 19, LDR. The County Engineer may approve the use of alternate surfaces for parking, storage, driveways, and maneuvering areas not designed for everyday use and where the requirement for paved areas is inconsistent with other environmental considerations.

It is the intent of the county to encourage pervious parking areas. Solely for stormwater management calculations, the parking area may be reduced by 50 percent when pervious parking is used.

When pervious parking areas are provided:

1. Soil stabilization techniques must be used in a manner to assure parking will remain functional in heavy rains or drought.

2. Pervious parking areas must be designed so the stormwater accumulated in a five-year 24-hour storm event percolates into the ground without runoff. The runoff from storm events exceeding a five-year 24-hour event shall be adequately directed to other components of the stormwater management system in a way that prevents erosion and sedimentation.

3. Regular maintenance of pervious areas is necessary to ensure long-term integrity of function. Sweeping or other recommended maintenance procedures must be implemented. If such areas cease to function in providing adequate parking or cause sedimentation within the drainage system which reduces the effectiveness of the system or decreases water quality, then paving to normal design standards will be required. If the area is not functioning adequately and cannot be paved, then the amount, kind or intensity of use, must be reduced in order to limit parking needs to available spaces.

4.627.E. *Handicapped parking.* Paved handicapped parking spaces shall be provided in accordance with applicable Florida Statutes.

4.627.F. *Queuing requirements for drive-through facilities.* In addition to meeting the minimum off-street parking and loading standards of this article, drive-through facilities shall satisfy the following minimum queuing space requirements. Should these requirements fail to meet the needs of the facility resulting in nuisance to adjacent properties and traffic hazards, the owner shall be responsible for adding additional queuing space or reducing the intensity of usage.

1. *Queue space schedule.* The minimum number of queuing spaces required shall be as follows. Variations from these minimums may be allowed based on a traffic study submitted for review and approval by the County Administrator.

Use Type	Minimum Space	Measured From
Bank teller lane	3	Teller or window
Automated teller machine	3	Teller
Restaurant drive-through	4	Order box*
Car wash drive-through	5	Bay/stall
Prescription drug drive-through	5	Window
All other convenience drive-through	5	Window
Other	To be determined by county engineer based on adequate information to determine needs.	
* An additional four-vehicle queue from the pick-up window to the order box shall be provided.		

2. *Minimum dimensions.* Each queue space shall be a minimum of ten feet by 20 feet in size. Queuing lane dimensions shall be measured from the point indicated in the queue space schedule to the end of the queuing lane.
3. *Design.* Each queue lane shall be clearly defined and designed so as not to conflict or interfere with other traffic using the site. A bypass lane with a minimum width of 12 feet shall be provided if a one-way traffic flow is used in the parking lot. The bypass lane shall be clearly designated and distinct from the queuing area.

(Ord. No. 835, pt. 1, 11-17-2009)

Sec. 4.628. Temporary parking.

A temporary parking facility may be utilized for up to 18 months when in the judgement of the County Engineer, the off-street parking requirements of this division 14 cannot be met and the primary use meets

all other requirements of the LDR, Code and Comprehensive Plan. The surface shall consist of stabilized grass surface, compacted gravel, compacted limerock with stabilizing additive(s), or similar hard and dustless surface approved by the County Engineer, and shall be capable of being continuously maintained in a clean and level condition. Pavement markings, landscape requirements except around the perimeter of the lot, and drainage requirements shall not be applicable. All other parking standards remain in effect.

(Ord. No. 835, pt. 1, 11-17-2009)

Secs. 4.629—4.660. Reserved.

FOOTNOTE(S):

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Editor's note— Part 1 of Ord. No. 835, adopted Nov. 17, 2009, amended Div. 14, in its entirety, to read as herein set out. Former Div. 14 was comprised of §§ 4.621—4.633, pertained to the same subject matter, and derived from Ord. No. 622, adopted Aug. 27, 2002; and Ord. No. 748, adopted May 1, 2007. (Back)

Cross reference— Roadway and driveway design, § 4.841 et seq.; parking design standards, § 4.846. (Back)

DIVISION 15. LANDSCAPING, BUFFERING AND TREE PROTECTION

Sec. 4.661. General requirements.

4.661.A. *Purpose and intent.* The purpose and intent of this division is to promote the health, safety and welfare of existing and future residents by establishing minimum standards for the installation and

continued maintenance of landscaping and buffering without inhibiting creative landscape design. This division requires specific water conservation measures including the preservation of native vegetation for landscaping purposes where applicable to minimize water use, conserve energy, limit nutrient loading to surface waters, and provide mature vegetation for aesthetics, shade and wildlife habitat. The specific objectives of these regulations are to: preserve and protect existing vegetation; promote water conservation and encourage greater use of native cold-tolerant and drought-tolerant landscape material; reduce heat and glare; provide temperature control; to improve the appearance of developed areas; enhance the value and appearance of local properties by more effectively buffering land uses; reduce air and noise pollution; improve the aesthetic appearance of all development by requiring sustainable landscaping and buffering that harmonizes and enhances the natural and built environment; and to reduce or minimize potential nuisances between land uses.

4.661.B. *Applicability.* Except as set forth below a certificate of occupancy shall not be granted for any use, structure or development within the unincorporated area of the County until all requirements of this division are met.

1. Construction of a single-family or duplex residence shall require the planting of one tree per three thousand square feet of site area and those trees shall comply with the standards set forth in section, 4.664, LDR. Single-family and duplex residences shall also comply with section 4.664.A.3. requiring the removal of prohibited species. Single-family and duplex residences shall be exempt from all other requirements of this division. The enlargement or repair of single-family or duplex units shall be exempt from this division.

2. Administrative amendments to approved development orders pursuant to section 10.14 LDR shall not be required to provide a landscape plan unless the proposed amendment would substantially affect the existing landscaping.

3. Removal of exotic, dead or diseased vegetation shall be exempt from this division.

4. Land used and permitted for agricultural use by the Comprehensive Growth Management Plan shall be exempt from this division.

4.661.C. *Glossary.* For the purposes of this division the following words, terms and phrases shall have the meanings set forth below:

Adverse impact: Any direct or indirect effect likely to cause, or actually causing, a decline in the stability, natural function, or natural diversity of any environmental resource or system, or in the quiet, peaceful, safe, or healthful use or occupancy of any off-site property.

Bufferyard: A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

Building area: That portion of a site upon which a structure exists or may legally be constructed.

Caliper: The diameter of a tree, which shall be measured 12 inches above the soil line for trees required to have a four-inch or greater caliper; or, for smaller trees, which shall be measured six inches above the soil line, except that grafted trees shall be measured one inch above the graft union if union can be seen.

Canopy road tree protection zones: All lands within 100 feet of the centerlines of existing roads where trees form a continuous canopy over the roadway are to be treated as canopy road tree protection zones.

Commercial building: Any nonresidential development conducted in the general commercial, limited commercial, commercial office/residential or waterfront commercial future land use designations.

Crown: The main point of branching or foliage of a tree or plant, or the upper portion of a tree or plant.

Crown spread: The distance measured across the greatest diameter of the crown of a plant or a tree.

DBH: Diameter at breast height; the diameter of a tree measured at a height of 54 inches above the naturally occurring ground level.

Developed area: That portion of a site upon which any building, structure, pavement, landscape material, stormwater facility, excavated lake, or other improvement has been or will be placed or on which a development activity occurs or has occurred.

Drip-line: The vertical projection on the ground of the outer perimeter of the crown of a plant.

EcoArt: EcoArt is an intentional aesthetic construction or assemblage designed by an artist. EcoArt incorporates environmental science in its design and is intended to communicate ecological principles. An EcoArt project could be a naturally regenerative ecosystem that supports and enriches biodiversity, provides storage, filtration, habitat, energy attenuation and absorption, etc. and or it can be an architectural structure that provides many of the same benefits. EcoArt projects can provide ecologically positive benefits to disturbed and impaired areas and the built environment.

Exotic vegetation: A plant that is a nonnative species.

Good forestry practices: Activities which reduce excessive competition between trees, or which remove intrusive exotic species and replace with native species.

Ground cover: Low-growing plants other than turf grass or deciduous varieties, generally reaching a maximum height of not more than 24 inches at maturity, installed to form a continuous cover over the ground.

Interior area: The entire parcel to be developed exclusive of the required front, rear, and side perimeter landscape areas.

Landscape material: Living material, including trees, shrubs, vines, turf grass, and ground cover; landscape water features; and nonliving durable material commonly used in landscaping, including mulch, walls and fencing, rocks, pebbles, sand, prairie film, brick pavers, and earthen mounds, but excluding impervious surfaces for vehicular use.

Landscaping: The placement of landscape material on a site in accordance with the requirements of this division.

LDR means the Martin County Land Development Regulations.

Mulch: Organic or inorganic materials which may have been shredded, cut, or pulverized to facilitate the spreading on the soil surface for the purpose of protecting the roots of plantings, conserving soil moisture, suppressing weed growth, and changing the aesthetic appearance of a landscape area.

Native: A species that occurred in Florida at the time of European contact or 1500s or as identified as a native plant in the *Guide to the Vascular Plants of Florida* by R. Wunderlin and B. Hansen.

On-site: Within the boundaries of a facility location, property or site including those sites separated by public or private rights-of-way.

Opaque: Obscure as to be visually unintelligible.

Open space: Land open and unobstructed from the ground to the sky, excluding areas covered by excavated lakes, buildings, sidewalks, patios, parking and loading areas, driveways or other impermeable structures or manmade surfaces. Where pervious parking is provided only those pervious spaces which are in excess of the number required will qualify as open space.

Preserve area: Portions of a site that are to be protected from any tree or understory removal (except for the removal of noxious or exotic vegetation as approved by a preserve area management plan (PAMP) and maintained without any development.

Qualified professional: A person who possesses, in addition to skill, a special registration, or certification, or knowledge which is obtained by an accredited four-year college degree, and which is

inherently or legally necessary to render him or her capable, competent, and eligible to perform the particular responsibilities.

Service function areas and mechanical equipment: Outdoor equipment serving development including but not limited to electrical or transformer boxes, air conditioning units, duct work, telecommunication equipment, generators, propane tanks, solid waste collection areas and utility equipment.

Shade tree: Any self-supporting woody plant of a species, deciduous or nondeciduous, that is generally well-shaped, well-branched, and well-foliated which normally grows to an overall minimum height of 35 feet with a minimum average mature crown spread of 30 feet, and which is commonly accepted by local horticultural and arboricultural professionals as a species which can be expected to survive for at least 15 years in a healthy and vigorous growing condition over a wide range of environmental conditions.

Shrub: A woody perennial plant differing from a perennial herb by its persistent and woody stems and from a tree by its low stature and habit of branching from the base.

Sight triangle: An area of unobstructed sight distance along both approaches of an access connection.

Site: The total area within the property boundaries of a principal parcel to be developed, or contiguous parcels intended for development under a common scheme or plan.

Tree: Any self-supporting woody plant having one well-defined stem a minimum of two inches DBH, and which normally grows to a minimum average height of 20 feet.

Tree credit: A numerical representation of the value of a two-inch DBH ten-foot high tree, used to assign values to trees of various sizes to calculate either credit against reforestation requirements, as in the case of trees protected during the development process, or to determine the extent of replanting required, as in the case of removal of protected trees.

Tree removal: The actual removal of a tree; any unmitigated development impact to 25 percent or more of the critical protection zone of a protected tree; any encroachment within three-fourths of the radius of the critical protection zone of a protected tree; any damage to 30 percent or more of the crown of a protected tree within the vertical projection of its critical protection zone; or any other action or activity likely to damage a protected tree.

Turf or Turf grass: A mat layer of monocototyledonous plants such as, but not limited to, Bahia, Bermuda, Centipede, Paspalum, St. Augustine, and Zoysia.

Underbrushing: The removal of understory vegetation, either by hand or with the use of equipment, which neither disturbs the soil nor causes the destruction of any tree.

Understory: The complex of woody, fibrous, herbaceous, and graminoid plant species that are typically associated with a natural forest community.

Vehicular use area: Any ground surface area, excepting public rights-of-way, used by any type of vehicle, whether moving or at rest, for such purposes as driving, parking, loading, unloading, storage, or display, including new or used car lots; activities of a drive-in nature in connection with banks, restaurants, filling stations, grocery and dairy stores, and other vehicular uses under, on, or within buildings.

Vines: Any group of woody or herbaceous plants which may climb by twining, or which normally require support to reach mature form.

Visual screen: A barrier of living or nonliving landscape material which separates and obscures an area from view.

(Ord. No. 601, pt. 1, § 4.15.1, 10-2-2001; Ord. No. 930, pt. 2, 6-11-2013)

Cross reference— Rules of Interpretation, § 1.5.

Sec. 4.662. Application requirements.

4.662.A. *Landscape plan.* Except as provided in section 4.661, all development applications shall include a landscape plan prepared by a qualified professional in accordance with F.S. § 481.301 et seq., and indicate the location and type of all existing and proposed:

1. Property boundaries, land use, rights-of-way and easements.
2. On-site and abutting land use features, including adjacent sidewalks, existing vegetation, natural features and site improvements within 50 feet of the property.
3. Buildings, structures, paving, and adjacent buildings within 50 feet of the property.
4. All overhead, above and underground utilities, including septic tank and drain fields.
5. Off-street parking, access aisles, driveways and other vehicular use areas.
6. Surface water bodies and wellfields.
7. A tree survey, including approximate position of protected trees, protected tree clusters, landscaping and other vegetation to be preserved or removed.
8. Plant installation methods and irrigation sources.
9. The location and acreage of all areas designated for development and preservation.
10. Ditches, swales, stormwater treatment structures or slopes exceeding 3V:1H in any proposed landscape area.
11. Tabular data summary: required quantities of plant materials, identification of Florida native plant species provided, gross and net acreage, acreage of preserve areas, number of trees and tree clusters to be protected within the developed area and within perimeter areas, and square footage of vehicular use areas. Service function areas and mechanical equipment requiring screening shall be summarized in a table to identify equipment and the type of screening proposed. Tabular data shall also indicate a calculation of the minimum total number of trees and shrubs required to be planted based upon the proposed developed area and separately based upon quantities required to meet the vehicular use area planting requirements and any required bufferyard requirements.

4.662.B. *Irrigation plans.* Irrigation systems are not required; however all required plantings must remain viable, healthy, neat and orderly in appearance. If an irrigation system is to be installed, irrigation plans shall be submitted with the certificate of completion prepared by a landscape architect prior to certification of occupancy is granted. The landscape architect, licensed plumbing contractor or licensed irrigation sprinkling contractor shall certify that irrigation plans shall meet or exceed the minimum compliance regulations set forth within the Standards and Specifications for Turf and Landscape Irrigation Systems published by the Florida Irrigation Society as amended. The required irrigation plan shall be prepared by a qualified professional and shall include the following minimum information:

1. A scale: same as site plan.
2. Water main: location size and specifications.
3. Valve(s): location(s), size and specifications.
4. Pump(s): location(s), size and specifications or water source.
5. Backflow-prevention devices and locations.

6. Controller(s): location(s) and specifications (rain-sensor override devices are required for sprinkler systems).
7. Typical irrigation zone plan: indicate head types, specifications and spacing, and separate zoning details for different types of irrigation heads and a calculation of percent area irrigated.
8. Total volume: gallons required for typical depths of application and application rate, inches per hour.
9. Reclaimed water irrigation system: if applicable, and whether the system is temporary or permanent.

(Ord. No. 601, pt. 1, § 4.15.2, 10-2-2001; Ord. No. 794, pt. 1, 3-18-2008; Ord. No. 930, pt. 2, 6-11-2013)

Cross reference— Development review procedures, art. 10.

Sec. 4.663. Landscape design standards.

4.663.A. *General requirements.* The following minimum landscaping and tree planting requirements shall apply.

1. *Required landscape area.* At least 20 percent of the total developed area shall be landscaped.
2. Credit towards landscape area requirements may be allowed for all or part of native habitat in addition to upland preserve area requirements, provided the applicant demonstrates to the satisfaction of the Director of Growth Management that the native area claimed for credit includes one or more of the following:
   a. Tree clusters including native vegetative communities, protected from development impact.
   b. Vegetative areas with native understory flora, protected from development impact.
   c. Protected trees.
   d. Constitutes a perimeter buffer along any roadway, parking lot or adjacent property.
3. Trees shall be planted in accordance with the following minimum requirements:
   a. All multifamily developments shall provide at least one tree per 1,500 square feet of site area.
   b. All nonresidential developments shall provide at least one tree per 2,500 square feet of site area.
4. *Vehicular use area requirements for nonresidential sites.* The following landscaping requirements shall apply within vehicular use areas.
   a. Landscaping shall be provided along the perimeter of vehicular use areas in accordance with the following standards:
      (1) A ten-foot wide strip of land, exclusive of curbing, along the entire front perimeter of a site, located between the front property line and any vehicular use area, shall be landscaped. Width of sidewalks shall not be included within the ten-foot wide front perimeter landscape area. Berming is encouraged along public roadway frontages to screen parking areas and provide visual interest.
      (2) A ten-foot wide strip of land exclusive of curbing along the entire side and rear perimeter of a site, located between the side and rear property lines and any vehicular use area, shall be landscaped. When side or rear perimeter landscape areas are

required on adjacent properties, the owners of such adjacent properties may agree to the installation of only one such landscape area on the adjacent boundary, as long as such agreement is binding on both property owners and their successors in interest and is approved as part of the permit application.

(3) The total tree requirement within the perimeter landscape area shall be determined by using a ratio of one tree for each 30 linear feet of required landscape perimeter area, or one tree for every 300 square feet of planting area or major portion thereof, with no less than 75 percent of said trees being shade trees. This provision is not intended to require trees to be equally spaced 30 feet apart. Creative design and spacing is encouraged.

(4) Shrubs with 15 to 23 inches of spread shall be planted on three foot centers; shrubs with greater than 23 inches of spread shall be planted on five-foot centers. In no event shall spacing exceed five feet on center, nor shall plants be closer than two feet to the edge of any pavement.

(5) A minimum of 25 percent of the total perimeter landscape area is to be in native plantings.

(6) Vehicle stops or other design features shall be used so that parked vehicles do not overhang into landscape areas.

(7) Separation between any one-way drives shall be no less than ten feet.

(8) Until such time as the Engineering Department develops minimum sight distance triangles at intersections, sight distance triangles at intersections shall at a minimum conform with the requirements of the Florida Department of Transportation. The County Engineer may impose an additional distance requirement if the conditions of an intersection warrant such treatment based on Martin County engineering standards and/or good engineering practices. Objects within the sight triangle shall not exceed 24 inches in height with the exception of traffic control devices and utility structures. Trees having limbs and foliage trimmed so the cross-visibility within the triangle is not obscured shall be allowed to overhang the sight triangle, provided the location of any tree does not create a traffic hazard.

b. Landscaping shall be provided within the interior of vehicular use areas in accordance with the following standards:

(1) In vehicular use areas within the interior of a site, one 500-square-foot planting area shall be required for every 5,000 square feet of vehicular use area, or major portion thereof, and at least three two-inch, or two three-inch caliper shade trees together with other landscape material shall be planted within each such planting area. Interior landscape areas shall be located to most effectively relieve the monotony of large expanses of paving and contribute to orderly circulation of vehicular and pedestrian traffic, and shall be no less than 12 feet in width, exclusive of curbing. Whenever linear medians at least 50 feet long having shade trees spaced no greater than 15 feet on center are used, the minimum width may be reduced to eight feet exclusive of curbing.

(2) Landscaped terminal islands of not less than ten feet in width exclusive of curbing and 18 feet in length shall be provided at each end of a parking row. Where divider medians are eliminated (see (3) below), terminal islands shall be increased by an area equal to the divider median requirement. At least one tree shall be planted in every island. Terminal islands shall not be used as stormwater management or conveyance facilities.

(3) Landscaped interior medians of at least six feet in width exclusive of curbing shall be provided between an interior row of parking spaces and an abutting interior driveway

or between abutting rows of parking spaces. At least one tree shall be required for every 30 linear feet of interior median, planted singly or in clusters with tree locations not more than 60 feet apart. Divider medians shall not be used for interior stormwater management or conveyance facilities. The elimination of divider medians for up to three bays of parking shall be allowed with the transfer of an equal square footage of landscaped area into terminal islands located along a public roadway. Public parks are allowed to utilize divider medians for stormwater management or conveyance purposes where the medians are a minimum of ten feet in width.

(4) Landscaped interior islands shall measure not less than five feet in width exclusive of curbing and 20 feet in length and may be reduced five feet less than the required parking space length. Such islands shall be placed within rows of parking spaces so that there is at least one interior island for every ten parking spaces or portion thereof. At least one tree shall be required per island with the remainder of the island landscaped with grass, ground cover, mulch, shrubs, or other treatment excluding pavement or sand according to the provisions of this section. Interior islands shall not be used for stormwater management or conveyance facilities.

(5) As an incentive to preserving native areas, up to one-half of the required interior landscape area may be waived when an equal area within the vehicle use area is preserved in a native state. To qualify for such a waiver, preserved native areas must be at least 800 square feet in size. The area must not be altered by grade changes or irrigation impacts which may stress the vegetation in its existing habitat. Such native areas that are used to meet landscaping requirements, shall not be used to meet upland preservation requirements.

5. For vehicular use areas not utilized for off-street parking, but serving the vehicular access or storage needs of the public (stacking lanes for drive-in banks and restaurants), ten percent of the total paved area of such vehicular use area shall be added to interior landscaping.

6. *Screening of service function areas.* Screening materials and landscaping used to screen service function areas shall be consistent with the design of the primary facades.

a. Solid waste collection areas. The location of all trash, recycling and similar receptacles, including dumpsters, shall be screened with an opaque, six-foot-high masonry wall or fence. A hedge shall be installed around the perimeter of this screen. Where possible, dumpsters shall be sited so as not to be visible from public rights-of-way. Opaque gates shall be used to screen trash receptacles from the view of public rights-of-way. Property served by residential curbside service shall be exempt from the provisions of this requirement.

b. Service function and mechanical equipment areas. Landscape plans shall clearly identify the locations of service function and mechanical equipment that are required to be screened and the type of screening provided. These areas shall be enclosed by an opaque fence, wall or hedge a minimum of six feet in height or to the highest point of the equipment, whichever is lower. For air conditioning or other equipment requiring air flow, a lattice screen of at least 50 percent opacity shall be sufficient to meet this requirement.

7. *Commercial building requirements.* Landscape plans shall identify the square footage (gross floor area) of commercial buildings and the locations of pedestrian access and customer entrances to these buildings. Structural or vegetative shading shall be provided along pedestrian ways at intervals of no greater than 70 feet. Pedestrian amenities shall be provided for all commercial buildings greater than 10,000 square feet, as follows:

a. *Commercial buildings greater than 10,000 square feet.* Commercial buildings of more than 10,000 square feet in gross floor area shall provide an outdoor patio area adjacent to the customer entryway of a minimum of 200 square feet in area. Plans shall identify required bench/seating locations in required outdoor patios or pedestrian arcades next to customer

entryways. Benches shall not be less than six feet in length and shall have either structural or vegetative shading identified on the plans. Required decorative landscape planters shall also be identified on the plans in these locations.

b. *Commercial buildings greater than 50,000 square feet* . The requirements are the same as listed above for commercial buildings greater than 10,000 square feet, with the exception that a minimum of two benches shall be provided.

c. *Commercial buildings greater than 100,000 square feet.* The requirements are the same as listed above for commercial buildings greater than 10,000 square feet, with the exception that a minimum of four benches shall be provided. Additionally, the location of a required outdoor fountain for these buildings shall be provided on the plans.

4.663.B. *Bufferyard requirements.* To reduce potential incompatible relationships between adjacent land uses, landscaped bufferyards shall be required between differing land uses and along certain transportation corridors. However, pedestrian and vehicular connections shall be encouraged between like uses (i.e., commercial, outparcels to adjacent outparcels along major thoroughfares) whenever possible. It is the intent of this provision to encourage the preservation of existing vegetation for use in buffers as opposed to clearing and replanting designed landscapes. The following landscaped bufferyards shall be required for all new development or redevelopment which creates the indicated land use conflicts.

1. *Bufferyards for differing land uses.*

a. *Bufferyard type.* The following table indicates the type of bufferyard required between various land uses.

Proposed Use		Adjacent Use											
		A	B	C	D	E	F	G	H	I	J	K	L
A	Single-family residential	—	1	1	1	2	3	3	4	2	4	2	4
B	Mobile home residential	1	—	1	1	2	3	3	4	1	4	2	4
C	Multifamily residential	1	1	—	1	2	3	3	4	1	4	2	4
D	Commercial office	1	1	1	—	—	1	2	3	—	2	—	—
E	Limited commercial/waterfront resort	2	2	2	—	—	1	1	1	1	1	—	—
F	General commercial/waterfront general	3	3	3	1	1	—	—	—	2	—	—	—
G	Limited industrial	3	3	3	2	1	—	—	—	2	—	1	—
H	Industrial	4	4	4	3	1	—	—	—	3	—	2	1
I	Agricultural ranchette	2	1	1	—	1	2	2	3	—	1	—	3

J	Agricultural	4	4	4	2	1	—	—	—	1	—	2	1
K	Institutional recreational / administrative (e.g., libraries, offices).	2	2	2	—	—	—	—	2	—	2	—	—
L	Institutional general	4	4	4	—	—	—	—	1	3	—	—	—

b. *Determination of use.* Proposed use types shall be those indicated on a development application or the most intensive use permitted by existing zoning or the Comprehensive Growth Management Plan. The adjacent use shall be based on existing development, an approved development plan or the least intensive use permitted by existing zoning or the Comprehensive Growth Management Plan. In no case shall the existence of a nonconforming use on adjacent property work to impose a greater bufferyard requirement than the least intensive use permitted by existing zoning or the Comprehensive Growth Management Plan.

2. *Bufferyards for residential uses along major transportation corridors.*

a. *Residential bufferyards.* Wherever new residential dwelling units are proposed to be located along any minor or major arterial road, specifically excluding community redevelopment overlay districts adopted pursuant to Article 3, Division 6, of the Land Development Regulations, a Type 5 bufferyard shall be required to screen the view of the dwelling units from the street. The major or minor arterial road classifications are described in section 4.842 of the Land Development Regulations. This requirement shall be applicable only to areas within the Primary Urban Service District as shown on figure 4-5 of the Comprehensive Growth Management Plan.

b. *Screening of construction sites.* Despite any provision to the contrary elsewhere in this Division 15, residential bufferyards required by paragraph 2.a (above) shall be installed no later than 60 days after commencement of any site clearing. The Growth Management Director may modify this requirement where the applicant can demonstrate that the land clearing activities will not be readily visible from a minor or major arterial street or because a temporary or permanent source of landscape irrigation cannot reasonably be installed until later in the development process. Any modification of this requirement shall be the minimum necessary to overcome the particular limitations of the site, but in no case shall vertical construction of residential buildings commence until the required bufferyard is installed.

c. *Implementation.* The provisions of paragraph 4.663.B.2 shall apply to all new residential development except where a final site plan was approved prior to January 1, 2008. Residential projects which are being developed as part of the implementation of a master site plan approved prior to January 1, 2008 shall comply with the provisions of paragraph 4.663.B.2 to the maximum extent practicable, as determined by the final decision-maker for the development (the County Administrator or the Board of County Commissioners, as appropriate). For example, if the approved master site plan includes an area which could accommodate a bufferyard without reducing the number of lots or residential units proposed:

(1) The final decision-maker may require either the full buffer or a modified version of the buffer, depending upon the amount of area available within that particular portion or phase of the development; and

(2) A revised master site plan shall not be required to implement this requirement.

3. *Bufferyards for residential uses along railroad rights-of-way.*

a. *Residential bufferyards.* Wherever new residential dwelling units are proposed to be located along any railroad rights-of-way, specifically excluding community redevelopment overlay districts adopted pursuant to Article 3, Division 6, of the Land Development Regulations, a Type 5 bufferyard shall be required to screen the view of the dwelling units from the railroad rights-of-way. This requirement shall be applicable only to areas within the Primary Urban Service District as shown on figure 4-5 of the Comprehensive Growth Management Plan.

b. *Implementation.* The provisions of paragraph 4.663.B.3 shall apply to all new residential development. Residential projects which are being developed as part of the implementation of a master site plan approved prior to January 1, 2014 with a valid timetable of development shall comply with the provisions of paragraph 4.663.B.3 to the maximum extent practicable, as determined by the final decision-maker for the development (the County Administrator or the Board of County Commissioners, as appropriate). For example, if the approved master site plan includes an area which could accommodate a bufferyard without reducing the number of lots or residential units proposed:

(1) The final decision-maker may require either the full buffer or a modified version of the buffer, depending upon the amount of area available within that particular portion or phase of the development; and

(2) A revised master site plan shall not be required to implement this requirement.

4. *Bufferyards for public parks and recreation areas, active and passive.*

a. Active recreation facilities (such as tennis courts and sports fields) shall provide a Type 4 landscaped buffer along the border of any RE, RS, RM, MH, residential PUD or Category "B" zoning district.

5. *Bufferyards for uses adjoining conservation lands.* Proposed development abutting land with a Conservation Future Land Use designation shall provide the following intensity and density transition area to enhance protection of the wildlife populations and natural systems.

a. A preservation area as defined in Divisions 1 and 2 of this article, provided all requirements of Divisions 1 and 2 of this article, and this division are met.

b. Stormwater retention areas, a minimum of 50 feet in width, planted with native littoral and upland transition vegetation may be provided to meet the requirements of this section. Littoral and upland transition vegetation shall be planted on the side of the stormwater pond abutting the conservation land use.

c. Where an applicant can demonstrate that a preservation area or stormwater retention area cannot be provided adjacent to conservation lands, as described above, a Type 5 native bufferyard shall be provided. Optionally, a Type 3 native bufferyard incorporating an EcoArt element may be approved by the Growth Management Department Director.

d. All bufferyard vegetation shall be comprised of native plants and all existing native vegetation shall be retained and incorporated into the bufferyard. Fire resistant plant species shall be utilized in the native firewise landscape bufferyard.

e. Regardless of the technique selected, the following activities shall be prohibited:

(1) Altering the hydrologic regime or lowering the water table;

(2) Generating, storing or handling of hazardous wastes;

(3) Generating nuisance noise, dust, lighting or odors;

(4) Generating high concentrations of excessive nutrient runoff.

6. *Description of bufferyard types.*

a. *Type 1 bufferyard:* A 20-foot-wide landscape strip with a six-foot-high, opaque fence or wall. At least one tree and ten shrubs shall be provided for every 300 square feet of required bufferyard. Trees must be at least ten feet in height with a two-inch caliper. A six-foot-high vegetative landscape screen consisting of 28 shrubs provided for every 250 square feet of required bufferyard can be substituted for the shrub, fence, wall or berm requirements. This vegetative landscape screen shall be 100 percent opaque at the time of planting.

b. *Type 2 bufferyard:* A 25-foot-wide landscape strip with a six-foot-high opaque fence or wall. At least one tree and ten shrubs shall be provided for every 300 square feet of required bufferyard. Trees must be at least ten feet in height with a two-inch caliper. A six-foot-high vegetative landscape screen consisting of 28 shrubs provided for every 250 square feet of required bufferyard can be substituted for the shrub, fence, wall or berm requirements. This vegetative landscape screen shall be 100 percent opaque at the time of planting.

c. *Type 3 bufferyard:* A 30-foot-wide landscape strip with a six-foot-high opaque fence or wall. At least one tree and 34 shrubs shall be provided for every 300 square feet of required bufferyard. Trees must be at least 14 feet in height with a three-inch caliper and staggered for maximum opacity.

d. *Type 4 bufferyard:* A 40-foot-wide landscape strip with a six-foot-high opaque fence, wall or berm. At least one tree and 34 shrubs shall be provided for every 300 square feet of required bufferyard. Trees must be at least 14 feet in height with a three-inch caliper and staggered for maximum opacity.

e. *Type 5 bufferyard:*

(1) A 50-foot-wide landscape strip, with at least three trees and 34 shrubs for every 300 square feet of required bufferyard. The required shrubs shall be a minimum of two feet in height at planting, capable of reaching six feet or more when mature and shall not be trimmed below six feet in height. Trees must be at least 14 feet in height with a three-inch caliper and staggered for maximum opacity; or

(2) A 30-foot-wide landscape strip, with at least three trees and 34 shrubs for every 300 square feet of required bufferyard, where 100 percent of such vegetation is made up of native plants and all existing native vegetation is retained. Trees must be at least 14 feet in height with a three-inch caliper and staggered for maximum opacity. Required shrubs shall be a minimum of two feet in height at planting, capable of reaching six feet in height when mature and shall not be trimmed to below six feet in height.

7. *Requirements for vegetative landscape screens.* Where vegetative landscape screens are installed in required bufferyards, they shall be required to form a solid visual screen at time of planting. A continuous visual screen shall be located along the entire length of all common boundaries. It shall be at least six feet in height and shall incorporate existing native vegetation to the fullest extent possible. When the existing vegetation is inadequate to function as a visual screen, it shall be augmented by two staggered rows of shrub material which will provide such a screen at maturity. Only in cases where the existing vegetation is of poor quality, or totally lacking, shall the visual screen be established solely through the use of the above specified double row of shrubs. Required shrubs shall be a minimum of two feet in height at planting,

capable of reaching six feet or more when mature and shall not be trimmed below six feet in height. Existing native vegetation may be used to satisfy screening requirements upon approval of the Growth Management Director.

8. *Use of bufferyards.*

   a. Utilities, easements, septic drainfields or other physical improvements shall not be placed in bufferyards, unless approved by the Growth Management Director based on good cause shown.

   b. In any case where an unbuffered view exists within 500 feet from the side or rear service areas of any nonresidential land use to any single-family or two-family residential land use, buffer requirements shall apply as if such residential uses were located on immediately adjacent lands.

   c. Preserve areas as defined in Divisions 1 and 2 of this article may be used to fulfill the landscape bufferyard requirements of this division, provided, all requirements of Divisions 1 and 2 of this article, and this division are met.

   d. Bufferyards may not be established on single-family residential lots.

9. *Exceptions.* The following exceptions to and reductions from the bufferyard requirements shall be permitted. The bufferyard width reductions set forth in this paragraph are not intended to reduce the quantity, type or size of plantings required.

   a. The bufferyard width requirements of section 4.663.B.1 may be reduced by 50 percent for development which is separated from an adjacent use by a public street right-of-way of 60 feet or more in width.

   b. Where section 4.663.B.1 requires a bufferyard between a residential use and a nonresidential use and such uses are separated by a public street right-of-way of 100 feet or more in width, the buffer requirement shall be reduced to 20 feet.

   c. Park sites consisting of or surrounded by passive open space with a depth of 50 feet or more along adjacent lot lines shall be exempt from the landscape bufferyard width requirements of this section 4.663.B, but shall be subject to the screening requirements of this section 4.663.B.

   d. When a mixed use development with a unified master plan and development standards is proposed, the bufferyard requirements may be waived between internal residential and commercial uses where the provisions of section 4.667 are met. Applicable bufferyards are required.

10. It shall be the responsibility of the property owner requesting development approval to install required bufferyards. If a proposed development abuts vacant land not yet approved for development, required bufferyards may be reduced by 50 percent. When the adjacent site develops, this property owner shall be required to install an equivalent bufferyard.

    However, in the event any property receives a development order after the effective date of this division that increases the size of the required buffer, that property shall be responsible for providing all of the increase in size of the buffer so that the adjoining property, regardless of whether it is developed, is not obligated to increase the size of its buffer.

11. *Bufferyard fence, wall and berm standards.*

    a. Whenever a buffer fence is required, it shall be of sufficient height to obstruct view between adjoining properties, presumably to a height of six feet. The buffer fence shall be solid opaque, constructed of durable materials appropriate for the intended use and consistent with materials commonly used in surrounding neighborhoods, and shall include provision for the access to all landscape materials.

b. The side of a fence facing a less intensive use and any side of a fence facing a public view shall have a finished appearance to furnish an aesthetically pleasing view.

c. At least one-half of all required plant materials shall be installed and maintained on the side facing the less intensive use, unless otherwise specifically provided.

d. Fencing shall be maintained in good repair by the property owner.

e. When walls are proposed to meet bufferyard requirements, the facade treatment of the walls exceeding 100 feet in length shall require architectural columns at each 100-foot increment to encourage architectural variety and interests.

f. Fences or walls installed on property near preserve areas shall be designed to permit animal access and crossings.

g. Berms used in place of the fence or wall requirement shall have no more than a three-foot horizontal to a one-foot vertical slope. Berms may be used in combination with fences or hedges to achieve the minimum six-foot-high 100 percent opaque requirement. For example a three-foot-high fence or hedge may be installed on top of a three-foot-high berm. The six-foot height requirement shall be measured from grade on the side of the buffer with the less intense land use.

4.663.C. *Additional requirements for all landscaped areas.*

1. Mulch material to a minimum compacted depth of three inches shall be allowed for all planting areas when used to supplement ground cover. Cypress mulch is prohibited.

2. Whenever development activity is subject to both the perimeter landscaping requirements and land use bufferyard requirements of this division, the more intensive shall apply.

3. No use shall be made of, and no development activity shall be permitted in, land use buffers and perimeter landscape areas, except for:

   a. Planting material approved as part of the landscape plan.

   b. Completely underground utilities and essential, specifically approved, overhead or aboveground utilities which cross these areas and do not interfere with the mature growth of required plant material.

   c. Grass ditches, with back slopes no steeper than 3:1, which can support the required landscaping materials.

   d. Pathways of six feet in width between adjacent uses may be allowed.

4. All shrub material used as a part of a dissimilar land use bufferyard shall be a minimum height of 30 inches and have a minimum crown width of 24 inches when planted; shall be species capable of achieving a minimum height of six feet; and shall be located in such a way as to maximize the screening potential.

4.663.D. *Water efficient landscaping.* All development for which landscaping is required shall comply with the requirements set forth below prior to the issuance of a certificate of occupancy. The accompanying points necessary to meet the following water efficiency requirements shall be clearly tabulated on the landscape plan.

1. All development shall attain a minimum of 50 points from the following design options. As used in the following design options, "list" means the list of drought-tolerant species set forth by the South Florida Water Management District as recommended drought-tolerant species for use in landscaping.

	Design Options	*Points*

a.	Utilization of moisture-sensing controller other than rain-sensor override device.	5
b.	Plan submitted with low, moderate and high water usage zones indicated on the landscape plan.	5
c.	Twenty-five percent to 50 percent of the grass areas are made up of drought-tolerant grass species from the list.	5
d.	Fifty-one percent or more of the grass areas are made up of drought-tolerant grass species from the list.	10
e.	Twenty-five percent to 50 percent of the required shrubs are made up of drought-tolerant species from the list.	5
f.	Fifty-one percent or more of the required shrubs are made up of drought-tolerant species from the list.	10
g.	Twenty-five percent to 50 percent of the required trees are made up of drought-tolerant species from the list.	5
h.	Fifty-one percent or more of the required trees are made up of drought-tolerant species from the list.	10
i.	Twenty-five percent more than the required shade trees planted in the vehicular use area.	5
j.	Fifty percent more than the required shade trees planted in the vehicular use areas.	10
k.	Sod area less than 50 percent of the total landscaped area.	5
l.	Utilization of compacted mulch beds at least three inches deep in all planted areas except ground cover.	10
m.	Utilization of mulch.	5
n.	Utilization of native plant species in stormwater retention areas, other than turf grass or sod. As permitted in Division 9 of Article 4, LDR.	10

2. Adequate irrigation of landscaped areas shall be provided for the first full growing season and continue thereafter only as necessary to maintain required vegetation in good and healthy condition. Irrigation systems shall conform to following standards:

   a. Irrigation systems shall be continuously maintained in working order and shall be designed so not to overlap water zones or to water impervious areas.

   b. No irrigation system shall be installed or maintained abutting any public street which causes water from the system to spurt onto the roadway or to strike passing vehicular traffic.

   c. No permanent irrigation system is required for an area set aside on approved site plans for preservation of existing native vegetation or for drought-tolerant planting areas.

4.663.E. *Preserve area interface requirements for landscaping and stormwater management systems.* A preserve area interface shall be established between required landscaping and stormwater treatment areas and preservation areas when preservation areas exist on a development site and when preserve areas abut a development site. The preserve area interface shall include a consolidation and connection of landscaping and stormwater treatment areas with preservation areas. Where more than one preservation area exists on a development site or abutting a development site multiple preserve area interfaces shall be created. Within the preserve area interface the use of plant materials shall be restricted to native species.

The following preserve area interface criteria shall be documented and met for all development sites where preservation areas are identified and where preserve areas have been identified adjacent to a development site:

1. *Stormwater management systems.* Plantings within dry retention and detention stormwater areas abutting preserve areas shall be restricted to native trees, native shrubs and native groundcovers. Wet retention and detention stormwater areas abutting preserve areas shall be designed and planted as littoral and upland transition zone areas (preserve area interface) and connected to preserve areas pursuant to Article 4, Division 8, LDR, MCC.

2. *Perimeter landscaping.* Plantings within perimeter vehicular use landscape areas abutting preserve areas shall be restricted to native trees, native shrubs and native groundcovers pursuant to quantity, size and dimension requirements of section 4.663.A.4., LDR, MCC.

Where an applicant demonstrates that connection of stormwater management systems to a preserve area interface is impractical due to requirements in Article 4, Division 9 or other documentation as approved by the Growth Management Department Director, alternative compliance to this section may be provided. At a minimum, the stormwater management systems will be required to be planted exclusively with native plant material, as described above.

(Ord. No. 601, pt. 1, § 4.15.3, 10-2-2001; Ord. No. 617, pt. 3, § 4.15.3, 7-9-2002; Ord. No. 794, pt. 1, 3-18-2008; Ord. No. 930, pt. 2, 6-11-2013; Ord. No. 954, pt. II, 5-20-2014)

Sec. 4.664. Landscape material standards.

4.664.A. *Quality and species.* The following shall be considered minimum standards for all landscape materials:

1. Plant and landscape materials used to satisfy the requirements of this division (Article 4, Division 15) shall meet or exceed the standards for Florida No. 1, as given in the latest edition of Grades and Standards for Nursery Plants, parts I and II, as prepared by the Florida Department of Agriculture and Consumer Services.

2. Trees and plants used in a landscape design pursuant to this section 4.664 shall be cold-tolerant; drought-tolerant; or appropriate for the environmental setting in which they are to be planted. They must be hardy, sustainable, commercially available; and be otherwise consistent with the purpose and intent of this section. At least 50 percent of all required landscaping, by category in the form of trees, shrubs and ground cover plants, other than grass, shall consist of native vegetation. The Xeriscape Plant Guide by the South Florida Water Management District, or if available County or regional lists as amended may be used to determine appropriate native vegetation. To qualify as native vegetation, plant material shall be native, noninvasive and designated as hardy or very hardy.

3. *Prohibited species.*

   a. The following species shall not be planted. Where such species already exist, their removal shall be a condition of development approval.

      (1) Melaleuca (Melaleuca spp).

      (2) Brazilian pepper (Schinus terebinthifolius).

      (3) Australian pine (Casuarina).

      (4) Ficus trees, when located less than 50 feet from a public street right-of-way, street pavement, utility easement or septic tank drainfield.

      (5) Carrotwood (Cupaniopsis anacardioides).

      (6) Catclaw mimosa (Mimosa pigra).

      (7) Earleaf acacia (Acacia auriculaefornis).

      (8) Eucalyptus species (except Eucalyptus torelliana, Eucalyptus camaldulensis and Eucalyptus cinerea).

      (9) Silk oak (Grevillea robusta).

   b. The Board of County Commissioners has established by resolution an additional list of species which shall not be planted except for sterile hybrids and cultivars. The removal of such species shall be a condition of approval for all new development. Where additions or revisions to existing final site plans are proposed, such species shall be removed to the degree feasible as determined by the approving entity:

Abrus precatorius	Rosary pea
Acacia auriculiformis	Earleaf acacia
Adenanthera pavonina	Red sandalwood
Agave sisalana	Sisal hemp
Albizia julibrissin	Mimosa, silktree
Albizia lebbeck	Woman's tongue
Aleurites fordii	Tung oil tree

Alstonia macrophylla	Devil-tree
Alternanthera philoxeroides	Alligator weed
Anredera leptostachys	Madeira vine
Ardisia crenata (A. crenulata)	Coral ardisia
Ardisia elliptica (A. humilis)	Shoebutton ardisia
Aristolochia littoralis	Calico flower
Bauhinia variegata	Orchid tree
Bischofia javanica	Bischofia
Broussonetia papyrifera	Paper mulberry
Callisia fragrans	Inch plant
Casuarina cunninghamiana	Australian pine
Casuarina equisetifolia	Australian pine
Casuarina glauca	Suckering Australian pine
Cereus undatus	Night-blooming cereus
Cestrum diurnum	Day jessamine
Cinnamomum camphora	Camphor tree
Colocasia esculenta	Wild taro
Colubrina asiatica	Lather leaf
Cupaniopsis anacardioides	Carrotwood

Dalbergia sissoo	Indian rosewood
Dioscorea alata	Winged yam
Dioscorea bulbifera	Air-potato
Eichhornia crassipes	Water hyacinth
Enterolobium contortisiliquum	Ear-pod tree
Ficus microcarpa (F. nitida and F. retusa var. nitida misapplied)	Laurel fig
Flacourtia indica	Governors plum
Flueggea virosa	Chinese waterberry
Hiptage benghalensis	Hiptage
Hydrilla verticillata	Hydrilla
Hygrophila polysperma	Green hygro
Hymenachne amplexicaulis	West Indian marshgrass
Imperata cylindrica (l. brasiliensis misapplied)	Cogon grass
Ipomoea aquatica	Waterspinach
Jasminum dichotomum	Gold coast jasmine
Jasminum fluminense	Brazilian jasmine
Lantana camara	Lantana, shrub verbena
Leucaena leucocephala	Lead tree
Ligustrum lucidum	Glossy privet

Ligustrum sinense	Chinese privet, hedge privet
Lonicera japonica	Japanese honeysuckle
Lygodium japonicum	Japanese climbing fern
Lygodium microphyllum	Old World climbing fern
Macfadyena unguis-cati	Cat's claw vine
Manilkara zapota	Sapodilla
Melaleuca quinquenervia	Melaleuca, paper bark
Melia azedarach	Chinaberry
Melinis minutiflora	Molasses grass
Merremia tuberosa	Wood rose
Mimosa pigra	Catclaw mimosa
Myriophyllum spicatum	Eurasian watermilfoil
Nandina domestica	Nandina, heavenly bamboo
Nephrolepis cordifolia	Sword fern
Nephrolepis multiflora	Asian sword fern
Neyraudia reynaudiana	Burma reed; cane grass
Ochrosia parviflora	Kopsia
Oeceooclades maculata	Lawn orchid
Paederia cruddasiana	Sewer vine, onion vine

Paederia foetida	Skunk vine
Panicum repens	Torpedo grass
Passiflora foetida	Stinking passion vine
Pennisetum purpureum	Napier grass
Pistia stratiotes	Water lettuce
Psidium cattleianum (P. littorale)	Strawberry guava
Psidium guajava	Guava
Pteris vittata	Chinese brake fern
Pueraria montana (P. lobata)	Kudzu
Rhodomyrtus tomentosa	Downy rose-myrtle
Rhoeo spathacea (see Tradescantia spathacea)	
Rhynchelytrum repens	Natal grass
Ricinus communis	Castor bean
Ruellia brittoniana	Mexican petunia
Sapium sebiferum	Popcorn tree, Chinese tallow tree
Scaevola sericea (Scaevola taccada var. sericea, S.frutescens)	Scaevola, half-flower, beach naupaka
Schefflera actinophylla (Brassaia actinophylla)	Schefflera, Queensland umbrella tree
Schinus terebinthifolius	Brazilian pepper
Senna pendula (Cassia coluteoides)	Climbing cassia, Christmas cassia, Christmas

	senna
Sesbania punicea	Purple sesban
Solanum tampicense (S. houstonii)	Wetland night shade, aquatic soda apple
Solanum diphyllum	Two-leaf nightshade
Solanum jamaicense	Jamaica nightshade
Solanum viarum	Tropical soda apple
Syngonium podophyllum	Arrowhead vine
Syzygium cumini	Jambolan, java plum
Syzygium jambos	Rose apple
Tectaria incisa	Incised halberd fern
Terminalia catappa	Tropical almond
Thespesia populnea	Seaside mahoe
Tradescantia fluminensis	White-flowered wandering jew
Tradescantia spathacea (Rhoeo spathacea, Rhoeo discolor)	Oyster plant
Thespesia populnea	Seaside mahoe
Tribulus cistoides	Burrnut
Triphasia trifolia	Lime berry
Urena lobata	Caesars weed
Urochloa mutica (Brachiaria mutica)	Para grass

4.664.B. *Trees.*

1. At the time of planting, all required trees shall have a minimum height of ten feet and one defined vertical stem with a minimum diameter of two inches caliper at the time of planting, except that whenever three or fewer trees are required to be planted on site, such trees shall have a minimum height of 12 feet, a minimum crown spread of six feet and a minimum DBH of three inches.

   a. Planted trees must be a species with an average mature crown spread of at least 15 feet, or they must be grouped so as to create a crown spread of 15 feet.

   b. Tree species and placement shall be selected so as to minimize conflicts with existing or proposed utilities. As set forth below no tree shall be planted where it could, at mature height, conflict with overhead power lines.

      (1) Large trees (height at maturity of more than 30 feet) shall be planted no closer than a horizontal distance of 30 feet from the nearest overhead power line.

      (2) Medium height trees (height at maturity between 20 and 30 feet) shall be offset at least 20 feet and small trees (height at maturity of less than 20 feet) require no offset.

      (3) No tree, shrubs, hedges or vines shall be planted within five feet of any existing or proposed utility pole, guy wire or pad mounted transformer.

      (4) Palms should be planted at a distance equal to or greater than the average frond length plus two feet from power lines.

   c. The Growth Management Director may grant an exception to the size requirement if:

      (1) Species considerations and availability of stock restrict the tree size requirement, then two six-foot to eight-foot trees will be used as the standard; and

      (2) The habitat in question normally includes native trees of smaller size (for example: wetlands, dunes and mangrove areas).

2. At least 75 percent of all trees planted to satisfy the requirements of this section shall be native species.

   a. All trees required within vehicular use areas shall be shade trees.

   b. Not more than 30 percent of all required trees shall be palms. Where used, two palms or three sabal palms shall constitute one required tree.

   c. When more than ten trees are required to be planted to meet the requirements of this section 4.664, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. The minimum number of species to be planted is indicated in the following table. Species shall be planted in proportion to the required mix. This species mix standard shall not apply to areas of vegetation required to be preserved by law.

Required Tree Species Mix	
Number of Trees Required	Minimum Number of Species

1—20	2
21—30	3
31—40	4
41+	5

3. The following species may be planted but they shall not be used to satisfy the tree requirements of this section 4.664 unless height restrictions such as proximity to overhead utilities warrant their use as approved by the Growth Management Director.

   a. Crape myrtle (*Lagerstroemia indica*).

   b. Wax myrtle (*Myrica cerifera*).

   c. Japanese privet (*Ligustrum japonicum*).

   d. Sweet acacia (*Acacia farnesiana*).

   e. Annatto (*Bixa orellana*).

   f. Black calabash (*Enallagma latifolia*).

   g. Jaboticaba (*Myrciaria cauliflora*).

   h. Marlberry (*Ardisia escallonioides*).

   i. Areca palm (*Chrysalidocarpus lutescens*).

   j. Paurotis palm (*Acoelorrhaphe wrightii*).

   k. Seagrape (*Coccoloba uvifera*).

   l. Spineless yucca (*Yucca elephantipes*).

4.664.C. *Hedges and shrubs.* The hedges and shrubs required by this section 4.664 shall consist of at least 75 percent native species and shall meet the following criteria except where a greater requirement is otherwise specified:

1. Shrubs shall be a minimum height of 24 inches at the time of planting. In addition, shrubs shall at a minimum be in a three-gallon container or be an equivalent ball and burlapped plant. All such plants shall meet the Florida No. 1 requirements, per species, as described in the latest version of the Florida Department of Agriculture and Consumer Services "Nursery Grades and Standards."

2. Shrubs with 15 to 23 inches of spread shall be planted on three-foot centers; shrubs with greater than 23 inches of spread shall be planted on five-foot centers. In no event shall spacing exceed five feet on center, nor shall plants be closer than two feet to the edge of any pavement.

4.664.D. *Vines.* Vines which have a minimum of three runners 30 inches in length may be used in conjunction with fences, screens or walls to meet barrier requirements. If vines are used in conjunction with fences, screens or walls, their runners shall be attached in a way that encourages proper growth.

4.664.E. *Ground treatment.* The ground area within required landscaped areas which is not dedicated to trees, vegetation or landscape barriers shall be appropriately landscaped and present a finished appearance and reasonably complete coverage upon planting. The following standards shall guide the design of ground treatment:

1. Ground covers shall be spaced so as to present a finished appearance and complete coverage within six months after planting. Ground covers required by this division shall consist of at least 50 percent native species.
2. Organic mulch shall be temporarily applied to areas not immediately covered by ground cover. Mulch may be used as a permanent ground treatment in landscape designs where ground cover or grass is inappropriate. Where mulch is permanently installed, it shall be renewed and maintained as required. Cypress mulch is prohibited.
3. Inorganic mulch materials such as rock, pebbles and sand, or other inorganic materials such as walls or paving blocks, may be used in combination with organic mulch materials to satisfy the requirements of this section 4.664. Other recycled materials as approved by the Growth Management Director may also be used to satisfy the requirements of this division. Artificial plants shall not be used to meet any of the requirements of this division.
4. The use of drought-tolerant grasses is preferred over traditional turf grass varieties. Grass areas may be sodded, plugged, sprigged or seeded, provided that solid sod shall be used in swales, rights-of-ways or other areas subject to erosion. In areas where grass seed is used, nursegrass seed shall also be sown for immediate effect, and maintenance shall be provided until coverage is completed.
5. Irrigated turfgrass areas shall be consolidated and limited to those areas on the site that receive pedestrian traffic, provide for recreation use, provide cover for on-site sewage disposal systems, or provide soil erosion control such as on slopes or in swales; and where turfgrass is used as a design unifier or other similar practical use. Turf areas shall be quantified and identified on the landscape plan.

4.664.F. *Tree preservation credits.* A preserved cold-tolerant and drought-tolerant tree that meets the standards below may be substituted for any of the trees required by the landscaping requirements of this section.

1. Preserved cold-tolerant and drought-tolerant trees shall be credited for required trees, pursuant to the following formula.

DBH of Preserved Tree	*Credits*
31—36	8
25—30	5
19—24	4
13—18	3
7—12	2

2—6	1

2. No credit shall be granted for trees which are:
   a. Classified as prohibited;
   b. Located within recreational tracts, golf courses or similar subareas within planned unit developments;
   c. Located within required preservation areas;
   d. Dead, dying, diseased or insect-infested;
   e. Damaged from skinning, barking or bumping; or
   f. Suppressed trees which have been overtopped and whose crown development is restricted from above due to their relative size in relation to surrounding trees.

(Ord. No. 601, pt. 1, § 4.15.4, 10-2-2001; Ord. No. 794, pt. 1, 3-18-2008; Ord. No. 930, pt. 2, 6-11-2013)

Sec. 4.665. Maintenance of required landscaping.

4.665.A. *Protection of required landscaping.* Encroachment into required bufferyards and landscaped areas by vehicles, boats, mobile homes or trailers shall not be permitted, and the following protection measures shall be required.

1. Required landscaped areas shall not be used for the storage or sale of materials or products or the parking of vehicles and equipment.
2. Wheel stops or curbs of not more than six inches in height and width shall be placed at least two feet from the edge of a required landscaped area. Where a stop or curb is used, the area between it and the end of the space may be landscaped.
3. During periods of development and construction, the areas within the drip-line of preserved trees shall be maintained at their original grade with pervious landscape material. Within these areas, there shall be:
   a. No trenching or cutting of roots;
   b. No fill, compaction or removal of soil; and
   c. No use of concrete, paint, chemicals or other foreign substances.
4. Barriers in compliance with the preserve area management plan shall be provided around all preserved trees during construction.
5. All existing trees and native vegetation not located in areas requiring their removal shall be retained in their undisturbed state.

4.665.B. *Installation and maintenance.* All property owners shall be responsible for properly installing and maintaining required landscaping so as to at all times present a healthy, neat and orderly appearance, free of refuse and debris.

1. All landscaping shall be installed according to sound nursery practices in a manner designed to encourage vigorous growth. Soil improvement measures may be required to ensure healthy

plant growth. A plant's or tree's growth characteristics shall be considered before planting to prevent conflicts with utilities, views or signs.

2. If vegetation which is required to be planted or preserved by this division dies it shall be replaced with equivalent vegetation. All trees for which credit was awarded and which subsequently die, shall be replaced by the requisite number of living trees according to the standards established in this division.

3. Prior to the issuance of a certificate of occupancy, security shall be required for 50 percent of the supply and installation cost of the landscape materials to ensure adequate maintenance and survivability of vegetative materials. The applicant shall warrant and guarantee a survival rate of 100 percent for all required landscape materials for a period of 24 months following the certification of installation by the landscape architect. Such securities shall be released upon inspection and approval by the Growth Management Department that the provisions of this section have been met.

4. The property owner, or successors in interest, or agent, if any, shall be jointly and severally responsible for the following:

   a. Regular maintenance of all landscaping to be kept alive and in good condition and in a way that presents a healthy, neat, and orderly appearance. All landscaping shall be maintained free from disease, pests, weeds and litter. Maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, as needed and in accordance with acceptable horticultural practices.

   b. Repair or replacement of required walls, fences or structures to a structurally sound condition.

   c. Regular maintenance, repair or replacement, where necessary, of any screening or buffering required by this division.

   d. Perpetual maintenance to prohibit the reestablishment of invasive exotic species within landscaping and preservation areas.

5. Pruning of trees shall be permitted to allow for healthy uniform growth and to promote structural, aesthetic and safety considerations. All permitted pruning shall be conducted in accordance with the latest standards of the National Arborist Association. Hat-racking is prohibited.

6. Landscaping shall be permitted in easements only with the written permission of the easement holder. Written permission shall specify the party responsible for replacing disturbed landscape areas and shall be submitted to the County in a form acceptable to the County Attorney. Written permission to plant within easements shall be filed with the land records applicable to the site.

(Ord. No. 601, pt. 1, § 4.15.5, 10-2-2001; Ord. No. 794, pt. 1, 3-18-2008; Ord. No. 930, pt. 2, 6-11-2013)

Sec. 4.666. Tree protection.

4.666.A. *Protected trees.* The following native trees are protected and shall not be removed or damaged without the approval specified below.

1. Any hardwood native tree having a diameter of eight inches DBH or greater.

2. Any native hardwood tree four-inch DBH or greater or any native softwood, including pine trees, eight-inch DBH or greater which is located in the perimeter area of any development site.

3. Any tree within a canopy road tree protection zone, except prohibited trees.

4.666.B. *Location of protected trees.* All protected trees which may be impacted within 75 percent of their canopy drip-lines by proposed development activities shall be physically located on site and indicated on the tree survey as required in section 4.662.A.7., Barricades must be constructed around the critical protection zone of each tree or cluster of trees. These barricades must be constructed of a minimum of one-fourth-inch diameter rope which is yellow or orange in color and made of nylon or poly. The rope is to be attached to a minimum of two × two wooden poles, iron rebar, two inches or greater PVC pipe or other material with prior approval of the Growth Management Department. The rope must be a minimum of four feet off the ground and may not be attached to any vegetation. All barricades must be maintained intact for the duration of construction. The location of proposed development activities that are within 15 feet of the critical protection zone of a protected tree must be located using brightly colored flagging to indicate corners.

4.666.C. *Criteria for protected tree removal.* Approval for the removal of a protected tree may be granted if the applicant demonstrates the presence of one or more of the following conditions:

1. Necessity to remove a tree which poses a safety hazard to pedestrians or other persons, buildings or other property, or vehicular traffic, or which threatens to cause disruption of public services.
2. Necessity to remove a diseased or pest-infested tree to prevent the spread of the disease or pest.
3. Necessity to reduce competition between trees or to remove exotic species and replace them with native species.
4. Tree removal which is essential for reasonable and permissible use of property, or necessary for construction of essential improvements, resulting from:
   a. Need for access immediately around the proposed structure for essential construction equipment, limited to a maximum width of 20 feet from the structure.
   b. Limited access to the building site essential for reasonable use of construction equipment.
   c. Essential grade changes needed to implement safety standards common to standard engineering or architectural practices, and reference to a text where such standards are found shall be required.
   d. Location of driveways, buildings or other permanent improvements where there is no other alternative or to provide access.
   e. Compliance with other ordinances or codes such as building, zoning, subdivision regulations, health provisions, and other environmental ordinances where there is no alternate way to achieve these goals.

4.666.D. *Tree replanting requirements.*

1. As a condition of the issuance of a permit for removal of a protected tree, a satisfactory plan shall be presented by the applicant for the successful replacement of trees to be removed, based on the following schedule:

		Minimum Size Replacement Tree	
Diameter (DBH) Tree Removed (inches)	Minimum Replacement Tree Credits	Height (feet)	Diameter (caliper) (inches)

over 60	30	14—16	4
49—60	24	14—16	4
43—48	24	12—14	3
37—42	14	12—14	3
31—36	8	12—14	3
25—30	6	10—12	2
19—24	5	10—12	2
13—18	4	8—10	2
7—12	3	8—10	2
4—6	2	8—10	2

a. If protected trees are removed without a permit or otherwise in violation of this regulation, the number of required replacement tree credits in the schedule shall be doubled.

b. Trees preserved on site for reforestation requirements shall be given credit on an inch-for-inch basis to be applied to the tree replanting schedule, e.g., a six-inch preserved tree may be given credit as one four-inch tree plus one two-inch tree, or two three-inch trees.

c. In order to promote planting of larger size replacement trees, the number of two-inch diameter tree credits that must be replanted, as determined by the table above, may be reduced when replanted trees are of a larger size than two-inch DBH, according to the following table:

Diameter (caliper) of Tree Replanted	Number of Tree Credits
for each 3-inch tree	2 tree credits
for each 4-inch tree	3 tree credits
for each 5-inch tree	5 tree credits

for each 6-inch tree	7 tree credits

2. If the total number of trees to be replanted based on the tree replanting schedule in (D.1.) above exceeds that which may be reasonably planted on the development site, the applicant may enter into an agreement with the County, as approved by the Growth Management Director, to plant the excess trees on an approved public site or to provide the monetary equivalent to the County for use in public landscaping projects.

3. If any tree for which credit was given under this division is not alive and growing three years after all associated development activity on the property is completed, it shall be removed and replaced with trees of at least the size which originally would have been required to be planted if such credit had not been allowed.

4.666.E. *Protection minimum for protected trees.* The development activity shall preserve at least ten percent of the total number of protected trees on the site unless it can be shown that the property would be precluded of reasonable use if the trees are not removed.

(Ord. No. 601, pt. 1, § 4.15.6, 10-2-2001; Ord. No. 930, pt. 2, 6-11-2013)

Cross reference— Wetlands protection, § 4.1 et seq.; uplands protection, § 4.31 et seq.; mangrove protection, § 4.71 et seq.

Sec. 4.667. Alternative compliance.

An applicant may submit a landscape plan which varies from the strict application of the requirements of this division in order to accommodate unique site features or utilize innovative design. An alternative compliance landscape plan shall be approved only upon a finding that it fulfills the purpose and intent of this division as well as or more effectively than would adherence to the strict requirements of this division.

4.667.A. *Evaluation.* The applicant must provide documentation to justify a landscape plan not meeting the minimum standards of this division. Such documentation shall include a quantitative analysis of areas not meeting minimum standards or dimensions, required vs. provided dimensions, and materials not meeting minimum Code requirements.

In evaluating proposed alternative compliance landscape plans, considerations shall be given to proposals which preserve native vegetation and use drought-tolerant plantings and other low water use landscape design principles and where the design may accomplish one or more of the following:

1. Ensures preservation of the maximum predevelopment vegetation on the site.

2. Is designed to assure that the overall appearance and function of the proposed project is compatible with other properties in the immediate area; is demonstrably responsive to the environmental attributes of soil, slope, hydrology, and vegetative communities unique to the site; is consistent with sound planning and site design principles, and contingent upon:

   a. Structures and other improvements are designed as to utilize existing site characteristics of topography, existing vegetative communities, and any unique environmental feature.

b. Conflicts between vehicular and pedestrian circulation are avoided.

c. Planting plans indicate a diversity of plant species in the categories of ground covers, shrubs, and trees.

d. Integration of proposed and existing vegetation is demonstrated in the plans with an emphasis on maintaining native community buffers and corridors, preserving or restoring forest community types, and providing for the natural ecological function of each type by using such techniques as preserving a diversity of upperstory, midstory, and understory.

e. Plant schedules contain botanical and common names, sizes of materials by dimension and containerize, location by dimension, and notation describing species diversity.

f. Planting specifications and species selected for the site are suitable for individual site environmental characteristics of soil slope, aspect, wetness and microclimate.

g. Plans indicate compatibility with adjacent site environmental features.

3. Implements a EcoArt element as approved by the Growth Management Department Director.

4. Provides foundation landscaping, comprised entirely of native vegetation around principle structures with educational signage identifying native plant species.

(Ord. No. 601, pt. 1, § 4.15.7, 10-2-2001; Ord. No. 930, pt. 2, 6-11-2013)

Sec. 4.668. Certification of compliance.

Prior to the issuance of a certificate of occupancy the owner shall provide to the Growth Management Department a certificate of completion prepared by a landscape architect licensed by the State of Florida demonstrating compliance with the provisions of this division. The certificate shall specifically include reference to the landscaping area, installation of materials, automatic irrigation system and an audit of percent irrigated area. If an irrigation system is installed and an irrigation plan was not provided for approval with the approved landscape plan, an irrigation plan shall be provided and certified by the landscape architect or licensed plumbing contractor or licensed irrigation sprinkling contractor as in compliance with the criteria in section 4.662.B. The irrigation plan shall also include the irrigation permit number, as issued by the Building Department, for the construction of the irrigation system. The following certification statement must appear on the certification report:

I hereby notify the County of the completion of the installation of landscaping for the above referenced project and certify that the installation of vegetative materials, the automatic irrigation system and the positioning of the irrigated area as depicted on the site plan is in substantial conformance with Article 4, Division 15, Land Development Regulations, Martin County Code, and the plans and specifications permitted by the County . A copy of the approved project drawings is attached with deviations, if applicable.) I hereby fix my seal this day of ;daterule;, 20 _____ .

_____

Signature and Seal

_____

Date

_____

Name (Please Print)

FL Registration No.

(Ord. No. 601, pt. 1, § 4.15.8, 10-2-2001; Ord. No. 930, pt. 2, 6-11-2013)

Secs. 4.669—4.690. Reserved.

DIVISION 16. SIGNS

SUBDIVISION 1. - GENERAL PROVISIONS

SUBDIVISION 2. - PALM CITY OVERLAY SIGN DISTRICT

SUBDIVISION 1. GENERAL PROVISIONS

Sec. 4.691. Title.

This division shall be known as the "Martin County Sign Ordinance."

(Code 1974, § 33-722; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.692. Purpose and intent.

The purpose and intent of this division is to regulate the use of signs so that they are compatible with their surroundings, to promote the aesthetic character of the County, to preserve the natural appearance of the County, to promote tourism, to promote traffic safety, to maintain property values, to express the identity of individual proprietors and of the community as a whole, and to regulate signs so that they are legible in the circumstances in which they are seen and constructed to standards which promote the safety, health and general welfare of the public.

(Code 1974, § 33-723; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.693. Unlawful signs.

It shall be unlawful to erect, display or maintain any sign that does not comply with the standards and regulations hereinafter set forth.

(Code 1974, § 33-724; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.694. Definitions.

Advertising sign: A sign directing attention to a business, commodity, service, or entertainment conducted, sold, or offered.

Animated sign: A sign which involves motion or rotation of any part by any means or is illuminated by flashing, intermittent or color changing light or lighting.

Banner: Any sign having the character, letters, illustrations or ornamentations applied to cloth, paper, balloons or fabrics of any kind with only such material for a foundation.

Billboard: Any framework for a sign advertising merchandise, service or entertainment sold, produced, manufactured or furnished at a place other than the location of such structure.

County: The unincorporated area of Martin County.

District: "District" shall mean zoning district.

Existing grade: That level of land upon which the sign structure is constructed. No grade may be altered to create a condition that will add to the overall height of the sign.

Freestanding sign: A sign which is supported by an upright, or uprights, or braces in or upon the ground.

Ground-mounted sign: See *Freestanding sign* .

Illuminated sign: A sign which receives light from an internal or an external source to make the message readable.

Immoral sign: Defined as that quality of any description of representation, in whatever form, of nudity, sexual conduct, or sexual excitement, when it:

1. Predominately appeals to the prurient, shameful, or morbid interest of minors in sex; and
2. Is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable sexual material for minors; and
3. Taken as a whole, lacks serious literary, artistic, political, or scientific value.

Off-premises sign: See *Billboard* .

Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in a series designed to move in the wind.

Point of purchase sign: A sign advertising merchandise, services, or entertainment sold, produced, manufactured or furnished at the place where such sign is located.

Political signs: Temporary signs supporting candidates for office or urging action on any other matter on the ballot of primary, general and special elections.

Portable sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to "A" or "T" frames; menu and sandwich board signs; balloons or helium- or air-filled material or plastic devices used as signs or advertising; umbrellas used for advertising; signs attached to or painted on vehicles and visible from the public right-of-way, unless said vehicle is used with such sign in the normal day-to-day operations of the business; and pole flags of plastic or other lightweight material whether or not containing a message of any kind.

Projecting sign: A sign projecting at an angle from the outside wall or walls of any building.

Roof sign: A sign located wholly upon or over the roof of any building.

Sign: Any identification, description, illustration or device, illuminated or nonilluminated, which is visible by the public and which directs attention to a product, place, activity, person, institution, business or solicitation.

Snipe sign: Any sign, generally of a temporary nature, made of any material when such a sign is tacked, nailed, posted, pasted, glued, or otherwise attached to a tree, pole, stake or fence or to any other objects.

Wall sign: Any sign mounted parallel to the face of a structure or wall.

Window sign: Any sign mounted inside a window for display to the public passersby outside the window.

(Code 1974, § 33-725; Ord. No. 446, pt. 1, 9-13-1994)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.695. Prohibited signs.

The following signs shall not be erected, placed or maintained and are prohibited:

4.695.A. Signs, other than governmental signs of a public nature, erected, placed or maintained on or over any public property, and/or rights-of-way, except for such signs as the County Commission may itself allow for the general benefit of the County as a whole or for the public convenience, necessity or welfare.

4.695.B. Billboards or off-premises signs on Hutchinson Island.

4.695.C. Specifically the following signs are expressly prohibited:

1. Signs that are in violation of the building code or electrical code adopted by the city/County.
2. Any sign that, in the opinion of the Building and Zoning Director, does or will constitute a safety hazard.
3. Blank temporary signs.

4. Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for traditional barber poles.

5. Signs with the optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or changing of copy.

6. Signs with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary in intensity or color except for time-temperature-date signs.

7. Strings of light bulbs used on commercially developed parcels for commercial purposes, other than traditional holiday decorations.

8. Signs, commonly referred to as wind signs, consisting of one or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind.

9. Signs that incorporate projected images, emit any sound that is intended to attract attention, or involve the use of live animals.

10. Signs that emit audible sound, odor, or visible matter such as smoke or steam.

11. Signs or sign structures that interfere in any way with free use of any fire escape, emergency exit, or standpipe, or that obstruct any window to such an extent that light or ventilation is reduced to a point below that required by any provision of this Code or other ordinance of the County.

12. Signs that resemble any official sign or marker erected by any governmental agency, or that, by reason of position, shape or color, would conflict with the proper functioning of any traffic sign or signal, or be of a size, location, movement, content, color, or illumination that may be reasonably confused with or construed as, or conceal, a traffic control device.

13. Signs that obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering public streets.

14. Nongovernmental signs that use the words "stop," "look," "danger," or any similar word, phrase, or symbol.

15. Signs, within ten feet of public rights-of-way or 100 feet of traffic control lights, that contain red or green lights that might be confused with traffic control lights.

16. Signs that are of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist, or pedestrian using or entering a public way, or that are a hazard or a nuisance to occupants of any property because of glare or other characteristics.

17. Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television or other communication signals.

18. Searchlights used to advertise or promote a business or to attract customers to a property.

19. Signs that are painted, pasted, or printed on any curbstone, flagstone, pavement, or any portion of any sidewalk or street, except house numbers and traffic control signs.

20. Signs placed upon benches, bus shelters or waste receptacles.

21. Signs erected over or across any public street except as may otherwise be expressly authorized by this division, and except governmental signs erected by or on the order of a public officer.

22. Vehicle signs with a total sign area on any vehicle in excess of ten square feet, when the vehicle:

a. Is parked for more than 60 consecutive minutes within 100 feet of any street right-of-way;

b. Is visible from the street right-of-way that the vehicle is within 100 feet of; and

c. Is not regularly used in the conduct of the business advertised on the vehicle. A vehicle used primarily for advertising, or for the purpose of providing transportation for owners or employees of the occupancy advertised on the vehicle, shall not be considered a vehicle used in the conduct of the business.

23. Immoral signs.

24. Portable signs as defined by this division.

25. Signs on a tower except "no trespassing" signs and identification signs.

(Code 1974, § 33-726; Ord. No. 446, pt. 1, 9-13-1994; Ord. No. 546, pt. 2, 3-25-1999)

Sec. 4.696. Exempt signs.

The following signs are exempt from the operation of these sign regulations, and from the requirement in this division that a permit be obtained for the erection of permanent signs, provided that such signs are not placed or constructed so as to create a hazard of any kind. It shall be the responsibility of the property owners to ensure that any of the following exempt signs placed on their property are erected and maintained in accordance with such hurricane protection measures as may be in effect.

4.696.A. Trespassing, safety or caution signs, provided that such signs are:

1. Nonilluminated.

2. Not over four square feet in overall area.

3. No greater than four feet in overall height.

4.696.B. Signs bearing only property numbers, street addresses, telephone numbers, post box numbers or names of occupants of the premises, including professional nameplates, provided that such signs are:

1. Not over four square feet in area; and

2. Limited to one per street frontage, per housing unit, or per business.

4.696.C. Governmental flags and insignias, except when displayed in connection with commercial promotion.

4.696.D. Legal notices of 16 square feet or less, either publicly or privately owned, directing and guiding traffic and parking, in accordance with the standards for internal traffic control signs as recommended by the Manual on Uniform Traffic Control Devices (MUTCD) but bearing no advertising matter (example: parking, entrance, exit, service, etc.).

4.696.E. Temporary real estate signs on properties where an owner is actively attempting to sell such property, either personally or through an agent, provided that such signs are:

1. Nonilluminated;

2. Not over six square feet in area;

3. No greater than four feet in overall height; and

4. No closer than 15 feet to any side or rear property line.

4.696.F. Christmas and other holiday displays, except as specifically prohibited herein.

4.696.G. Bulletin boards for public, charitable or religious institutions, provided that such signs are:

1. Located on the premises of the institution;
2. Not over 16 square feet in area;
3. No greater than six feet in overall height; and
4. No closer than 15 feet to any side or rear property line.

4.696.H. Temporary signs denoting a project or subdivision name, the architect, the engineer, the contractor or subcontractor on the premises where construction work is underway or is to take place within 180 days, provided that such signs are:

1. Nonilluminated;
2. Not over 16 square feet in area;
3. No greater than six feet in overall height;
4. No closer than 15 feet to any property line; and
5. Limited to one per street frontage per construction site.

4.696.I. Memorial signs or tablets.

4.696.J. Names of buildings and dates of erection.

4.696.K. Window signs.

4.696.L. Signs inside a building and not visible from a public street.

4.696.M. Air towed banners.

4.696.N. Umbrellas containing advertising when used in conjunction with an approved food or beverage establishment or when used to denote products or services not available for sale or consumption on-site.

4.696.O. Any sign required by any governmental regulation as a public notice.

4.696.P. Ornamental flags devoid of any lettering with a maximum size of five feet by five feet. One such flag shall be allowed per parcel of property. In the event there are multiple parcels of property under the same ownership, only one such flag shall be permitted on continuous parcels of property under the same ownership.

4.696.Q. Banners used in conjunction with civic events, not-for-profit fundraisers, church or charity functions shall be allowed with the following conditions:

1. Over-the-road banners must be approved by the Traffic Engineer.
2. Banners may be erected 14 days prior to the commencement of the event being promoted.
3. Banners must be removed three days after the conclusion of the event.
4. Banners must be secured in a manner so as to prevent a hazard to either vehicular or pedestrian traffic.
5. Banners shall be limited in size to three feet by 50 feet.

(Code 1974, § 33-727; Ord. No. 446, pt. 1, 9-13-1994; Ord. No. 470, pt. 1, 7-25-1995)

Sec. 4.697. Temporary signs.

The following temporary signs shall be permitted in accordance with the building code construction standards provided that the applicable provisions of this section are met:

4.697.A. Subdivision and on-site development signs identifying where an approved active building and on-site development program is underway, provided that such signs are:

1. Nonilluminated;
2. Ground mounted;
3. Erected no more than 180 days prior to the beginning of actual construction;
4. Removed if construction is not initiated within 180 days after the sign is erected or within 60 days of cessation of construction if construction is not continuously and actively prosecuted to completion or when construction is completed and a final certificate of occupancy has been issued;
5. No larger than 100 square feet in area per sign face and no more than 18 feet in overall height;
6. Limited to one sign per street frontage abutting the development;
7. No closer than 15 feet to any property line.
8. Signs approved in PUD projects are additionally subject to any conditions specified in the PUD agreement.

4.697.B. Promotional, special event, grand opening and seasonal sales signs, provided that such signs are:

1. Limited to commercial and industrial use areas;
2. Ground or wall mounted;
3. Not over 40 square feet in area;
4. No closer than 15 feet to any property line;
5. Securely fastened or attached to the ground or wall to assure safety;
6. Erected in such a way that they do not interfere with vehicular or pedestrian traffic;
7. Permitted on the basis of not more than one such permit in any given six-month period;
8. Permitted for a period not to exceed 60 days for seasonal sales (such as Christmas tree sales) or for a period not to exceed 30 days for promotional sales;
9. Removed upon the expiration of the use permit for the use or event for which they are granted; and
10. Limited to one per each 500 feet of street on which the activity has frontage.

4.697.C. Temporary for sale real estate signs greater than six square feet on properties where an owner is actively attempting to sell such property, either personally or through an agent, provided such signs are:

1. Located on industrial, commercial or agricultural property;
2. Limited to ten feet in height;
3. Limited to one sign per site;
4. Nonilluminated;

5. No closer than 15 feet to any property line;

6. A maximum of 32 square feet.

4.697.D. Any legally registered nonprofit corporation may place temporary promotional, special event, and seasonal sales signs, provided that such signs:

1. Are limited to commercially and industrially zoned property;

2. Shall be no more than four square feet per sign face for signs, and 50 square feet for sign face for banners;

3. Are erected no closer than ten feet to any right-of-way;

4. Permitted on the basis of not more than one time every three months;

5. Permitted for a period not to exceed 30 days for special events, promotional sales, and seasonal sales;

6. Removed immediately upon the expiration of the use or event for which they were erected; and

7. Limited to one sign or banner per 100 feet of street frontage.

(Code 1974, § 33-728; Ord. No. 446, pt. 1, 9-13-1994; Ord. No. 614, pt. 1, § 33-728, 5-28-2002)

Sec. 4.698. Permanent on-site development identification signs.

Permanent on-site development identification signs shall be permitted in accordance with building code construction standards provided that the following conditions are met:

4.698.A. Permanent development identification signs exceeding six feet in height shall meet the height and setback requirements in the district in which they are located.

4.698.B. Permanent development identification signs are permitted in any zoning district for the exclusive purpose of identifying residential developments.

4.698.C. Permanent development identification signs shall only identify a County-approved subdivision, development or community.

(Code 1974, § 33-729; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.699. Political signs.

Political signs shall not be erected, placed or maintained within the unincorporated areas of Martin County unless they meet the following criteria:

4.699.A. The candidate or person responsible for political signs shall register with the Growth Management Director prior to the erection of any such signs.

4.699.B. A written agreement must be submitted which states that the candidate is aware of political sign requirements and agrees to abide with such requirements.

4.699.C. It is recommended that no political signs be erected prior to 45 days of any primary, special or general election.

4.699.D. Political signs shall be removed within five days after the election to which the signs pertain, unless such sign continues to be pertinent to an election to be held within 90 days.

4.699.E. All temporary political signs shall be constructed of lightweight material such as plastic, canvas, styroboard or cardboard. Framework and stanchion for political signs shall be limited to wood stock material of 2 × 2 or less. Such signs shall not be considered snipe signs.

4.699.F. No political signs may be located within any right-of-way or on any public property.

4.699.G. Signs located on private property must have the permission of the property owner.

4.699.H. The maximum size of any political sign shall be 16 square feet. Permanent approved billboards rented for use as a political sign shall be exempt from the 16 square feet maximum provision.

4.699.I. All political signs must be erected in such a manner so as not to represent a threat to the health, safety and welfare of the public.

4.699.J. No political signs may be attached to any trees, utility poles or other supports that are not normally used to support such signs.

4.699.K. All illuminated political signs shall comply with Martin County electrical code standards.

4.699.L. The enforcing official may remove any signs which are found to be in violation of any of these requirements.

4.699.M. Section 4.999.C shall not apply to magnetic signs placed on the outside of vehicles.

(Code 1974, § 33-730; Ord. No. 446, pt. 1, 9-13-1994; Ord. No. 701, pt. 1, 5-9-2006)

Sec. 4.700. Point of purchase signs.

The following point of purchase signs shall be permitted in accordance with building code construction standards provided that the applicable provisions of this section are met:

4.700.A. *Location.* Wall signs, projecting signs or freestanding signs are restricted to point of purchase advertising only and are further restricted to the following districts.

1. Commercial;
2. Mixed use districts where the land use is commercial;
3. Industrial; and
4. Planned unit development (PUDs) where permitted in the PUD agreement.

4.700.B. *Wall signs.*

1. The permitted size of wall signs shall be based on a percentage of the wall areas computed by the length times the height in the geometric figures which determine the actual area. The wall length shall be the building, or that portion occupied. The height of the wall for computing purposes shall not exceed 15 feet for one-story structures nor 25 feet for two- or more story structures. One wall shall be the front wall; other walls shall be figured on the basis of one-half of the percent allowable given the front wall.

SIGN AREA TABLE

Square Footage	Percent Allowable
0—500	12.0

500—1,000	11.5
1,000—1,500	11.0
1,500—2,500	10.5
2,500—3,500	10.0
3,500—4,500	9.5
4,500—5,500	9.0

The maximum allowable size of a wall sign shall not exceed 495 square feet.

2. No wall sign shall be mounted at a distance measured perpendicular to said wall greater than 24 inches.

3. No wall sign shall cover wholly or partially any required wall opening.

4.700.C. *Projecting signs.* No projecting sign shall have a sign area exceeding 50 percent of the permitted freestanding sign area and in no case shall it exceed 150 square feet.

4.700.D. *Freestanding signs.*

1. Not more than three freestanding signs shall be permitted on each property line adjacent to a public street.

2. The total sign area of all freestanding signs permitted on any property line adjacent to a public street shall be prorated on the basis of one square foot of sign area for each linear foot of property line adjacent to that public street.

3. No freestanding sign shall exceed 300 square feet in sign area per face.

4. Freestanding signs shall comply with the minimum side and corner yard setbacks of the applicable zoning district.

5. No freestanding sign shall exceed a height of 25 feet from existing grade.

6. All freestanding signs shall be located at least five feet from all buildings.

7. Freestanding signs shall not overhang any required landscape area.

(Code 1974, § 33-731; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.701. Billboards and off-premises signs.

4.701.A. Billboards and off-premises signs shall be permitted in accordance with building code construction standards in the unincorporated areas of Martin County, provided that the following conditions are met:

1. Billboards and off-premises signs shall be allowed only on property zoned general commercial or general industrial.
2. Said signs shall only be allowed on property which has been reviewed and developed in accordance with a commercial site plan.
3. Said signs shall be considered a principal use on the property. Where utility facilities or railroads are in place or are constructed after the date of adoption of this division, those improvements shall be considered the principal use of the property and no further principal uses shall be allowed on the property.
4. Said signs shall not exceed 18 feet in height above unfinished lot grade.
5. Said signs shall not exceed 100 square feet in sign area on any face. There shall not be more than two faces on any sign.
6. Said signs shall not be less than 2,500 feet in any direction from any other billboard or off-premises sign.
7. Said signs shall not be less than 2,500 feet in any direction from any of the following:
    a. Public service district.
    b. Residential districts including a residential PUD.
    c. Mixed use districts where the land use is residential.
    d. Place of worship.
    e. School.
    f. Cemetery.
    g. Road intersection (measured from the centerline).
    h. Railroad crossing (measured from the centerline).
8. Said signs shall comply with the minimum front, rear, side and corner setbacks established in the Land Development Code. Setbacks shall be measured from the outermost limit of any portion of a sign.
9. Said signs shall be completely independent of any building or other structure, excluding the sign structure.
10. Said signs shall not be permitted within 100 feet of a point of purchase sign.
11. The applicant must be in receipt of any required State Department of Transportation permit prior to application to Martin County for a sign permit.

(Code 1974, § 33-732; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.702. Auxiliary signs.

The following auxiliary signs are permitted in association with commercial, industrial or public service activities only:

4.702.A. Time-and-temperature devices: These signs may be freestanding, projecting or wall signs. Those devices with alternating messages shall display each such message for not less than ten seconds.

4.702.B. Changing message devices.

(Code 1974, § 33-733; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.703. Compliance requirements.

4.703.A. Signs prohibited by section 4.695 above shall be removed immediately upon the effective date of this division [January 1, 1995].

4.703.B. The sign or at least the message portion of any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent, or persons having beneficial use of the building, structure, or land upon which such sign shall be found, within 90 days after written notification by the Building and Zoning Director.

4.703.C. Any sign located within a public right-of-way shall be removed immediately, unless it is permitted elsewhere within this division. The enforcing official is authorized to remove any sign not permitted in the right-of-way under this division at such time as the sign is determined to be in noncompliance.

(Code 1974, § 33-734; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.704. Maintenance.

Signs shall be kept clean, neatly painted and free from all hazards such as, but not limited to, faulty wiring and loose fastenings. Weeds shall be cut underneath and around the base of ground signs and no rubbish or debris shall be permitted that would constitute a fire hazard or be detrimental to the public health and safety. All signs shall be maintained in a manner which will withstand hurricane wind load requirements.

(Code 1974, § 33-735; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.705. Nonconformities.

For those signs which: (1) are not otherwise prohibited by section 4.695.C; and (2) are not consistent with the provisions of this division; (3) are not located within an approved PUD, the following provisions shall apply:

4.705.A. All billboards or off-premises signs which were legally erected prior to August 1, 1990, but which do not comply with the requirements of this division must be removed or altered to comply with the requirements of this division by August 1, 1996. This subsection does not apply to billboards or off-premises signs adjacent to the Florida Turnpike.

4.705.B. All billboards or off-premises signs adjacent to the Florida Turnpike which were legally erected prior to August 1, 1994, but which do not comply with the requirements of this division must be removed or altered to comply with the requirements of this division by August 1, 2000.

4.705.C. Nonconforming signs may not be structurally modified. Any nonconforming sign damaged in excess of 50 percent of the integrity of the structure as determined by the Building Official can only be repaired in full compliance with the requirements of this division.

(Code 1974, § 33-736; Ord. No. 446, pt. 1, 9-13-1994)

Cross reference— Nonconformities, art. 8.

Sec. 4.706. Enforcement.

4.706.A. The Building and Zoning Director shall be the enforcing official. The enforcing official is charged with the duty of administering the provisions of this division and securing compliance therewith. In furtherance of this responsibility, the enforcing official shall:

1. Make such inspections as may be necessary to effectuate the purposes and intent of this division and initiate appropriate action to bring about compliance with this division, if such inspection discloses any instance of noncompliance.
2. Investigate thoroughly any complaints of alleged violations of this division, and indicate clearly in writing as a public record in his office the disposition made of such complaints.
3. Order in writing, as set out below, the remedy of all conditions of all violations of this division found to exist in or on any premises.
4. State in the violation order a time limit for compliance herewith as hereinafter set out.

4.706.B. The enforcing official or his agent is authorized and directed to enter upon all premises at reasonable times to determine their condition insofar as the provisions of this division are applicable.

4.706.C. As an alternative to the penalties provided in section 4.709, this division may be enforced by the Code Enforcement Board as established by Martin County Ordinance No. 206, as amended or hereafter amended, or by appropriate action in the Circuit Court.

(Code 1974, § 33-737; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.707. Permits required.

An advertising display sign shall not hereafter be erected, constructed, altered or maintained except as provided in this division until after permit for same has been issued by the Building Official and the applicable fee paid.

(Code 1974, § 33-738; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.708. Expiration of permits.

4.708.A. A sign permit shall become null and void unless work on the permitted sign is substantially underway within six months after the effective date of the issuance of such permit. Any fee paid shall be forfeited.

4.708.B. All rights and privileges acquired under the provisions of this division, or any amendments thereto, are mere licenses, revocable at any time by the Board of County Commissioners of Martin County, and all permits shall contain such provisions.

(Code 1974, § 33-739; Ord. No. 446, pt. 1, 9-13-1994)

Sec. 4.709. Violations and penalties.

Violation of this division is a misdemeanor pursuant to F.S. § 125.69, and is punishable under said section by imprisonment for up to 60 days, or a fine for up to $500.00, or both such imprisonment and fine.

(Code 1974, § 33-740; Ord. No. 446, pt. 1, 9-13-1994)

Secs. 4.710—4.730. Reserved.

SUBDIVISION 2. PALM CITY OVERLAY SIGN DISTRICT

Sec. 4.731. Expiration and removal of standard directional/informational signs in repealed Palm City Sign Overlay District.

All standard directional/informational signs erected by the Chamber of Commerce pursuant to the Palm City Sign Overlay District Ordinance, which has been repealed by Ordinance No. 525, shall be removed upon the expiration of the lease term of the lease between the Chamber of Commerce and the advertiser/lessee, excluding any lease extension. Each sign structure shall be immediately removed by the Palm City Chamber of Commerce upon the expiration of all lease terms associated with the sign. Unless removed earlier pursuant to the above terms, all signs and structures shall be removed by July 31, 1998.

(Code 1974, § 33-741; Ord. No. 525, pt. 2, 3-10-1998)

Secs. 4.732—4.760. Reserved.

DIVISION 17. ADDRESSING [12]

Sec. 4.761. Purpose.

The purpose of this division is to establish a standardized procedure for addressing the physical location of structures, streets and real properties in unincorporated Martin County.

(Ord. No. 636, pt. 1, 11-4-2003)

Sec. 4.762. Generally.

These regulations authorize the county administrator to manage the addressing process to include an automated system for storing and sharing information about addresses. Structures and habitable units within structures, streets and real properties represented as points, lines and polygons and assigned unique numbers and names shall constitute the County's address database. Addresses shall not be assigned to structures and property that do not have legal access over roadways declared "open" by the Board of County Commissioners and included in the Engineering Department's Roads Inventory.

(Ord. No. 636, pt. 1, 11-4-2003; Ord. No. 909, pt. 1, 2-21-2012)

Sec. 4.763. Development review.

Site address enumeration and street and subdivision naming shall occur during the staff review of applications for proposed development. All site plan applications shall be consistent with the street and subdivision naming and site address numbering system of unincorporated Martin County. New address numbers shall be determined from the relationship of proposed development's location to the addressing grid and shall be associated with the property on which the structure is to be built. The address assignment process, which occurs during the development review procedure, is essential to maintaining the County address database.

(Ord. No. 636, pt. 1, 11-4-2003)

Sec. 4.764. Addressing grid system.

The following grid system is established for the purposes of street naming and site address numbering:

4.764.A. *Quadrants.* Martin County shall be divided by north/south and east/west baselines into four quadrants: northeast (NE), northwest (NW), southeast (SE) and southwest (SW).

4.764.B. *North/south baseline.* The north/south baseline, separating east from west quadrants, shall be the section line on which Colorado Avenue/South Kanner Highway, State Road 76, lies. In the Hanson Grant this baseline shall follow the centerline of South Kanner Highway/SR 76 instead of the section line, and at SW Gaines Avenue, the baseline shall follow a line separating sections 4 and 5, Township 39 South, Range 41 East, and extending south and separating succeeding sections to the County line.

4.764.C. *East/west baseline.* The east/west baseline, separating north from south quadrants, shall be the line separating Township 37 South and Township 38 South.

(Ord. No. 636, pt. 1, 11-4-2003)

Sec. 4.765. Site enumeration.

The procedure for enumeration of a site address shall be as follows:

4.765.A. Enumeration of a site address shall be derived from a site's location relative to the grid system aligned to the baselines, in which each cell of the grid measures 440 feet on a side with 100 possible addresses ranging across the cell.

4.765.B. Each section is assumed to be one mile square. When sections are partially submerged, the enumeration shall to be limited to upland.

4.765.C. Odd numbers shall be assigned on the north and east sides of the roadway and even numbers shall be assigned on the south and west sides of the roadway.

4.765.D. Units (suites, offices, bays, etc.) within structures which have direct access to the building exterior shall be individually enumerated. Units having only interior hallway access shall share the same building address.

4.765.E. The following subdivisions and areas of the County are exempt from this site address procedure: Jupiter-Tequesta Hunt Club Colony, B.L.I. Minor Plat, Turtle Creek Village and Turtle Creek Condominium and Turtle Creek East, all commonly known as Turtle Creek.

(Ord. No. 636, pt. 1, 11-4-2003; Ord. No. 909, pt. 1, 2-21-2012; Ord. No. 937, pt. 2, 8-6-2013; Ord. No. 951, pt. I, 4-15-2014)

Sec. 4.766. Direction.

A direction shall be assigned to establish the relative location of a point, line or polygon to the baselines within the County.

4.766.A. *NE, NW, SW and SE.* The quadrant prefix shall precede the named or numbered street, avenue, etc.; thus NW First Street, NE Ocean Boulevard, SW Second Court, SE Federal Highway.

4.766.B. *North, south, east, west.* For a street or avenue lying on a baseline, north, south, east or west shall be utilized; thus, North Baseline Avenue.

(Ord. No. 636, pt. 1, 11-4-2003)

Sec. 4.767. Street name.

Street names shall be established as follows:

4.767.A. *Numbered streets.* Streets parallel to the baseline may bear a number instead of a name. Numbers shall be allocated on the basis of 12 per mile or one per 440 feet.

4.767.B. *New street and subdivision names.* Proposed names of streets and subdivisions shall be submitted to the Growth Management Department for review and approval.

4.767.C. *Street name selection, spelling, duplication.* A proposed street name shall not duplicate existing street names. Street names shall not be homonyms of existing street names. Spelling of street names shall be according to that provided in a current standard, unabridged English

dictionary. The use of foreign words is discouraged; the use of non-English accent symbols is prohibited.

4.767.D. *Naming driveways.* A driveway that serves as the principal access to two or more parcels that contain primary structures shall be named and the primary structures shall be addressed from the named access. A driveway that serves as the principal access to two or more multifamily structures shall be named and the structures shall be addressed from the named access.

4.767.E. *Continuity of street names.* New streets shall not change names at intersections, except as authorized by the Board of County Commissioners at a public hearing held for the purpose of changing street names.

(Ord. No. 636, pt. 1, 11-4-2003; Ord. No. 909, pt. 1, 2-21-2012; Ord. No. 951, pt. I, 4-15-2014)

Sec. 4.768. Street name suffix.

Street name suffixes shall be established as follows:

4.768.A. *North/south streets.* Streets running parallel to the north/south baseline shall be designated "avenue," "court," "drive," "lane" or some other designation beginning with a letter in the first half of the alphabet (A through M).

4.768.B. *East/west streets.* Streets running parallel to the east/west baseline shall be designated "street," "terrace," "place," "way" or some other designation beginning with a letter in the second half of the alphabet (N through Z).

4.768.C. *Roads, highways, parkways, expressways and boulevards.* Only major thoroughfares shall be designated "boulevard," "expressway," "highway," "parkway" or "road." These terms may be used regardless of street direction.

4.768.D. *Circular roadways.* Roadways that form loops or circles shall be designated "circle."

4.768.E. *Suffix abbreviations.* The official United States Postal Service "Street Suffix Abbreviations" publication shall be used for abbreviating the street suffix.

4.768.F. The Beau Rivage community, which was the subject of incorporation into Martin County from St. Lucie County by an act of the Florida Legislature, Chapter 2012-45, SB 800, Laws of Florida, located in Sections 24 and 25, Township 37 South, Range 40 East, is exempt from these street name suffix policies.

(Ord. No. 636, pt. 1, 11-4-2003; Ord. No. 951, pt. I, 4-15-2014)

Sec. 4.769. Display of site addresses.

Site addresses shall be displayed as follows:

4.769.A. The property owner shall be responsible for the placement of the site addresses. The numbers shall be placed conspicuously on the front of the structure, so the numbers can be seen plainly from the street. Additionally, whenever the house or building is more than 50 feet from the street line, then the site address shall also be placed on the same side of the street, near the driveway or a common entrance, upon a post or mailbox so as to be easily discernible from the street, ensuring that the sight-triangle zone that preserves clear visibility is maintained (see section 4.843.F).

4.769.B. Numbers used for new residences shall be not less than four inches in height and shall be made of a durable and visible material.

4.769.C. Numbers used for commercial and industrial buildings shall not be less than six inches in height. In addition to placement on individual entry doors, the range of addresses within a commercial development shall be placed conspicuously at the right-of-way fronting the development on either a monument sign or a marquee sign. Numbers on the monument or marquee sign shall also be six inches in height.

4.769.D. Where a question exists as to the correct placement or visibility of address numbers, the property owner shall adhere to the code requirements of the most current adopted edition of the National Fire Protection Association, NFPA 1, The Uniform Fire Code, Florida Edition.

4.769.E. No certificate of occupancy shall be issued until the site address is posted in the required manner.

(Ord. No. 636, pt. 1, 11-4-2003; Ord. No. 909, pt. 1, 2-21-2012; Ord. No. 951, pt. I, 4-15-2014)

Sec. 4.770. Official address assignments.

The Growth Management Department shall maintain the official list of street and subdivision names and an electronic database of addresses associated with property in the unincorporated county. Public service providers may request to be included in a notification list to receive advisements of new address assignments to this database. Site addresses shall be assigned as follows:

4.770.A. The property shall be addressed from the street which the principal building faces.

4.770.B. If the driveway to the principal building is located on a side street that intersects the street which the building faces, and the driveway is more than 100 feet from the intersection, then the property shall be addressed from the side street.

4.770.C. A request for an address for a public facility that is located in the right-of-way (lift station, phone box, traffic signal box, meters, wells. etc.) shall be on official letterhead and include a description of the facility and an aerial photograph showing the proposed location of the facility.

4.770.D. Properties that do not contain a principal building will not be addressed unless:

1. The property is created through the site plan or plat process.
2. An official request for an address is received from Martin County Fire Rescue, Martin County Sheriff, a utility company, or a public agency.
3. The property is issued a permit for a structure or driveway.

4.770.E. The Growth Management Department shall maintain the official list of street and subdivision names and an electronic database of addresses associated with property in the unincorporated county.

4.770.F. The County's public service providers shall be notified of any changes or additions to the address database.

(Ord. No. 636, pt. 1, 11-4-2003; Ord. No. 909, pt. 1, 2-21-2012; Ord. No. 951, pt. I, 4-15-2014)

Sec. 4.771. Change of street names in conflict with this division.

The Board of County Commissioners recognizes that a policy must be established to provide an equitable and convenient procedure for changing street names in conflict with this division. Following is the procedure for changing any street name that is in conflict with this division:

4.771.A. The Growth Management Department shall notify each affected property owner of any conflicts with this division. The notice letter shall identify a possible solution(s) to the conflict. Further, the notice letter shall seek input from the property owners with a time limit for response of not less than 30 days from the date the notice is mailed.

4.771.B. After the notice period has expired, the Growth Management Department shall review all response comments and determine a course of action. The selected course of action shall be in the interest of the majority of the affected property owners and shall also be consistent with this division.

4.771.C. The Growth Management Department shall provide a final written notice to all affected property owners. The notice shall: (1) identify the selected course of action, (2) allow the property owner six months to implement any name change, and (3) advise the property owner that a temporary sign indicating current and future street names will be posted by the County during the six-month implementation period.

4.771.D. The Growth Management Department shall notify all affected agencies and utilities of the County's action.

(Ord. No. 636, pt. 1, 11-4-2003)

Sec. 4.772. Street name changes other than those in conflict with this division.

Following is the procedure for changing a street name not in conflict with these addressing procedures:

4.772.A. *BCC initiation of a street name change.* The Board of County Commissioners may change a street name at a public hearing advertised for this purpose.

1. *Public notice for the BCC public hearing.* The Engineering Department director shall compile a list of affected property owners (where "affected property owner" shall mean the owner of property adjacent to the right-of-way of the street proposed to be renamed). The County Attorney's Office shall certify the affected property owners list. The Growth Management Department director shall prepare and mail letters to the affected property owners giving them notice of the public hearing to consider the street name change.

2. *Sign.* A new street sign shall be provided by Martin County.

4.772.B. *Citizen petition for a street name change.* A petition of any citizen for a street name change shall be submitted to the Board of County Commissioners in a format and application determined by the Growth Management director. The application shall include the petition explaining the proposed name change, a certified mailing list of all affected property owners, the results of a poll of each affected property owner (defined in section 4.772.A.1), as to whether he or she is "in favor of" or "opposed to" or "neutral to" the proposed change, and a sample notice letter announcing a public hearing.

1. *Administrative change.* A petition signed by 100 percent of the affected property owners "in favor of" the street name change shall be resolved administratively. The petitioner shall prepare and mail letters to the affected property owners giving them notice of the name change. Copies of the letters shall be submitted to the Growth Management Department with postal return receipt cards attached. After determining that the public has been

adequately informed of the name change, the Growth Management director shall conclude the process.

2. *BCC public hearing of petition to change a street name.* If less than 100 percent but at least 51 percent of the affected property owners sign the petition "in favor of" the proposed change, the Growth Management director shall schedule a public hearing before the Board of County Commissioners. The petitioners shall prepare and mail letters to the affected property owners giving them notice of the public hearing to consider the street name change.

   a. Copies of the letters with postal return receipt cards shall be submitted to the Growth Management Department.

   b. In the event that the Board authorizes a name change, a new street sign shall be provided by Martin County when the affected street is located on a public right-of-way.

   c. Otherwise, the new street sign shall be the responsibility of the petitioners.

(Ord. No. 636, pt. 1, 11-4-2003)

Secs. 4.773—4.790. Reserved.

FOOTNOTE(S):

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Editor's note— Ordinance No. 636, adopted Nov. 11, 2003, amended Div. 17, in its entirety to read as herein set out. Former Div. 17 pertained to the same subject matter and was comprised of §§ 4.761—4.765, which derived from Ord. No. 526, §§ 4.17.01—4.17.05, adopted April 14, 1998. (Back)

DIVISION 18. WIRELESS TELECOMMUNICATION FACILITIES [13]

Sec. 4.791. Findings of fact; purpose and intent.

4.791.A. *Findings of fact.*

1. Section 704 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("the Act"), recognizes that local governments have the authority to regulate the placement, construction, and modification of towers, antennas, and other wireless telecommunications facilities ("WTCF").
2. The Act grants the Federal Communications Commission ("FCC") exclusive jurisdiction over the regulation of radio signal interference among users of the radio frequency spectrum.
3. Under the Act, the County cannot regulate the placement, construction, and modification of a WTCF on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with FCC regulations concerning such emissions.

4.791.B. *Purpose and intent.*

1. The board finds that the wireless telecommunications industry is deploying WTCFs in the United States and the County at a rapid rate to provide services to local residents and that such deployment will impact the citizens of the County. Because of the rapid deployment of WTCFs, the board finds that the public convenience, safety, and general welfare can best be served by exercising regulatory powers which are vested in the County or such persons as the County shall designate. It is the intent of this division 18 to provide for and specify the means to best serve the public interest and public purpose in the regulation of WTCFs consistent with applicable State and Federal law.
2. It is the intent of the board to accommodate the communication needs of County residents by regulating WTCFs and the use of such facilities in order to:
    a. Facilitate the provision of reasonable services to the residents and businesses of the County;
    b. Encourage the placement of WTCFs on roofs, walls, existing towers, and other existing structures instead of constructing new towers;

c. Minimize adverse visual impacts of WTCFs and towers by setting minimum standards for the design, landscaping, screening, innovative camouflaging techniques, and siting;

d. Protect the public from the hazards of structural failure of towers and WTCFs;

e. Expand the use of County-owned property to accommodate new WTCFs;

f. Encourage the co-location of antennas in order to minimize the number of towers needed to serve the community;

g. Provide for the removal of abandoned or unsafe towers;

h. Protect and preserve ecosystems that are habitats for native trees, plants, wildlife, and marine life and other sensitive environmental areas from potential adverse impacts of WTCFs and towers;

i. Protect and preserve the distinctive and unique natural features of the County, which are in part the result of the County's location on the Atlantic Ocean and the County's unique waterways, including the following: the St. Lucie River estuary which is one of only three in the state; the Loxahatchee River on the southern boundary of the County which is a pristine and protected waterway as is its headwaters, Jonathan Dickinson State Park; the surrounding Atlantic Ocean beaches which are natural assets of the County and which are accessible to the public and not overdeveloped or overcrowded; the Savannas; Hutchinson Island, a natural barrier island; the island near Jensen Beach; the Indian River Lagoon; the Intracoastal Waterway which is one of the three primary waterways in the state, as designated by the state; and scenic vistas of the County;

j. Protect the unique landscape created by the building height limitation and its positive aesthetic impact on the skyline;

k. Retain the existing beauty, views, and character of the County;

l. Protect residentially zoned areas and land uses from potential adverse impacts of WTCFs and towers;

m. Minimize the visual impact of new WTCFs and towers by encouraging their location in currently visually impacted areas;

n. Prevent potential adverse impacts to aviation safety;

o. Establish the review process and the standards and criteria for evaluation of development applications for WTCFs.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.792. Glossary.

For purposes of this division 18 the following words terms and phrases shall have the meanings set forth below:

Amateur radio antenna means an antenna used to engage in amateur radio communications as licensed by the FCC.

Antenna means a transmitting or receiving device used for services that radiates or captures electromagnetic radio frequencies for the communication of voice, video or data.

Antenna support structure means any building or other structure, other than a tower, which can be used for location of wireless telecommunications facilities.

Board , means the Board of County Commissioners of Martin County.

Broadcast radio and television towers means towers utilized by licensed radio and television broadcasters under 47 C.F.R Part 73 of the FCC's rules.

Cells-on-wheels (COW) means a temporary, transportable WTCF used to provide emergency or temporary transmission capacity.

Class A satellite earth station means an antenna or dish that is designed to receive direct broadcast satellite service, including direct to home satellite services, that is one meter or less in diameter; or an antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement.

Class B satellite earth station means a satellite reception dish or antenna that is two meters or less in diameter and does not otherwise fall within the definition of Class A satellite earth station.

Coastal high hazard area means the evacuation zone for a Category 1 hurricane, as defined in Chapter 8, the Coastal Management Element, of the Comprehensive Growth Management Plan.

Co-location means erecting antenna(s) of more than one wireless service provider on a single tower or on an existing antenna support structure already supporting an antenna.

County means Martin County, Florida.

County administrator means the county administrator of Martin County or his or her designee.

Fall zone means the calculated area of the land surrounding a tower or any of its attachments which may be affected by debris should the tower structure collapse.

Person means any natural person, firm, partnership, association, corporation, company or other legal entity, private or public, whether for profit or not-for-profit.

Pole-mounted means an antenna attached to or upon an electric transmission or distribution pole, a streetlight, a traffic signal or similar facility located within the public right-of-way or a utility easement. A utility pole mounted facility shall not be considered a tower.

Propagation study means a method utilized by radio frequency (RF) engineers for site placement to analyze the coverage area and signal strength. The analysis indicates signal strength at multiple sites to ensure quality transmissions and signal transfers, showing the potential for towers or tall structures within the study area to be utilized for co-location. The study includes actual system measurements in the subject area.

Public safety telecommunication facility means any wireless telecommunications facilities erected by municipal, County, state or Federal government for the primary purpose of providing public safety related communications.

Service means all wireless communications services including, broadcast radio and television services, and any other wireless services compatible with the use of a WTCF.

Stealth facility means any tower or WTCF which is designed to blend into the surrounding environment to the extent that an average person would be unaware of its presence as a tower or WTCF.

Structure-mounted means a WTCF, tower or antenna which is mounted to an existing building or structure not otherwise meant to support a WTCF.

Tower means a guyed or self-supported structure which is designed for the purpose of supporting one or more Antennas or WTCFs. The term "tower" shall not include amateur radio antennas, structure-mounted and pole-mounted WTCFs or cells-on-wheels.

Wireless telecommunications facility (WTCF) means any cables, wires, lines, wave guides, antennas, and any other equipment associated with the transmission or reception of telecommunications installed upon a tower or antenna support structure, including ground-based equipment in direct support

of such transmission or reception. However, the term "wireless telecommunications facilities" shall not include satellite earth stations, or amateur radio antennas.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.793. Applications for development approval.

No WTCF or tower shall be constructed, reconstructed, structurally altered or moved except pursuant to the provisions of this division 18 and pursuant to a development order issued in accordance with Article 10, Development Review Procedures, of the Land Development Regulations. Nothing in this division is intended to limit routine maintenance of lawfully established WTCFs or towers. Despite any provisions to the contrary in Section 10.11 of the Land Development Regulations, the required type of development review for a WTCF or tower shall be as follows:

Development Review Process	Activity
Building permit only:	Co-location of an antenna on an existing tower. Replacement of antennas or ancillary WTCF equipment on an otherwise lawfully established tower or antenna support structure site. New pole-mounted antennas. New structure-mounted antennas. New amateur radio antennas. New Class A or Class B satellite earth stations. Repair, reconstruction or replacement of an existing, nonconforming tower not involving an extension in tower height pursuant to section 4.806.
Minor development:	Construction of a new tower or an increase in the height of an existing tower on lands within industrial or agricultural future land use designations.
Major development:	Construction of a new tower or an increase in the height of an existing tower within any future land use designation other than industrial or agricultural, except as otherwise provided in section 4.806.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.794. Development application requirements for towers.

In addition to any other applicable requirements provided elsewhere in the Land Development Regulations, a development application for a tower shall include the following:

4.794.A. *Engineering report.* A report from a licensed professional providing:

1. Design of the tower height including a cross section view and elevation;
2. Design of the tower's structural capacity, including the number and types of antennas that it can accommodate;
3. Documentation of the height above grade for all potential mounting positions for all potential co-located antennas and the minimum separation distances between potential antennas;
4. An analysis and/or other data documentation that certifies that, in the event of a catastrophic failure or collapse of the tower, it will collapse within the engineered fall zone;
5. Written technical documentation of any Federal Aviation Administration ("FAA") approvals and lighting requirements and, if applicable, documentation of approval or denial of lighting and a statement whether an FAA "Determination of No Hazard to Aviation" is required by 47 C.F.R. part 17 for the tower. If such a determination is required, no building permit for the tower shall be issued until a copy of the determination is filed with the County.

4.794.B. *Color illustrations.* Color photo digitized simulations showing the proposed site of the tower including all attached or associated WTCF equipment, with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property or properties and from adjacent roadways.

4.794.C. *Shared use letter of intent.* An application for a tower shall include a letter of intent, in a form approved by the County, committing the tower owner and successors to allow the shared use of the tower if additional users agree in writing to meet reasonable terms and conditions for shared use.

4.794.D. *Documentation of the infeasibility of tower co-location.* An application for a tower shall contain adequate documentation that co-location on an existing approved tower, of any type, or on an existing building or structure, has been attempted and is not feasible. Such documentation shall include:

1. The results of a propagation study demonstrating to the satisfaction of the County that the equipment planned for a proposed tower cannot be accommodated on an existing or approved and unbuilt structure.
2. A propagation study analysis shall be based upon a search radius of three-quarters of a mile minimum distance from the proposed location of the intended tower, including areas lying outside of the unincorporated area of Martin County. At the discretion of the County, based on the County's knowledge of existing co-location opportunities, the County may allow an applicant to provide an affidavit from a professional radio frequency engineer which establishes the search area diameter for the proposed WTCF location and identifies all other alternatives in such search area. Even if the latter methodology is utilized, further information may be required by the County on the ability of the WTCF to be accommodated on specific sites within three-quarters of a mile of the proposed WTCF.
3. When co-location is determined by staff to be infeasible, the determination shall be based upon the results of the propagation study and other evidence provided by the applicant documenting one or more of the following reasons:
    a. *Structural limitation.* The proposed equipment would exceed the structural capacity of the existing or approved structure, as documented by a qualified and licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
    b. *Interference.* The proposed equipment would cause interference or obstruction materially impacting the usability of other existing or planned equipment at the tower

or building as documented by a qualified professional and the interference or obstruction cannot be prevented at a reasonable cost.

c. *Insufficient height.* Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed, if applicable, professional.

d. *Lack of space.* Evidence from the applicant, verified by a licensed professional, of the lack of space on existing towers or other structures within the search radius to accommodate the proposed facility.

e. *Other factors.* Other reasons that make it unfeasible to locate the planned equipment upon an existing or approved tower or building as documented by a qualified and licensed, if applicable, professional.

4.794.E. *Other requirements.*

1. A copy of the Federal Aviation Administration response to the submitted "Notice of Proposed Construction or Alteration," or its replacement, or certification from a qualified professional engineer that FAA review and approval is not required.

2. A sealed statement from a qualified professional engineer, licensed in the State of Florida, that the design of the proposed tower complies with the tower design standards as set forth in section 4.797.B.1.

3. Copies of all currently valid FCC licenses for the proposed facility.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.795. Priority siting conditions.

Any new WTCF or tower shall be subject to a determination of the appropriate siting priority as follows:

4.795.A. *Siting priorities, generally.* These priorities range from 1 to 4, with the preferred siting conditions found in Priority 1 and the least desirable siting conditions found in Priority 4. In the event that a proposed WTCF or tower cannot be sited to comply with the conditions of Priority 1, the development application shall demonstrate why a lower priority site is necessary.

4.795.B. *Priority 1.* Pole-mounted WTCFs or the co-location of WTCFs on existing towers or antenna support structures located on property that is not adjacent to residential uses are preferred. If a WTCF cannot be co-located on a site which is not adjacent to a residential use, co-location on a site located adjacent to a residential use is the next preference within Priority 1. Only when it can be demonstrated that there are no suitable existing structures, based on the determination made under section 4.794.D.3., can a lower priority be considered for siting the proposed facility.

4.795.C. *Priority 2.* If a WTCF cannot be located on a site specified in Priority 1, the applicant may propose a new tower on property designated industrial or agricultural on the future land use map.

4.795.D. *Priority 3.* If a proposed WTCF cannot comply with Priorities 1 and 2, the applicant may propose a new tower on property designated general commercial or limited commercial on the future land use map.

4.795.E. *Priority 4.* If a proposed WTCF cannot comply with Priority 1, 2, and 3, the applicant may propose a new WTCF or tower on property designated waterfront commercial, commercial office/residential, institutional-general, institutional-conservation, institutional-recreational or any residential designation, as shown on the future land use map.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.796. General siting requirements.

4.796.A. Pole-mounted WTCFs are allowed within public rights-of-way at the discretion of the County Engineer.

4.796.B. Towers and structure-mounted WTCFs within the following areas shall be stealth facilities:

1. Traffic circles.
2. Bridges.
3. Barrier islands (Hutchinson Island, Jupiter Island or Long Island).
4. Areas lying within 3,000 feet from the mean high water line of the Atlantic Ocean or within 2,500 feet from the Intracoastal Waterway, the St. Lucie River, Loxahatchee River, Indian River.
5. Lands designated commercial office/residential, commercial waterfront, institutional-recreation, institutional conservation on the future land use map.
6. Lands designated for residential use on the future land use map.
7. The hurricane evacuation zone for a Category 2 hurricane, as defined in Chapter 8, the Coastal Management Element, of the Comprehensive Growth Management Plan.

4.796.C. Towers and WTCFs shall not be located in the following areas:

1. Wetlands or wetland buffer areas, as defined in Article 4, Division 1, of the Land Development Regulations, Martin County Code.
2. Upland preserve areas or endangered, unique or rare upland habitats, as defined in Article 4, Division 2, of the Land Development Regulations, Martin County Code.
3. In the flight path of or on an airstrip, as defined in Article 3 of the Land Development Regulations, Martin County Code.

4.796.D. Despite any provision to the contrary in section 4.796.B above, towers on county-owned parcels on Hutchinson Island are not required to be stealth facilities.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.797. Structure design requirements.

4.797.A. *Standards for antennas and structure-mounted WTCFs.*

1. *Minimum structure height.* No antenna shall be placed on any nonresidential structure unless the structure is at least ten feet in height or be placed on any structure used as a residence unless such structure is at least three stories high.
2. *Maximum height of Structure-mounted antennas* . Structure-mounted antennas shall be placed no higher than ten feet above the top of the structure on which they will be placed and no higher than ten feet above the maximum structure height allowed for structures in the particular zoning district as set forth in Article 3, Zoning Districts, of the Land Development Regulations.
3. *Visual impact.* Structure-mounted WTCFs, shall be of a color that is identical to, or closely compatible with, the color of the building so as to be as visually unobtrusive as is reasonably possible, be located in the area of minimal visual impact within the site which will allow the facility to function consistent with its purpose, and be located as close as possible to the building to which it is attached.

4. *Roof-mounted* Class B satellite earth station antennas; the color, location and design shall blend into and not detract from the character and appearance of the building and surrounding developed properties.

5. *Panel antennas.* Panel antenna physical dimensions shall not exceed a maximum height of eight feet, a maximum depth of four feet and a maximum width of four feet.

6. *State and Federal law.* The antenna shall comply with all applicable Federal and state regulations.

7. *Structural design requirements.* Any proposed antenna shall meet the structural design limitations of the tower on which it will be placed.

8. *Limited access.* Structure-mounted facilities shall be located and designed to insure limited access for authorized persons only.

9. *Pole-mounted WTCFs* . Pole-mounted antennas shall be placed no higher than ten percent above the point at which the utility pole would normally extend for purposes of providing the utility service. For example, where a 35-foot pole would normally be utilized to support a street light, a pole-mounted antenna located above such a street light shall be placed no higher than 38.5 feet.

4.797.B. *Tower design standards.*

1. *National standards.* The Telecommunications Industries Association (TIA) is the accepted standards making body for towers. Any proposed tower or modification of an existing tower shall be constructed according to Structural Standards for Steel Antenna Towers and Antenna Supporting Structures (ANSI/TIA 222), as may be amended from time to time.

2. *Tower design for co-location.* A proposed tower shall be designed, when applicable, to allow for future rearrangement of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate co-location.

3. *Monopoles.* All towers shall be monopoles except as otherwise provided for in this division 18.

4. *Illumination.* A tower shall not be artificially lighted except as may be required by Federal or state regulation.

5. *Surface or finish color.* Regardless of whether designed as a stealth facility, towers shall be painted or have a noncontrasting finish that minimizes the visibility of the facility from public view, except where contrasting color is required by Federal or state regulation. In addition, the exterior of support facilities shall be designed to be compatible with the architectural design prevailing generally among the structures in the surrounding developed area.

6. *Signage.* The main access gate to the tower shall have affixed to it a sign not to exceed two feet by three feet in size which displays the owner's and/or permittee's name and an emergency telephone number.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.798. Tower separations and fall zones.

4.798.A. *Tower separations* . The minimum horizontal distance separating any existing tower and a proposed tower shall be 2,640 feet, as measured from the center point of each tower.

4.798.B. *Setback and fall zone.* As provided below, a tower shall have a minimum setback relative to its height, provided that the fall zone of the tower shall be no less than the usual setback requirement for the structures within the particular zoning district.

1. At a minimum, a tower shall be set back from any residential zoning district a distance that is equal to 400 percent of the tower height. In addition, at a minimum, a tower shall be set back from any existing residential structure not located within a residential zoning district a distance that is equal to 200 percent of the tower height.
2. At a minimum, a tower shall be set back from the edge of the right-of-way of any public street a distance that is equal to 100 percent of the tower height.
3. A tower shall be set back from any property not covered in paragraphs 1. or 2. above a minimum distance of 100 percent of the tower height, provided that, on lands designated industrial or agricultural on the future land use map, a tower may be set back to a lesser extent where a professional engineer, licensed in the State of Florida, certifies that, in the event of a catastrophic failure or collapse, such tower will collapse within an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Only the WTCF shall be allowed within this engineered fall zone.

4.798.C. *Exceptions* . The requirements set forth in subsections 4.798.A and 4.798.B above shall not apply to any stealth tower.

4.798.D. WTCFs located on lands designated agricultural on the future land use map and on a site that is utilized, on the effective date of this ordinance, for a radio and television broadcasting antenna farms as referenced in section 4.808.C. shall not be subject to the tower separation requirements of section 4.798.A.

(Ord. No. 667, pt. 1, 5-10-2005; Ord. No. 832, pt. 1, 10-27-2009; Ord. No. 931, pt. 1, 6-18-2013)

Sec. 4.799. Tower height restrictions.

4.799.A. *Measurement of tower height.* Tower height shall be determined by the vertical distance from the base elevation of the tower site prior to construction to the highest point of the tower, including all antennas and other attachments except lightening rods.

4.799.B. *Maximum height.* The maximum height of towers shall be as follows:

Area	One Service Provider
;hg0;Areas designated agricultural or industrial on the future land use map except areas designated industrial on the future land use map lying within the Indiantown Community Redevelopment Area.	140 ft.
;hg0;All future land use designations other than agricultural and industrial.	120 ft.
;hg0;Areas designated industrial on the future land use map lying within the Indiantown Community Redevelopment Area.	120 ft.

4.799.C. *Amateur radio antennas.* Amateur radio antennas shall be limited to maximum height of 80 feet except where a higher antenna is allowed by the Federal Communication Commission's preemptive ruling PRB-1, and provided that a determination is made by the approving authority, based on evidence submitted by the applicant, that the proposed height is technically necessary to successfully engage in amateur radio communications.

(Ord. No. 667, pt. 1, 5-10-2005; Ord. No. 832, pt. 2, 10-27-2009)

Sec. 4.800. Public safety communications requirements.

4.800.A. *Noninterference with existing facilities.* A WTCF or tower shall not create interference with any public safety telecommunication facility. For purposes of this section 4.800, "interference" means degradation to RF signals caused by improper performance or operation of a WTCF or by the reduction of RF signals due to the physical characteristics of a WTCF.

4.800.B. *Certification of noninterference with public safety telecommunications facilities.* Any application for a WTCF or tower shall include a certification from the sheriff and the emergency management director that the proposed facility is not expected to interfere with or obstruct transmissions to and from existing public safety telecommunications facilities.

1. In the event that an authorized County official determines that a proposed WTCF or tower will interfere with a public safety telecommunications facility or public safety communications, the official may recommend denial of the application and set forth in writing the reasons for the recommendation of denial.
2. In the event that the constructed WTCF or tower does interfere with public safety telecommunication facilities, it shall be the responsibility of the owner and/or permittee of the WTCF or tower which creates the interference or obstruction to make all necessary repairs, and/or accommodations to alleviate the problem at the permittee's expense. The County shall be held harmless in this occurrence.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.801. Right to inspect.

The County or its designees shall have the right to inspect, upon reasonable notice to the owner and/or permittee, any WTCF or tower for the purpose of determining compliance with this Division 18.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.802. Certification of continued structural integrity.

Every five years, or within 90 days following a catastrophic act of nature or other emergency that may affect the structural integrity of a tower, the tower owner or permittee shall file with the County Administrator a statement, sealed by a qualified professional engineer, licensed in the State of Florida, that an inspection has been completed and that the tower has not been structurally compromised.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.803. Removal of abandoned or unsafe towers.

4.803.A. *Determination of abandoned or unsafe tower* . The County Administrator may determine that a tower is abandoned or unsafe and shall provide written notification of such determination to the tower owner and/or permittee.

4.801.B. *Prima facie evidence.* The following shall constitute prima facie evidence that a tower has been abandoned or is unsafe:

1. Failure of the tower owner and/or permittee to respond within 90 days to a notice by the County Administrator of a failure to submit a certification of continued structural integrity as required in section 4.802; or
2. Discontinuation of the use of the tower for its intended use for a period of 360 consecutive days.
3. Failure of the tower owner and/or permittee to respond within 90 days to a notice from the County Administrator of finding that a tower is abandoned or unsafe pursuant to this section 4.803.

4.803.C. *Response to the notice of abandonment.* Upon receipt of the notice of determination that a tower is abandoned or unsafe, the tower owner and/or permittee shall have 90 days within which to:

1. Correct the deficiencies noted in the County Administrator's determination of an abandoned or unsafe tower; or
2. Dismantle and remove the tower.

4.803.D. *Removal of the tower.* A tower that is removed as a result of the enforcement provisions of this section 4.803 shall be completed at no cost to the County. Where removal of a tower is required, all related structures shall also be removed, including any associated ground-based equipment and including footings and foundations. If the tower is not removed within one year of the date of the County Administrator's determination that the tower is abandoned or unsafe, the County may remove the tower and place a lien on the property following the appropriate procedures for demolition of an unsafe structure. The duty to remove the tower shall supersede and otherwise override any conflicting provision of any contract, agreement, lease, sublease, license, franchise or other instrument entered into or issued on and after the effective date of this Division 18.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.804. Reserved.

Sec. 4.805. Technical consultants.

The County shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for wireless telecommunication facilities and to charge reasonable fees as necessary to offset the cost of such evaluations.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.806. Nonconformities.

WTCFs and towers lawfully established prior to April 1, 1999 (the effective date of Ordinance No. 546) which do not comply with the current provisions of this Division 18 shall not be considered in conflict with this Division 18 but shall be governed as follows:

4.806.A. Nothing in this Division 18 shall prohibit routine maintenance on a nonconforming WTCF or tower or prohibit the placement of additional antennas (co-location) on a nonconforming tower.

4.806.B. Despite any provision in this Division 18 to the contrary, the board may allow a nonconforming tower to be repaired, reconstructed, replaced or increased in height upon a demonstration by the applicant that the new or modified tower complies with the current regulations to the maximum extent practicable while achieving an overall public benefit in terms of the provision of services. Once authorized by the board, repairs, reconstruction or replacement of towers not involving an increase in height may be approved by way of a building permit. A modification to an existing tower involving an increase in height shall require development approval as a minor development pursuant to Article 10, Development Review Procedures.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.807. Public safety telecommunications facilities.

Public Safety WTCFs and towers shall be exempt from the monopole requirement of sections 4.797.B.3 and the tower height requirements of section 4.799 and instead shall be governed as follows:

4.807.A. *Public safety.* On property zoned PS, PS-1 or PS-2 or designated Institutional-General or Institutional-Public Recreation, the board may exempt any tower constructed for emergency response and "911" service which are owned by law enforcement or other governmental agencies from the height requirements of this Division 18. Further, the board may allow such tower to be exempt from the monopole design requirement and may allow other entities to co-locate antennas on such tower below the level on the tower where the emergency response or "911" equipment is located if such space is available. Applications seeking such public safety exemptions shall be processed as a major development pursuant to section 4.793, shall comply with all applicable laws and regulations, and shall also include the following:

1. The engineering report associated with section 4.794.A shall also include documentation, including propagation studies analyzing whether the emergency and "911" service can be adequately provided using towers at the standard height allowed by this land development regulation, as well as the lowest possible height at which such emergency and "911" service can be provided. If the service can be adequately provided using towers at the standard height allowed by this land development regulation, or at a lower height than requested in the application, then the board shall deny the application or approve the application as modified in accordance with such findings.

2. The report referenced at section 4.794.A shall also include an acceptable plan for reducing the height of the tower in the future if technological advances make deployment at a lower level feasible, or if the entity or agency changes to a different service which can be deployed at a lower level. Any agreement for co-location on such tower shall include appropriate provisions to assure implementation of this plan.

4.807.B. *Public utility telemetry* . Antennas up to 15 feet in height used for public utility telemetry and SCADA for utility lift stations and wellfields shall be exempt from the provisions of this Division 18.

4.807.C. *Public stormwater management facilities.* Where the purpose is to allow off-site monitoring and control of water control structures or pumping stations located on any property owned in whole or part by the South Florida Water Management District, the Board of County Commissioners may waive or modify any requirement of this division 18 in the same manner as provided in section 1.4.C. of the Land Development Regulations, regardless of whether the project is included in the County's Capital Improvement Plan.

(Ord. No. 667, pt. 1, 5-10-2005; Ord. No. 746, pt. 1, 4-10-2007)

Sec. 4.808. Limited regulation of broadcast radio and television towers.

Due to the propagation characteristics, broadcast radio and television towers shall be exempt from the monopole requirement of section 4.797.B.3, the separation and fall zone requirements of section 4.798 and the tower height requirements of section 4.799. Instead, broadcast radio and television towers shall comply with the following:

4.808.A. Broadcast radio and television towers shall not exceed 1,000 feet unless deploying a technology that demonstrates to the satisfaction of the board the need for additional height. Broadcast radio and television towers shall not exceed 250 feet when located on lands designated agricultural ranchette on the future land use map.

4.808.B. The search radius for broadcast radio and television towers shall be two miles.

4.808.C. Except when developed as monopole type towers meeting the height, placement and other requirements of other towers, broadcast radio and television towers shall only be located on property designated agricultural or agricultural ranchette on the future land use map near existing broadcast radio and television towers, to facilitate the development of radio and television broadcasting antenna farms.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.809. Cells-on-wheels.

Cells-on-wheels shall be allowed during documented states of emergency as declared by the County Administrator. Cells-on-wheels shall also be allowed for periods up to 30 days for testing purposes, special events or as otherwise authorized by the FCC.

(Ord. No. 667, pt. 1, 5-10-2005)

Sec. 4.810. Application review process and standards.

4.810.A. *Nondiscrimination and timely review* . All applications for WTCFs or towers, including modifications to same, shall be reviewed pursuant to the procedures set forth in section 4.793. Consistent with Federal law, such reviews shall not unreasonably discriminate among providers of functionally equivalent services, and at a minimum shall act upon a properly completed application within a reasonable period of time, taking into account the nature and scope of such request. Where County review procedures are in conflict with minimum review timeframes set forth in the Florida Statutes, the stricter provision shall prevail.

4.810.B. *Denial of application.* Any final decision by the County to deny an application for a WTCF or a tower shall be in writing and supported by substantial, competent evidence contained in a written record. No such denial shall be on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions.

4.810.C. *Commercial design exception.* Wireless telecommunications facilities (WTCF) located on lands designated for agricultural use on the future land use map, including the towers or antennas support structures upon which they are located and the ground-based support equipment for such facilities shall be exempt from the commercial design requirements of Article 4, Division 20, Commercial Design, LDR, MCC.

(Ord. No. 667, pt. 1, 5-10-2005; Ord. No. 931, pt. 1, 6-18-2013)

Sec. 4.811. Inventory and master plan report.

In order to encourage co-location of facilities, the County shall maintain a map and database of the locations of all towers and antenna support structures and their capacity for co-location. This information shall be available for public use in encouraging co-location. Each applicant for a WTCF shall provide the County with an inventory report of the applicant's existing WTCFs located within the County and for a distance of one mile beyond the County limits. By requiring this information, the County does not warrant its accuracy or its applicability.

The inventory report shall specify the following:

4.811.A. The location, type and design of each tower or antenna support structure;

4.811.B. The ability of the tower or antenna support structure to accommodate additional antennas;

4.811.C. The longitude and latitude of each tower or antenna support structure;

4.811.D. Where applicable, the height of the support structures on which the applicant's existing WTCFs are located.

(Ord. No. 667, pt. 1, 5-10-2005)

Secs. 4.812—4.840. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 667, adopted May 10, 2005, repealed Div. 18, §§ 4.791—4.812, in its entirety and replaced it with similar provisions to read as herein set out. Former Div. 18 derived from Ord. No. 546, adopted March 25, 1999; Ord. No. 574, adopted Aug. 15, 2000; and Ord. No. 643, adopted July 27, 2004. (Back)

DIVISION 19. ROADWAY DESIGN [14]

Sec. 4.841. General.

4.841.A. *Purpose and intent.* The purpose of this division is to assure a safe, efficient, maintainable and balanced transportation system that preserves community character and provides for all modes of transportation. This division establishes minimum standards for the design of the transportation network, including roadways, sidewalks, pedestrian walkways, bicycle lanes and equestrian paths; policies and procedures for traffic calming; and regulations to manage the location, design and operation of access to County roadways. The traffic calming provisions of this division provide for the application of roadway design elements and traffic control devices to promote safe and pleasant conditions for motorists, bicyclists, and pedestrians on neighborhood streets. Access management regulations protect the safety and capacity of the County's major roadways by reducing conflicts between moving vehicles, parked vehicles, and pedestrians or bicyclists. The intent of this division is to balance the right of reasonable access to private property with the right of the citizens of Martin County to safe and efficient travel by all modes of transportation.

4.841.B. *Applicability.*

1. Except as specifically provided elsewhere in this division, this division shall apply to all roadways which are under the jurisdiction of Martin County whether located within the unincorporated or incorporated areas of Martin County.

2. This division shall not be interpreted to require roadways existing on the effective date of this division to comply with the requirements of this division except as provided for in sections 4.843.G and 4.845.H. Any modifications to roadways existing on the effective date of this division shall be required to comply with this division to the extent possible. Unopened or unpaved platted streets shall comply with the requirements of this division.

3. This division shall apply to all roadways which have not been constructed as of the effective date of this division except:

   a. When a development project within which a roadway is located has received final site plan approval prior to the effective date of this division; or when the final site for a development project within which a roadway is located has received a recommendation of approval from the Development Review Committee or the Planning and Zoning Commission prior to the effective date of this division; or when staff has issued a written staff report regarding the proposed final site plan finding compliance with roadway requirements; and no modifications are made to the final site plan.

   b. If a project within which a roadway is located has received master plan approval prior to the effective date of this division and the approval is still valid and clearly establishes compliance with roadway design requirements existing at the time of master plan approval, the project may proceed forward consistent with the approved master plan so long as there is no modification to the master plan.

   c. For Martin County road projects included within the Capital Improvement Plan which have been designed and permitted prior to the effective date of this division.

4. The access classification system and associated standards of the Florida Department of Transportation shall apply to all roadways on the State highway system.

4.841.C. *Glossary.* For purposes of this division, the following words, terms and phrases shall have the meanings set forth below:

Access classification means a system for assigning the appropriate degree of access control to roadways, based upon roadway function, traffic characteristics, and community development objectives.

Access connection means any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

Access management means the process of providing and managing access to land development, while preserving the safety and efficiency of travel on the surrounding roadway system.

Access management plan means a plan establishing the preferred location and design of access for properties along a parkway or major arterial roadway or in the area around an interchange for the purpose of access management.

Alley means a service roadway that is designed to provide access to properties abutting another street and that is not intended for general traffic circulation.

Bike lane means a portion of roadway which has been designated for the preferential or exclusive use by bicyclists.

Bikeway means any road, path, or route which in some manner is specifically designated as open to bicycle travel.

Chicane means a traffic control measure that reduces the speed of vehicles by providing a narrowed vehicle travel path for a section of roadway.

Corner clearance means the distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way.

Corridor overlay zones provide special requirements added on to the underlying land development regulations along portions of a public roadway.

Cross access means an easement or service drive providing vehicular access between two or more contiguous sites.

Cul-de-sac means a dead end street with a circular turnaround at the end.

Cut-through traffic means traffic passing through a specific residential area without stopping or without at least one trip end within the area.

Decision maker means the approving entity pursuant to article 10, Development Review Procedures.

Directional median opening means an opening in a restrictive median that provides for specific movements and physically restricts other movements. Directional median openings for two opposing left or "U-turn" movements along a road segment are considered one directional median opening.

Driveway flare means a triangular pavement surface at the intersection of a driveway with a public street that facilitates turning movements and is used to replicate turning radius in areas with curb and gutter construction.

Driveway return radius means a circular pavement transition at the intersection of a driveway with a street that facilitates turning movements to and from the driveway.

Driveway spacing means the distance between driveways as measured from the closest edge of pavement of the first driveway to the closest edge of pavement of the second driveway along the same side of a roadway.

Easement means a grant of one or more property rights by a property owner to or for use by the public, or another person or entity.

Full median opening means an opening in a raised median that allows all turning movements from the roadway and the intersecting road or access connection.

Functional area (intersection) means that area beyond the physical intersection that comprises decision and maneuver distance, plus any required vehicle storage length, and is protected through corner clearance standards and driveway spacing standards.

Functional classification means the character of service of the roads in relationship to the total public road system by trip purpose.

Furnishings zone means the area that serves as a buffer between the pedestrian zone and the travelway and that provides space for appurtenances including but not limited to, landscaping, utility and transportation infrastructure, and street furniture.

Island means an area within the roadway not for vehicular movement, which is designed to control and direct specific movements of traffic and which may be defined by paint, raised bars, curbs, or other devices.

Joint access or *shared access* means a driveway connecting two or more contiguous sites to the public street system.

Median means that portion of a roadway separating the opposing traffic flows. Medians can be depressed, raised or flush.

On-street parking means the space in which to park vehicles within a public right-of- way or access easement that is divided into stalls that are either parallel or angled to the adjacent travel/bicycle lane or parallel or angled to a service road.

Outparcel means a lot adjacent to a roadway that interrupts the frontage of another lot.

Pedestrian zone means the area between the furnishings zone and the edge of the right-of-way or the face of the building, which may include landscaping, utility and transportation infrastructure, and street furniture, but must include an unobstructed sidewalk.

Raised median means a physical barrier in the roadway that separates traffic traveling in opposite directions, such as a concrete barrier or landscaped island.

Reasonable access means the minimum number of access connections, direct or indirect, necessary to provide safe access to and from a road consistent with the purpose and intent of this division.

Right-of-way (transportation) means a strip of land in which the State, a county, or a municipality owns the fee simple title or has an easement dedicated or required for a transportation use.

Road, open, means any street, thoroughfare, road, avenue, highway, etc., excluding State roads, which affords access to more than one parcel and is listed in the county road inventory.

Road, platted but unopened, means a platted street or roadway that is not an open road.

Road, privately maintained, means a roadway that is not maintained by a governmental entity and can be either paved or unpaved.

Road, publicly maintained, means a roadway that is maintained by a governmental entity and can be either paved or unpaved.

Road, unpaved, means a roadway open to the public that has not been paved to County standards.

Roadway classification means a system used to group roadways into classes according to their purpose in moving vehicles and providing access.

Scenic corridor means any corridor classified by the board as a scenic corridor in order to preserve, maintain, protect or enhance the cultural, historic, or environmental character of the corridor.

Service road means a public or private road, auxiliary to a controlled access facility, that maintains local road continuity and provides access to properties adjacent to a controlled access facility.

Sidewalk means a paved area for general pedestrian use.

Sidewalk café means an outdoor portion of a restaurant, coffeehouse or cafe.

Sight distance means the distance of unobstructed view for the driver of a vehicle, as measured along the normal travel path of a roadway to a specified height above the roadway.

Sight triangle means an area of unobstructed sight distance along both approaches of an access connection.

Street furniture means benches, sidewalk cafes, trash receptacles, and similar objects.

Streetside means the area that is between the face of curb and the edge of the right-of-way or the face of the building and includes the pedestrian zone and the furnishings zone.

Stub-out (stub street) means a portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

Swale means a shallow gently sloped channel for conveyance and infiltration of stormwater.

Throat length means the distance parallel to the centerline of a driveway to the first on-site location at which a driver can make a right turn or a left turn. On roadways with curb and gutter, the throat length shall be measured from the face of the curb. On roadways without a curb and gutter, the throat length shall be measured from the edge of the paved shoulder.

Throat width means the distance edge-to-edge of a driveway measured at the right-of-way line.

TND boulevard means a road intended to provide high vehicle mobility, which may be multi-lane and limited access, designed to carry longer vehicular trips, and possibly include a service road along one or both sides designed for land access, parking, bicycles, and pedestrians.

TND main street means a street with collection of destinations within close proximity. Buildings are close to street with direct connection to the pedestrian zone. Driveway access is minimized and the adjacent properties are primarily served by alternative access such as local streets, alleys or cross access.

Traditional neighborhood development means development guided by the attributes of "traditional neighborhoods." Traditional neighborhood development promotes social integration of age and economic classes by providing a full range of housing types, commercial and office opportunities and promotes the efficient use of land and capital facilities. For the purposes of this division, traditional neighborhood development includes development within community redevelopment areas.

Traffic calming means the combination of design and policy measures that reduce traffic speed and volumes, alter driver behavior, improve conditions for pedestrians and bicyclists, and generally enhance the livability of an area.

Traffic calming measures means the design elements in or along a street or intersections that advance traffic calming objectives. Techniques include roundabouts, diverters, partial-diverters, chicanes, speed humps, raised pedestrian crosswalks, and other devices erected or constructed within a roadway to slow vehicular speeds or reduce cut through traffic, but not restrict access to a street.

Traffic control devices means signs, signals, and markings designed to regulate, warn, guide and provide information for motorists.

Transportation and utility infrastructure means utility poles, sign poles, signal and electrical cabinets, fire hydrants, bicycle racks, bus shelters and other similar items.

Travelway means the area between the faces of the curb.

Undivided roadway means a roadway having full access on both sides of the travel lanes including a roadway with a center two-way turn lane.

(Ord. No. 561, pt. I, § 4.19.1, 12-7-1999; Ord. No. 603, pt. I, § 4.19.1, 11-20-2001; Ord. No. 811, pt. 1, 10-28-2008; Ord. No. 1019, pt. 1, 4-25-2017)

Cross reference— Rules of interpretation, § 1.5.

Sec. 4.842. Roadway classification.

All roadways under the jurisdiction of Martin County shall be classified in accordance with this section 4.842. The appropriate classification shall be determined by the Board of County Commissioners based upon the Comprehensive Plan and the appropriate function of the roadway in relation to the surrounding roadway network.

Limited access highways. Major highways providing no direct property access that are designed primarily for through traffic. Interstate highways (I-95), the Florida Turnpike, freeways, and some parkways are considered limited access highways.

Parkway. Major controlled access roadways with nicely landscaped buffers, designed to move high traffic volumes while providing a pleasing view from the road. Parkways are subject to highly restrictive access control requirements and more landscaping than other major roadways.

Major arterial. Arterials are roadways of regional importance intended to serve moderate to high volumes of traffic travelling relatively long distances. A major arterial is intended primarily to serve through traffic where access is carefully controlled.

Minor arterials. A roadway that is similar in function to major arterials, but operates under lower traffic volumes, over shorter distances, and provides a higher degree of property access than major arterials.

Major collector. A roadway that provides for traffic movement between arterials and local streets and carries moderate traffic volumes over moderate distances. Collectors may also provide direct access to abutting properties.

Minor collector. A roadway similar in function to a major collector but which carries lower traffic volumes over shorter distances and provides a higher degree of property access.

Local street. A street intended to provide access to abutting properties, which tends to accommodate lower traffic volumes and serves to provide mobility within that neighborhood.

(Ord. No. 561, pt. I, § 4.19.2, 12-7-1999; Ord. No. 603, pt. I, § 4.19.2, 11-20-2001)

Sec. 4.843. Roadway design and right-of-way.

4.843.A. *Roadway design and construction.*

1. In the absence of specific criteria in this division, the documents listed in section 4.843.A.2 shall be used as guides for the design of roadways, bridges, pavements and bicycle and pedestrian paths within Martin County, but shall not be utilized where site specific conditions require independent analysis and design. Requirements of the Americans with Disabilities Act (ADA) shall be incorporated into the design and review criteria. Approval by the County Engineer is required on the design and construction of all roadways, bridges, pavements and bicycle and pedestrian paths.
2. The following are adopted by reference for use in Martin County:

a. AASHTO Policy on Geometric Design of Highways and Streets;

b. The Manual of Uniform Traffic Control Devices;

c. The FDOT Roundabout Design Guide;

d. FDOT Manual on Uniform Minimum Standards for Design, Construction and Maintenance for Street and Highways;

e. FDOT Roadway and Traffic Design Standards for Design, Construction, Maintenance and Utility Operations for Streets and Highways on State Maintained Systems;

f. FDOT Flexible Pavement Design Manual for New Construction and Pavement Rehabilitation;

g. FDOT Standard Specifications for Road and Bridge Construction;

h. Florida Bicycle Facilities Planning and Design Handbook;

i. Martin County Bicycle and Pedestrian Plan;

j. Guidelines for the Development of Bicycle Facilities;

k. Florida Pedestrian Planning and Design Handbook;

l. Best Development Practices;

m. Design for Livable Communities; and

n. Pedestrian and Transit Friendly Design.

Sustainability guidelines and other documents available after the effective date of this division may also be utilized.

3. All new roads in Martin County shall be constructed and paved in compliance with the standards set forth above, except as provided in section 4.843.L.

4. Except as otherwise provided in section 4.843.L. all roads providing access to any new development shall be paved.

4.843.B. *Right-of-way requirements.*

1. Minimum right-of-way (ROW) widths for each roadway classification are provided in table 4.19.1. Additional width may be necessary as determined by the County Engineer depending upon the approved roadway cross section, design elements within the right-of-way, and drainage requirements for the area. Applicants are encouraged to incorporate traditional neighborhood street design in redevelopment and new development projects. The minimum ROW widths for traditional neighborhood street design or within community redevelopment areas are found in section 4.847.

2. Variances may be granted by the Board of County Commissioners for rights-of-way within plats that were recorded prior to 1972 where the previously acquired right-of-way is less than the required minimum right-of-way.

3. Right-of-way requirements may be adjusted by the County Engineer for specific roadways involving intersection right-of-way improvements or restrictions of Martin County or the FDOT.

4. Intersection fillets shall provide a minimum 25-foot radius or an equivalent chord connecting the rights-of-way of the intersecting roads.

TABLE 4.19.1.

MINIMUM MID-BLOCK RIGHT-OF-WAY

	Minimum ROW Requirement	
Roadway	*Swale Drainage*	*Curb and Gutter*
Parkway [(1)]		
4-lane divided	190 feet	150 feet
6-lane divided	215 feet	175 feet
Major arterial [(1)]		
4-lane divided	180 feet	130 feet
6-lane divided	200 feet	160 feet
Minor arterial [(1)]	130 feet	115 feet
Major collector [(1)]	100 feet	80 feet
Minor collector	100 feet	80 feet
Local	60 feet	50 feet
Alley	30 feet	20 feet, no curb and gutter
Cul-de-sac	70-foot radius circle	60-foot radius circle
Scenic corridor [(2)]	N/A	N/A

(1) An additional 12 feet is required where a right-turn lane is to be provided at an access connection, including roadway intersections.

(2) Right-of-way as required to maintain the character of the roadway based on a scenic corridor resolution.

4.843.C. *Lane and buffer widths.* Minimum lane and buffer widths for each roadway classification are established in table 4.19.2. Minimum lane and buffer widths for streets within areas designated as traditional neighborhood developments (TND) or community redevelopment areas are established in table 4.19.11.

TABLE 4.19.2.

MINIMUM LANE AND BUFFER WIDTH

Roadway	Lane Width (feet)	Buffer [1] (feet)
Parkway [2], [3]	12	25
Major arterial [2], [3]	12	15
Minor arterial [3]	11	10
Major collector [3]	11	10
Minor collector	11	10
Local	10	4.5
Alley	N/A	N/A
Cul-de-sac	[4]	N/A
Scenic corridor	[5]	[5]

(1) Landscaped strip between edge of pavement and sidewalk. The swale shall serve as the minimum buffer on roadways where the swale is greater than the minimum buffer. However, for curb and gutter sections FDOT standards shall apply.

(2) Median width is 30 feet.

(3) Provide five-foot bike lanes on the outer side of roadway.

(4) The cul-de-sac may include a center island with a 30-foot radius and a outside radius of 50 feet as feet approved by the Public Services Director.

(5) Lane width and buffer as required to maintain the character of the roadway based on a scenic corridor resolution.

4.843.D. *Utilities and drainage.*

1. All utilities construction within the right-of-way shall be in accordance with the latest edition of the Martin County Utilities and Solid Waste Department minimum design and construction standards and shall require a utility connection permit issued by the County Engineer. After utility construction is complete, the roadway shall be restored to the satisfaction of the County

Engineer consistent with Martin County engineering standards and good engineering practices. Utility design and placement shall facilitate vehicular and pedestrian access.

2. All roadways under the jurisdiction of Martin County shall be in accordance with the following minimum requirements:

   a. *Profile grade line.*

      (1) *Curb and gutter.* Minimum pavement profile grade line slope shall be 0.3 percent.

      (2) *Swale drainage.* Minimum swale profile grade line slope shall be 0.5 percent.

   b. Pavement crown shall be normal, with minimum cross slope of 2.0 percent. Inverted crowns shall be permitted only upon written authorization from the County Engineer.

   c. *Hydraulic capacity.* The minimum hydraulic capacity of pavement drainage shall be as set forth in table 4.19.3.

   d. Stormwater attenuation and water quality shall be as set forth in division 9, Stormwater Management and Flood Control, of this article.

TABLE 4.19.3

Roadway	*Pavement Drainage*	
Classification	*Design Storm*	*Hydraulic Capacity*
Arterial	FDOT Drainage Manual	FDOT Drainage Manual
Major collector	Five-year, critical duration, 10-minute minimum	HGL at or below EOP*
Minor collector	Five-year, critical duration, 10-minute minimum	HGL at or below EOP
Local/residential	Three-year, critical duration, 10-minute minimum	HGL at or below EOP
Scenic corridor	To maintain the character of the roadway	

* HGL: hydraulic grade line; EOP: edge of pavement.

3. *Roadway flood protection.* Roadway centerlines shall be elevated above the elevations specified in table 4.19.4 except where roadway base protection requires that the centerline be elevated above those elevations.

TABLE 4.19.4

Roadway	*Flood Protection*	
Classification	*Design Storm*	*Centerline Elevation*
Arterial	25-year, 72-hour	25-year, 72-hour
Major collector	25-year, 24-hour	Peak stage at or below EOP
Minor collector	10-year, 24-hour	Peak stage at or below EOP
Local residential	10-year, 24-hour	Peak stage at or below EOP
Scenic corridor	To maintain the character of the roadway	

4. Valley gutters and curbing may be used to convey water to the stormwater management systems.

4.843.E. *Radius at street intersections.* At street intersections, the intersection of paved surfaces shall be rounded with a radius sufficient to allow vehicles to complete a 90-degree turn without encroaching on the opposing traffic lane. The minimum required intersection radii are set forth in table 4.19.5. Where two roadways of differing classification intersect, the required radius shall be that of the roadway serving the higher traffic volume. (For example, where a major arterial and a major collector intersect, the minimum radius shall be that of the major arterial.) Longer radii may be required by the County Engineer under the following circumstances:

1. Where streets intersect at less than right angles.
2. Frequent use by large vehicles such as motor homes and large trucks.
3. Bus routes.
4. Industrial parks with a recommended minimum radius of 45 feet.

TABLE 4.19.5.

MINIMUM INTERSECTION RADII

Roadway	*Minimum Radii (feet)*
Parkway	30
Major arterial	30

Minor arterial	25
Major collector	25 (1)
Minor collector	20 (1)
Local	15 (1)
Scenic corridor	(2)

(1) Radius may be reduced by five feet if parking is provided on the intersecting street.

(2) Intersection radii as required to maintain the character of the roadway based on a scenic corridor resolution.

4.843.F. *Sight triangles at intersections.* Until such time as the Engineering Department develops minimum sight distance triangles at intersections, sight distance triangles at intersections shall at a minimum conform with the requirements of the Florida Department of Transportation. The County Engineer may impose an additional distance requirement if the conditions of an intersection warrant such treatment based on Martin County engineering standards and/or good engineering practices. Objects within the sight triangle shall not exceed 24 inches in height with the exception of traffic control devices and utility structures.

4.843.G. *Sidewalks.*

1. All sidewalks shall be a minimum of six feet wide and constructed of Portland cement concrete.
2. All sidewalks shall comply with Florida Department of Transportation (FDOT) standards and specifications, the Americans with Disabilities Act and the Florida Accessibility Code for Construction.
3. Sidewalks are required on both sides of all roadways, except that sidewalks are required on only one side of roadways classified as local or residential streets and except on only the fronting side of a new development where the new development abuts an existing roadway where no sidewalk exists. One foot shall separate the sidewalk from the right-of-way line.
4. All sidewalks constructed in a road right-of-way or within a development shall be designed so there remains a six-foot unobstructed width taking into account vehicle parking, matured landscaping, proposed buildings and other possible obstructions.
5. The County Engineer may authorize a modification in sidewalk width to protect existing trees or to accommodate existing utilities. Sidewalks are not required to be constructed around the perimeter circle of a cul-de-sac.
6. The decision maker may modify or waive sidewalk requirements where a single pathway forming an integrated bicycle and pedestrian system is provided, so long as the design and construction complies with the Americans with Disabilities Act, the Florida Accessibility Code for Construction and has a minimum width of eight feet.
7. The decision maker may waive the sidewalk requirements and accept payment equal to the cost of construction, as determined by the County Engineer, when the decision maker deems the

sidewalk construction is not warranted. Such payment shall be used to fund sidewalk construction within the County to enhance pedestrian connectivity as needed or may be allocated to fund economic development activities at the discretion of the Board of County Commissioners.

8. The decision maker may waive the sidewalk requirements within a development and accept equestrian facilities when the decision maker deems an equestrian trail is appropriate for the area and the development is outside the County's urban service boundaries. The equestrian trail should provide access to the County's existing or proposed greenways when possible. The design and construction of the equestrian trail must be approved by the Parks and Recreation Department.

9. The maintenance of bicycle paths and pedestrian sidewalks not located within the public right-of-way and of sidewalks abutting private streets shall be the responsibility of the developer or property/homeowners association. The maintenance obligation shall be established on a plat or by a separate instrument approved by the County Attorney and recorded in the public records of Martin County.

10. Sidewalks may be maintained and/or replaced with the existing width and surface type as approved by the County Engineer. A transition section is required where sidewalks of six feet in width abut previously constructed sidewalks of less than six feet in width.

11. All sidewalks and ramps that are intended for pedestrian access shall comply with the Americans with Disabilities Act and the Florida Accessibility Code for Construction.

4.843.H. *Traffic controls, signage, and pavement markings.* All traffic controls, signage, and pavement markings shall be designed and installed in accordance with the Manual of Uniform Traffic Control Devices (MUTCD).

4.843.I. *Private streets.* No new private streets shall be created unless the applicant establishes a road maintenance agreement or other means satisfactory to the County Attorney to provide for proper maintenance. The parties to such agreement shall be responsible for construction, maintenance, and control of such roadways.

4.843.J. *Road maintenance.*

1. Streets that do not meet the requirements of this division shall not be accepted into the County maintenance system or for public ownership after the effective date of this division.

2. The minimum right-of-way requirements of table 4.19.1 may be reduced for the purpose of paving maintained dirt roads that were established prior to 1972 upon the approval of the County Engineer and Stormwater Administrator and in accordance with the following conditions:

   a. The roadway is classified as a minor collector or local street and is not expected to be upgraded to a higher roadway classification;

   b. Sufficient right-of-way is available, given existing topography and soil conditions, to provide for adequate drainage and water quality; and

   c. The available right-of-way provides an adequate shoulder and buffer area.

3. Opened roads, whether private or public, shall be maintained or improved to insure that passenger and emergency vehicles may traverse the road without damage or delay at a minimum speed of 20 miles per hour, as determined by the County Engineer.

4. The paving of unpaved open roads to eliminate dust and reduce maintenance shall be allowed under the following circumstances:

   a. The dirt road is listed as a minor collector or local street and is an open road.

   b. The road elevation shall not be changed so that hydrology remains unchanged.

c. The abutting property owners shall be notified that the level of service for drainage shall not be improved.

d. The pavement is pervious to water.

5. Driveway connections including drainage culverts within the County right-of-way shall be maintained by the property owner.

4.843.K. *Open Road Frontage.* In order for a building permit to be issued for the construction of any structure, the lot must directly front on an open road.

1. Exceptions: In addition, building permits may be issued under the following circumstances:

a. Building permits may be issued on both lots that result from a lot split created in accordance with section 4.911.C.1. provided that:

(1) The parent lot fronts on an open road;

(2) The driveways for each lot traverse only the parent lot; and

(3) The driveway connects to the open road that abuts the parent lot.

b. Building permits may be issued on a lot to replace a structure currently on the lot if the existing structure was built pursuant to a building permit issued by the County. In addition, if the existing structure is a single-family dwelling, building permits may be obtained for accessory structures.

c. The Board of County Commissioners may grant a variance that allows building permits on a lot not fronting on an open road provided that the Board determines:

(1) It is a legal lot of record;

(2) The lot does not have frontage or direct access on a public or private road, street, or other right-of-way, regardless of whether such public or private road, street or right-of-way is improved;

(3) The lot has legal access established by an instrument recorded prior to March 6, 2002, to an open road by easement over at least one intervening parcel; and

(4) A variance does not create an undue burden on the County's provision of public safety or public services.

The applicant for the variance shall notify, by U.S. Mail, return receipt requested, the fee simple owners of the property encumbered by the private easement(s) at least 14 days prior to a hearing before the Board of County Commissioners.

d. The Board of County Commissioners may grant a variance that allows building permits to be issued for a telecommunication tower on property not fronting on an open road provided that the Board determines:

(1) The property does not have frontage or direct access on a public or private road, street, or other right-of-way, regardless of whether such public or private road, street or right-of-way is improved;

(2) The property has legal access established by an instrument submitted with the application for the telecommunication tower to an open road by easement over at least one intervening parcel; and

(3) A variance does not create an undue burden on the County's provision of public safety or public services.

The applicant for the variance shall notify, by U.S. Mail, return receipt requested, the fee simple owners of the property encumbered by the private easement(s) at least 14 days prior to a hearing before the Board of County Commissioners.

2. It shall be unlawful for anyone to open a road in the unincorporated portion of Martin County without having obtained a permit therefore in accordance with this article. This provision shall not affect the lawful use of any platted, unopened road right-of-way.

4.843.L. *Unpaved Roads.*

1. Roads may be opened without the requirement of paving subject to the following requirements:

   a. The parcel of land for which the unpaved road will provide access shall:

      (1) Be located outside of the primary and secondary urban services district; and

      (2) Be at least 40 acres or be at least 20 acres within the first mile lying either side of an open roadway classified as a collector or arterial; and

      (3) Be a lot of record created prior to September 29, 1977, or the result of a lot split or other division of property exempted from the subdivision regulations pursuant to section 4.911, and shall not be the result of a subdivision of real property.

   b. The unpaved road shall:

      (1) Be stabilized by a substance and material that can support passenger and emergency vehicles to safely travel at speeds of up to 20 miles per hour without damage or delay; and

      (2) Have a stabilized width of at least 20 feet; and

      (3) Have a right-of-way or easement width of at least 50 feet, unless the County Engineer determines that a reduced width will not negatively impact the health, safety, and welfare of the public; and

      (4) Meet or exceed the roadway flood protection standards for local residential roads identified in section 4.843.D.3.

2. Sidewalks are not required for the opening of unpaved roads.

3. Parcels of land within the Pal Mar Drainage District shall not be eligible to obtain a permit for opening an unpaved road unless specifically authorized by the Board of County Commissioners.

4. The owners of a parcel of land where the unpaved road was opened after November 30, 2009, and provides access shall be obligated to provide maintenance of the unpaved road. Notice of the obligation shall be recorded in the public records of Martin County.

(Ord. No. 561, pt. I, § 4.19.3, 12-7-1999; Ord. No. 603, pt. I, § 4.19.3, 11-20-2001; Ord. No. 791, pt. 1, 3-4-2008; Ord. No. 811, pt. 1, 10-28-2008; Ord. No. 821, pt. 2, 4-7-2009; Ord. No. 834, pt. 1, 11-17-2009; Ord. No. 863, pt. 1, 4-20-2010; Ord. No. 1019, pt. 1, 4-25-2017)

Sec. 4.844. Mobility and connectivity.

The purpose of this section 4.844 is to discourage the use of local streets for cut-through traffic while maintaining the overall connectivity of the roadway system. This section 4.844 also provides for bicycle/pedestrian connections between neighborhoods under certain circumstances. The provisions of this section 4.844 are intended to improve the safety and convenience of walking and bicycling; facilitate emergency access; reduce vehicle miles traveled; help preserve the use of major roadways for through

traffic by providing alternative routes for short local trips and reduce the need for continued road widening which divides neighborhoods with wide expanses of pavement that are difficult and hazardous to cross. In addition it is expected that these provisions will reduce environmental damage by allowing more compact layouts of streets and lots.

4.844.A. *Connectivity with surrounding streets.* All new developments shall be designed to discourage the use of local streets by cut-through traffic while maintaining the overall connectivity with the surrounding system of roadways. This may be accomplished through the use of modified grid systems, T-intersections, roadway jogs, or other appropriate traffic calming measures within the development. The following are also encouraged:

1. Coordination of the street system of a proposed subdivision with existing, proposed and anticipated streets surrounding the subdivision.

2. The extension of proposed streets to the boundary lines of the development where such an extension would connect with streets in an existing, platted or planned development. The extension or connection should be based upon traffic circulation or public safety issues and compatibility of adjacent land uses.

3. When a proposed development abuts unplatted land or a future development phase of the same development, stub streets should be provided to provide access to abutting properties or to logically extend the street system into the surrounding areas. All street stubs should be provided with a temporary turnaround or cul-de-sac, and the restoration of the temporary turnaround or cul-de-sac, and extension of the street should be the responsibility of any future developer of the abutting land.

4.844.B. *Bicycle and pedestrian access.*

1. Opportunities for bicycle/pedestrian mobility should be enhanced through site design strategies and bicycle/pedestrian access ways that seek to shorten walking distances and increase accessibility between neighborhoods, schools, recreation areas, community centers, shopping areas or employment center as follows:

   a. Sidewalks connecting residential developments to the sidewalk system of surrounding roadways.

   b. An accessible route within the boundary of a site shall be provided to meet the requirements of the Americans with Disabilities Act.

   c. Bicycle/pedestrian ways connecting residential developments and or nearby schools, neighborhood community centers, churches, parks, commercial and office developments, or other compatible land uses.

2. Where the decision maker determines that a bicycle/pedestrian connection is desirable from a subdivision to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the streets, the developer may be required to reserve an unobstructed easement to provide such access.

3. Reserved.

4. Reserved.

4.844.C. *Equestrian facilities.*

1. Opportunities for equestrian paths should be enhanced through site design strategies and equestrian path connections that seek to provide equestrian access from new developments where equestrian facilities are permitted to the County's existing or proposed greenways.

2. Where the decision maker finds that an equestrian path is desirable from a proposed development to an existing or proposed greenway and that such access is not conveniently

provided by local streets, the developer may be required to reserve an unobstructed easement to provide such access.

(Ord. No. 561, pt. I, § 4.19.4, 12-7-1999; Ord. No. 603, pt. I, 4.19.4, 11-20-2001; Ord. No. 617, pt. 2, § 4.19.B, 7-9-2002)

Sec. 4.845. Access management.

4.845.A. *General requirements.*

1. No person shall construct or modify any access connection to a County roadway without a connection permit from the County Engineer. An access connection to a State highway requires a connection permit from the Florida Department of Transportation (FDOT). FDOT will notify Martin County of all requests for access connections on State roadways.
2. A notice of intent to permit an access connection to a State highway from the Florida Department of Transportation is not a final connection permit and does not constitute approval from Martin County. The County may require modifications to property access during development review in accordance with County policies and regulations governing land development and interparcel circulation.
3. Access connections initiated by Martin County will be constructed by the County.

4.845.B. *Access classification system and standards.*

1. Separation between access points on all State highways shall be in accordance with Florida Department of Transportation Access Classification System and Standards, F.A.C. ch. 14-96 and 14-97.
2. Roadways under the jurisdiction of Martin County shall be classified for the purposes of access management as provided in table 4.19.4. Roadways or roadway segments shall be assigned an access classification by the Board of County Commissioners. The factors to be considered in assigning an access classification shall include, but not be limited to, the current and planned functional classification of the roadway, existing and projected traffic volumes, drainage requirements, growth management objectives, and location within a TND or CRA.
3. The separation between access points on roadways shall meet or exceed the minimum standards for that classification as set forth in table 4.19.6.

TABLE 4.19.6.

MARTIN COUNTY ACCESS CLASSIFICATION SYSTEM AND STANDARDS

Access Class	*Restrictive Median**	*Connection Spacing (feet)*		*Median Opening Spacing (feet)*		*Signal Spacing (feet)*
		>45 mph	*≤45 mph*	*Directional*	*Full*	
2	Yes	1320	660	1,320	2,640	2,640

3	Yes	660	440	1,320	2,640	2,640
4	No	660	440			2,640
5	Yes	440	245	660	2,640/1,320	2,640/1,320
6	No	440	245			1,320
7	All road types	125	330	660	1,320	

*A "restrictive" median physically prevents vehicle crossing. A "nonrestrictive" median allows turns across any point.

4. Deviation from access spacing standards may be permitted as follows:

   a. Deviations up to ten percent of the allowable spacing standard or 100 feet, whichever is less, may be authorized by the County Engineer where a property is otherwise unable to meet the minimum driveway spacing standards and where this deviation would not create a safety problem on the public road.

   b. Other deviations shall require the approval of the decision maker. A traffic impact study shall be required at the expense of the applicant to assist the County in these determinations, except as provided in section 4.845.B.5 below.

5. Where the existing configuration of properties and driveways in the vicinity of the subject site precludes spacing of an access point in accordance with this section 4.845, the County Engineer shall be authorized to waive the spacing requirement if all of the following conditions have been met:

   a. A joint use driveway will be established to serve two abutting building sites with cross access easements provided in accordance with section 4.845.D.

   b. The building site is designed to provide cross access and unified circulation with abutting sites; and

   c. The property owner agrees to close any pre-existing curb-cuts that do not meet the requirements of this division after the construction of both sides of the joint use driveway.

6. A development that cannot meet the access requirements of this division and has no reasonable alternative means of access to the public road system shall be issued a temporary connection permit. When adjoining parcels develop which can provide joint or cross access, the temporary permit shall be rescinded and an application for a connection permit consistent with the requirements of this division shall be required. Conditions may be included in the temporary permit including, but not limited to, a limitation on development intensity on the site until adjoining parcels develop which can provide the joint and/or cross access consistent with the requirements of this division.

4.845.C. *Corner clearance.*

1. Access connections shall not be permitted within the functional area of an intersection, as established by the minimum connection spacing for each roadway, unless:

a. No other reasonable access to the property is available, including joint and cross access with adjacent properties; and

b. The connection does not create a potential safety or operational problem as determined by the County Engineer upon review of a site specific study of the proposed connection prepared by the applicant's registered engineer.

2. Where no other alternatives exist, construction of an access connection along the property line farthest from the intersection may be allowed by the County Engineer. In such cases, directional connections may be required (right-in/out only) and only one driveway shall be permitted along the roadway having the lower functional classification unless such connection would create a safety or operational problem.

4.845.D. *Joint and cross access.* Adjacent commercial or office properties and major traffic generators (i.e., shopping plazas, office parks) shall provide a cross access drive and pedestrian access way to allow circulation between sites. This requirement shall also apply to a building site that abuts an existing developed property unless the decisionmaking body finds that this would be impractical. Property owners shall:

1. Record an easement in the public records of Martin County allowing cross access to and from the adjacent properties;

2. Agree that any pre-existing driveways provided for access in the interim shall be closed and eliminated after construction of the joint use driveway; and

3. Record a joint maintenance agreement in the public records of Martin County defining maintenance responsibilities of property owners that share the joint use driveway and cross access system.

4.845.E. *Requirements for unified access and circulation.*

1. In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be considered unified parcels for the purposes of this division. This shall also apply to phased development plans. Accordingly, the following requirements shall apply:

a. The number of connections permitted shall be the minimum number necessary to provide reasonable access to the overall site and not the maximum available for that frontage.

b. All easements and agreements required under section 4.845.D shall be provided.

c. Access to outparcels shall be internalized using the shared circulation system and designed to avoid excessive movement across parking aisles or queuing across surrounding parking and driving aisles.

2. Where abutting properties are in different ownership and not part of an overall development plan, cooperation between the various owners in development of a unified access and circulation system is encouraged. Only the building site(s) under consideration for development approval shall be subject to the requirements of this division. Abutting properties shall not be required to provide unified access and circulation until they are developed or are redeveloped.

4.845.F. *Access to homes and subdivisions.* When a residential development is proposed that would abut an arterial or major collector roadway, it shall be designed to provide lots abutting the roadway with access from an interior local road or frontage road. Direct driveway access to individual one- and two-family dwellings from arterial and major collector roadways shall be avoided. All other reasonable access alternatives shall be investigated and judged unacceptable by the County Engineer before direct residential driveway access on an arterial or major collector is permitted.

4.845.G. *Driveway location and design.*

1. Driveway approaches shall be located and designed to provide adequate sight distance as determined by the County Engineer. Until such time as the Engineering Department develops sight distance standards, Florida Department of Transportation (FDOT) standards for sight distance shall apply.
2. During the site plan approval process, the County Engineer may require auxiliary lanes where deemed necessary due to traffic volumes in order to meet concurrency or where a safety or operational problem exists. The design of left turn and right turn lanes shall conform to FDOT design standards until such time as the Engineering Department develops design standards.
3. Construction of driveways along acceleration or deceleration lanes and tapers is prohibited unless no other access to the property is available.
4. Driveways across from median openings shall be consolidated wherever feasible to coordinate access at the median opening.
5. To reduce left turn conflicts, new driveways on undivided roadways shall be aligned with those across the roadway if possible. If alignment is not possible, driveways on opposite sides of undivided roadways shall be offset to minimize jog maneuvers, overlapping left turns and other maneuvers that may result in safety hazards or operational problems. Guidelines for minimum offset distances are provided in table 4.19.7. Longer offsets may be required by the County Engineer depending on the expected inbound left turn volumes of the driveways.

TABLE 4.19.7.

MINIMUM OFFSET DISTANCE BETWEEN DRIVEWAYS OR INTERSECTIONS ON OPPOSITE SIDES OF UNDIVIDED ROADWAYS

Roadway Classification	*Minimum Offset [(1)] (feet)*
Major arterial	600 [(2)] , 300 [(3)]
Minor arterial	220
Major collector	200
Minor collector	150

[(1)] Measured centerline-to-centerline of opposing driveways on intersections.

[(2)] Posted speed 45 mph or greater.

[(3)] Posted speed 40 mph or less.

6. Driveway width and return radius or flare shall be adequate to serve the volume of traffic and provide for efficient movement of vehicles onto and off of the major thoroughfare. However, the

width of driveways shall not be so excessive as to pose safety hazards for pedestrians and bicycles. Guidelines for driveway design for passenger cars are provided in tables 4.19.6 and 4.19.7. The County Engineer may require longer radii and/or wider throats where deemed necessary to accommodate trucks.

7. Driveways with more than one entry and one exit lane shall incorporate channelization features to separate the entry and exit sides of the driveway. Double yellow lines may be considered instead of medians where truck off-tracking is a problem.

8. Driveways shall be designed with adequate on-site storage for entering and exiting vehicles to reduce unsafe conflicts with through traffic or on-site traffic and to avoid congestion at the entrance. Guidelines for driveway throat length are provided in tables 4.19.8 and 4.19.9. Shorter throat lengths may be permitted by the County Engineer for driveways that are considered as service entrances not considered as primary access points to the site.

TABLE 4.19.8.

GUIDELINES FOR DRIVEWAY THROAT LENGTH, THROAT WIDTH AND RETURN RADIUS FOR SIGNALIZED OR DIVIDED DRIVEWAYS [1]

No. of Lanes				*Entry*		*Exit*	
Enter	*Exit*	*Divider*	*Min Throat Length (feet)*	*Radius (feet)*	*Width [2] (feet)*	*Radius (feet)*	*Width [2] (feet)*
1	2	Not landscaped [3]	75	25	14	25	24
1	2	Landscaped [4]	75	30	16	30	24
2	3 [5]	Landscaped [4]	200	30	26	30	36
2	4 [5]	Landscaped [4]	275	30	26	30	48

[1] Divided driveways apply primarily to parkways and major arterials.

[2] Width face-to-face of curbs, or face of divider to edge of driveway pavement.

[3] Driveway medians (dividers) that are not landscaped shall have a surface color that contrasts with the driveway pavement surface; the surface of such a median (divider) shall not be more than three inches above the driveway pavement surface. The median (divider) shall be outlined with a four-inch wide solid yellow line.

[4] Landscaped medians shall be at least ten feet wide, face-to-face of curb. The length shall be equal to the throat length. A mountable type curb shall be used, preferably four inches in height but not to

exceed six inches. A more liberal design is needed with a landscaped divider because an entering vehicle cannot encroach on the exit side of the drive.

(5) Includes a separate right-turn lane.

TABLE 4.19.9.

GUIDELINES FOR DRIVEWAY THROAT LENGTH, THROAT WIDTH AND RETURN RADIUS FOR UNDIVIDED DRIVEWAYS (1)

	Number of Lanes		*Entry Side*		*Exit Side*		*Total Throat Width (feet)*	*Minimum Total Throat Length (feet)*
Roadway Class	*Enter*	*Exit*	*Radius (feet)*	*Width (feet)*	*Radius (feet)*	*Width (feet)*		
Parkway	1	1 (2)	30	14	30	12	26	50
	1	2 (3)	30	14	30	24	38	50
Major arterial	1	1 (1)	25	14	25	12	26	50
Minor arterial or major collector	1 1	1 (1) 2 (3)	20 20	14 14	20 20	12 24	26 38	30 30
Minor collector	NA (4)	NA (4)	15	—	15	—	26	25
Local street	NA	NA	5	—	5	—	15—25	20

(1) Combinations of throat width and return radii are for passenger cars; wider throat widths and/or longer return radii may be required where large volumes of trucks are expected.

(2) Entry and exit sides of the driveway shall be separated by a four-inch solid yellow line.

(3) Entry and exit sides of the driveway shall be separated by four-inch double solid yellow lines; exit lanes shall be separated by a four-inch solid white line. Paint lines shall extend the full length of the driveway throat.

(4) Entry and exit lanes are not normally defined.

9. The maximum change in grade between the pavement cross-slope of the roadway and the driveway grade are provided in table 4.19.10.

TABLE 4.19.10.

GUIDELINES FOR CHANGE IN DRIVEWAY GRADE

Roadway Class	*Maximum Change in Grade*
Parkway	4
Major arterial	5
Minor arterial	6
Major collector	8
Minor collector	8
Residential driveway*	10

*A change in grade in excess of eight percent shall be permitted only where the driveway of a single-family residence connects with a local street.

4.845.H. *Redevelopment requirements.*

1. Properties with access connections which do not meet the requirements of this division shall be brought into compliance with this division to the extent possible when modifications to the roadway are made or when a change in use results in one or more of the following conditions:
   a. When a connection permit is required.
   b. When site plan review is required.
   c. When a site experiences an increase of twenty percent or greater in peak hour trips or 100 vehicles per hour in the peak hour, whichever is less, as determined by one of the following methods:
      (1) An estimation based on the ITE Trip Generation Manual (latest edition) for typical land uses; or
      (2) Traffic counts made at similar traffic generators located in Martin County; or
      (3) Actual traffic monitoring conducted during the peak hour of the adjacent roadway traffic for the property.
2. When a site plan or driveway application is submitted for approval and if the principal activity on a parcel with access connections which do not meet the regulations of this division is discontinued for a period of one year or more, then that parcel must comply with all applicable access requirements of this division to the extent possible.

4.845.I. *Corridor access management overlay zones.* Martin County may designate segments of a roadway corridor for the purpose of developing corridor access management plans that apply special access management requirements to the corridor. The purpose of this designation is to develop a specific plan for the roadway system, including, but not limited to, median openings, signal location, access connections and cross access and joint access requirements for adjacent developments that reduces access problems on major thoroughfares and advances sustainable development patterns in conformance with the desired character of the County and the Comprehensive Plan. Corridor access management overlay zones do not supercede underlying land use and zoning provisions, but provide additional requirements for designated areas. Corridor access management overlay zones shall be designated in accordance with the public hearing provisions of article 10 of the Land Development Regulations. Corridor access management plans for State-maintained highways shall be developed in accordance with the procedural requirements of F.A.C. 14-97.004(5) for corridor access management plans.

(Ord. No. 561, pt. I, § 4.19.5, 12-7-1999; Ord. No. 603, pt. I, § 4.19.5, 11-20-2001)

Sec. 4.846. Reserved.

Editor's note— Part 2, § B, of Ord. No. 622, repealed § 4.19.6, which had been recodified as § 4.846 and amended by Ord. No. 561, adopted Dec. 7, 1999 and Ord. No. 603, adopted Nov. 20, 2001. Former § 4.846 pertained to parking, provisions for which can be found under § 4.621 et seq.

Sec. 4.847. Traditional neighborhood street design.

4.847.A. Applicability.

1. Applicants are encouraged to incorporate traditional neighborhood street design into redevelopment and new development projects for the purpose of developing a traditional neighborhood development (TND) pattern outside of the community redevelopment areas. Applicants are required to utilize traditional neighborhood street design in the community redevelopment areas. TND street design reduces traffic congestion and expands options for vehicular, pedestrian and bicycle access through an integrated network of narrow roadways. It results in a reduction in linear streets, incorporates traffic calming resources and allows on-street parking.
2. The standards contained in the following sub-sections of this division do not apply to TND streets designed in conformity with Section 4.847.:
   a. Sub-section 4.843.B (Right-of-way requirements),
   b. Sub-section 4.843.C. (Lane and buffer widths), and
   c. Sub-section 4.843.E. (Radius at street intersections).
3. The standards contained in sub-section 4.627 of article 4, division 14, Parking and Loading, do not apply to TND streets designed in conformity with Section 4.847.:
4. The intent of this section is to provide flexibility for the design of traditional neighborhood streets to facilitate achievement of the transportation, environmental, aesthetic, economic, safety, and maintenance objectives for each roadway segment. The decision-maker may allow deviations from the minimum standards contained in Table 4.19.11 when necessary due to the location of existing buildings, constrained right-of-way, or to meet other needs or goals of the particular street segment. Such deviations may include, but are not limited to, a width of a furnishings

zone, pedestrian zone, median or bicycle lane that is greater or less than that provided in Table 4.19.11.

4.847.B. *TND street design and layout.*

1. Traditional neighborhood developments, and developments within community redevelopment areas shall incorporate the following street layout principles:
   a. Street layout should exhibit a high degree of overall connectivity, with some allowances for topographic or wetlands conditions.
   b. Cul-de-sacs are generally discouraged, but may be used in moderation.
   c. Maximum block length in the TND should not exceed 1,320 linear feet.
   d. Trees should be planted within the street rights-of-way between the sidewalk and the street curb.
   e. Provision should be made for on-street parking.
2. The minimum standards for TND street designs are provided in table 4.19.11.

TABLE 4.19.11.
TND Street Minimum Standards
(all measurements in feet as measured perpendicular to center line of street)

TND Street Types	Street Elements						
	Pedestrian Zone	Furnishings Zone [8]	Travel Lane	Median	On-street Parking	Bicycle Lane [1]	Maximum Posted Speed [2]
Boulevard	6	5	11	10 [3]	[4]	7	35
Main Street	8	5	10	6 [3]	0°(parallel)-8 45°-18 90°-18.5	5	30
Local Street (Nonresidential)	6	5	10	n/a [5]	0°(parallel)-8 45°-18 90°-18.5	4	25
Local Street (Residential)	6	5	9	n/a [5]	5 [6]	4	25
Alley	n/a [5]	n/a [5]	8	n/a [5]	n/a [5]	n/a [5]	n/a [5]

(1) Bicycle lanes are required if the roadway segment is included among the "Top 20 Priorities" of the Martin County Bicycle and pedestrian action plan or identified in the latest bicycle, pedestrian and trails master plan. On local streets, bicycles and motor vehicles share the travel lane.

(2) Any change in a posted speed limit requires the approval of the Board of County Commissioners. The maximum posted speed limit of 35 mph for a TND Boulevard is intended to allow incremental transition of existing roadways to traditional neighborhood street types. The goal for TND Boulevards is that the posted speed limit shall not exceed 30 mph.

(3) The minimum standards for medians apply only if medians are proposed.

(4) If on-street parking for a TND Boulevard is provided on a parallel service road, the standards shall be the same as those for a main street or a non-residential local street.

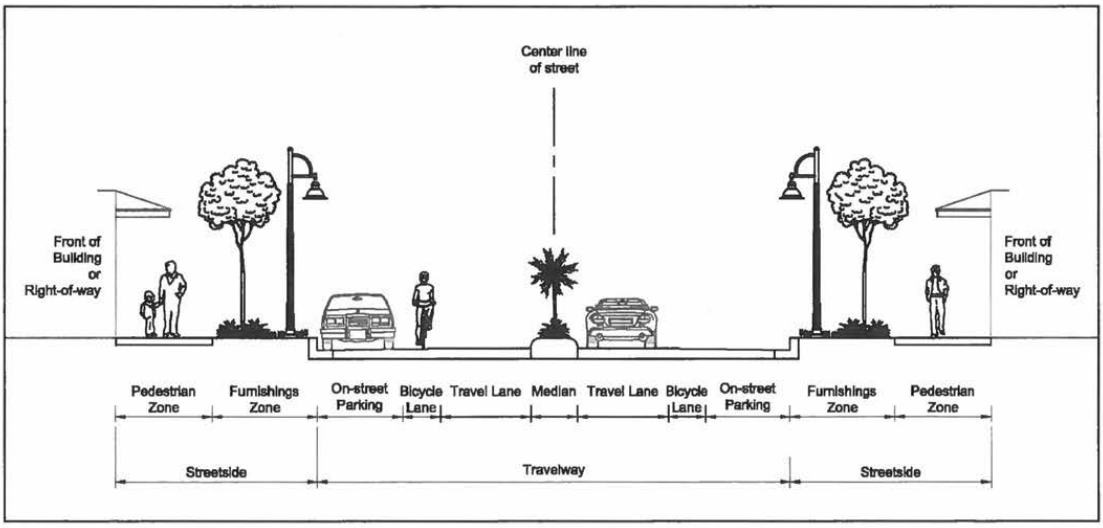
(5) "n/a" means not applicable. It does not mean such a feature is prohibited if the design is appropriate to the context and approved by the County Engineer.

(6) On local residential streets, on-street parking may be provided by increasing the width of the pavement by five feet.

(7) An alley may be one-way or two-way. A one-way alley shall have a pavement width of no less than 10 feet.

(8) The furnishings zone may also accommodate expanded sidewalk width.

Figure 4.19.1 Illustration of TND Street



(Ord. No. 561, pt. I, § 4.19.7, 12-7-1999; Ord. No. 603, pt. I, § 4.19.7, 11-20-2001; Ord. No. 1019, pt. 1, 4-25-2017)

Sec. 4.848. Traffic calming.

This section provides a procedure and guidelines for evaluating the need for traffic calming and traffic control devices in new developments and in neighborhoods affected by cut-through or high-speed traffic, and to guide the provision of such devices on County roadways. The intent of this section 4.848 is as follows: (1) to improve the livability of neighborhoods by reducing adverse traffic impacts on residential

neighborhoods; (2) to promote safe and pleasant conditions for motorists, bicyclists, and pedestrians on neighborhood streets; (3) To provide meaningful citizen involvement in all phases of neighborhood traffic management; (4) to make efficient use of County resources by screening and prioritizing requests for traffic calming.

4.848.A. *Neighborhood traffic studies.*

1. Prior to implementing neighborhood traffic control devices or traffic calming measures on local streets or minor arterials, a neighborhood traffic study will be conducted to document the extent to which cut-through traffic or high-speed traffic is negatively impacting the area. The study may be initiated by the Board of County Commissioners, by residents or property owners in the affected neighborhood, or by County staff.

2. The Engineering Department shall process requests for neighborhood traffic studies in accordance with the procedures of this section 4.848 and within the limits of available resources. To aid in screening and prioritizing requests for traffic studies, the County may request a demonstration of interest and support from neighborhood residents in the form of a petition signed by the majority of residents on the affected street(s). The petition must specify the area under consideration, the nature of the problem (speed, traffic volume, cut-through traffic) and the objectives being sought through the study (reduce speeds, lower volumes, eliminate through-traffic, etc.).

4.848.B. *Study procedures.* When it is determined that a neighborhood traffic study should be conducted, appropriate data shall be collected upon which to base the decisions for implementation of traffic control devices and/or traffic calming measures. Considerations for data collection may include, but are not limited to:

1. Traffic volumes.
2. Speed.
3. Safety.
4. Intersection volumes.
5. Extent of bicycle and pedestrian activity.

Upon completion, the study shall be submitted to the Board of County Commissioners.

4.848.C. *Public notification.*

1. When a neighborhood traffic study results in a determination by the Board of County Commissioners that traffic control devices or traffic calming measures may be warranted in the study area, a public notification process will be undertaken by the Engineering Department to inform property owners, residents, and business owners. The public notification process will seek input, address concerns, and discuss alternative solutions.

2. A neighborhood workshop will be held and a neighborhood team may be formed to discuss problems, current conditions and to review the results of the traffic study. As recommended strategies are devised, follow-up meetings will be held with neighborhood residents as needed to reach consensus on a recommended approach.

3. Final recommendations and a plan for carrying out the recommendations will be presented to the Board of County Commissioners for final action.

4.848.D. *Priority ranking for implementation.* The Engineering Department may prioritize the implementation of traffic control devices and/or traffic calming measures in neighborhoods with a completed traffic study by establishing a priority ranking. Criteria, not listed in order of priority, to determine the priority for implementation may include:

1. Traffic volumes.

2. Traffic speeds.
3. Number of crashes and injuries.
4. Number of schools in proximity to the residential area.
5. Number of pedestrian generators.
6. Existence of sidewalks versus no sidewalks.
7. Number of residents adversely affected.

4.848.E. *Test installation and evaluation.* The County Engineer may require a test prior to permanent installation to assure that no unforeseen hazard is created by a traffic control device or traffic calming measure. If the evaluation indicates that the installation poses a hazard or has not met the objectives as set forth in the studies, then the County shall conduct additional neighborhood workshops to develop new alternatives.

4.848.F. *Traffic calming on thoroughfares.*

1. Traffic calming measures may be considered on selected segments of thoroughfares as they pass through areas with a higher intensity of community activity for the purpose of reducing travel speeds, increasing driver deference to pedestrian activity, and supporting walking and bicycling in these areas. Areas that may considered for such treatments include dense settlements along rural roadways, pedestrian-oriented shopping districts, and school crossing zones or others as deemed appropriate by the Board of County Commissioners.
2. The need for traffic calming along a thoroughfare and appropriate treatments will be evaluated on a case-by-case basis by the Board of County Commissioners. Approaches to solving traffic problems on selected thoroughfare segments shall include, but not be limited to:
   a. Targeted enforcement for limited durations to slow traffic.
   b. Traffic control devices or entry treatments to permanently slow traffic.
   c. Education to raise awareness of the negative effects that speeding and excessive vehicle volumes have on pedestrian safety and the livability of affected areas.
3. Treatments that may be appropriate for thoroughfares include entry or gateway treatments, raised medians, roundabouts, raised crosswalks, textured pavement, bulbouts (neckdowns) at intersections, or other treatments deemed appropriate by the County Engineer. In determining appropriate treatments for such areas, the following factors shall be considered:
   a. Traffic control devices shall not inappropriately restrict buses, emergency vehicles, and trucks from providing normal and necessary services to the affected area.
   b. Devices shall be well illuminated, visible and include appropriate markings and signage.
   c. Devices shall allow the traffic stream to maintain a consistent speed that is appropriate for the area.
   d. Devices or treatments shall not pose a hazard to bicycles or pedestrians, or impede people with disabilities.
   e. In no case shall any treatment be approved where it is found by the County Engineer to pose a potential safety hazard.
4. Should a traffic calming study be desired on the state highway system, it shall be conducted in coordination with the Florida Department of Transportation and traffic calming

measures shall be consistent with FDOT policy 000-625-060-a, Transportation Design for Livable Communities.

(Ord. No. 561, pt. I, § 4.19.8, 12-7-1999; Ord. No. 603, pt. I, § 4.19.8, 11-20-2001)

Sec. 4.849. Scenic corridors.

Some roadways, due to their cultural, historic, or environmental amenities, may warrant special protection. Examples may include canopy roads or roadways with special scenic or historic qualities. The purpose of this section 4.849 is to provide for the designation and protection of such roadways or roadway segments in Martin County as historic or scenic corridors.

4.849.A. *County scenic corridors.* The Board of County Commissioners may classify segments of County-maintained roadways as scenic corridors through roadway classification or the use of a corridor overlay zone. Such designation shall extend for a specified distance on either side of the roadway and allow for the adoption of special corridor overlay regulations to preserve, maintain, protect, or enhance the intrinsic character of the corridor. The adoption of a scenic corridor classification shall be by resolution of the Board of County Commissioners and shall include justification for the preservation, maintenance and protection of the facility.

4.849.B. *Scenic corridors on the State highway system.* Any citizen, group of citizens, or local government wishing to designate a corridor on the State highway system as a scenic corridor may do so in accordance with the procedures of the Florida Scenic Highways Program (FSHP). All potential applicants are directed to reference the Florida Scenic Highways Program Manual, available through the local FDOT District Scenic Highways Coordinator.

(Ord. No. 561, pt. I, § 4.19.9, 12-7-1999; Ord. No. 603, pt. I, § 4.19.9, 11-20-2001)

Secs. 4.850—4.870. Reserved.

FOOTNOTE(S):

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Cross reference— Stormwater management, § 4.381 et seq.; off-street parking and loading, § 4.621 et seq.; subdivisions, § 4.911 et seq.; traffic impact analysis, § 5.61 et seq. (Back)

DIVISION 20. COMMERCIAL DESIGN

Sec. 4.871. In general.

4.871.A. *Purpose and intent.* The purpose of this division 20 is to regulate the architectural and site design of commercial developments, including other types of development that are closely associated with commercial development. Massive or generic developments that do not contribute to, nor integrate with, the community in a positive manner can be detrimental to the community's image and sense of place. The goal of this division 20 is to create and maintain a strong community image by providing for architectural and site design standards which will enhance the visual appearance and function of commercial development in Martin County.

4.871.B. *Applicability.*

1. *Scope of regulations.* The provisions of this division 20 shall apply to the following:

   a. Any nonresidential development conducted in the General Commercial, Limited Commercial, Commercial Office/Residential or Waterfront Commercial Future Land Use designations.

   b. Except as provided for in subparagraph c., below, any development within an Industrial or Institutional Future Land Use designation, on lots abutting a minor or major arterial street or an expressway, as defined in section 4.842, Roadway Design, of the Land Development Regulations, but specifically excluding buildings and structures that are set back more than 600 feet from such minor or major arterial streets. Where any portion of a building lies within 600 feet of a minor or major arterial street or an expressway, the entire building shall comply with the provisions of this division 20.

   c. Any development on the Witham Field airport property, excluding Fixed Base Operators and other uses directly related to aviation, but only until such time as the Board of County Commissioners has approved architectural design standards for Witham Field.

2. Developments lawfully established prior to the effective date of this division 20 which do not conform to the requirements of this division 20 shall be required to comply upon occurrence of any of the following:

   a. *Change of use.* Any change from one permitted use category, as set forth in article 3, Zoning Districts, to another permitted use category, as set forth in article 3, Zoning Districts, or any change in the use of a lot that increases the demand for parking, creates additional impervious area, or increases the traffic generating capacity of the development.

   b. *Substantial improvement.* Any repair, reconstruction, extension or other improvement to a building or structure, including such work conducted over a period of time, the cost of which equals or exceeds 50 percent of the assessed value of such building or structure either before the improvement is commenced or, if the property has been damaged and is being restored, before the damage occurred. For purposes of this definition, assessed value shall mean the assessed value of a structure for the current year as determined by the Martin County Property Appraiser.

   c. *Substantial renovation of building exterior.* A substantial renovation of the building exterior is one in which the appearance of the building materially changes, such as by the installation or modification of facade features, but not painting or cleaning that is simply intended to restore the exterior to its previous condition. The replacement of roofing material, even if it changes the appearance of the building, shall not be considered a substantial renovation of the building exterior provided that the new roofing material is not otherwise prohibited by section 4.872.F.

d. *Discontinuation of use.* A discontinuation of use occurs when the building or buildings on a lot have remained unoccupied for a period of 365 consecutive days. Evidence of discontinuation of a use may include, but is not limited to, failure to maintain required occupational or other licenses required by any government entity, the discontinuation of utility services, or removal of machinery or equipment normally associated with the use. This provision shall not apply to lots containing more than one principal use, such as a multitenant commercial center or industrial park. Where the requirements of this division 20 have been deemed to apply by virtue of this paragraph d., the applicant may appeal such decision to the County Administrator. The County Administrator may set aside the finding that a discontinuation of use has occurred upon a demonstration by the applicant that the costs of complying with the requirements of this division 20 will make the parcel unmarketable.

4.871.C. *Determination of compliance.*

1. No final site plan or building permit shall be approved unless the application demonstrates compliance with the requirements of this division 20. For final site plans, only a conceptual representation of proposed architectural features is required to demonstrate compliance with this division 20.

2. All elevation drawings used to demonstrate compliance with the requirements of this division 20, including conceptual drawings, shall be prepared under the direction of an architect licensed pursuant to F.S. ch. 481.

4.871.D. *Glossary.* For purposes of this division 20 the following words, terms and phrases shall have the meanings as set forth below:

Large commercial development. Any commercial development of 100,000 square feet in gross floor area or greater. In the case of multiple buildings within the same commercial development, including Planned Unit Developments, phased developments and outparcels in different ownership than the primary parcel, the total square footage of all buildings shall comprise the gross floor area. When making a determination as to whether or not a particular development constitutes a large commercial development, the decision-maker shall consider the design of facilities and site components which are likely to be shared with the development of other properties, including but not limited to parking, drainage, vehicular access, pedestrian access, preserve areas and common areas.

Primary facade. Any building elevation that is:

1. Visible from a public street, excluding alleys designed primarily for service vehicles; or

2. Which provides a customer entrance to a commercial or institutional use.

Secondary facade. Any building elevation that is not a primary facade.

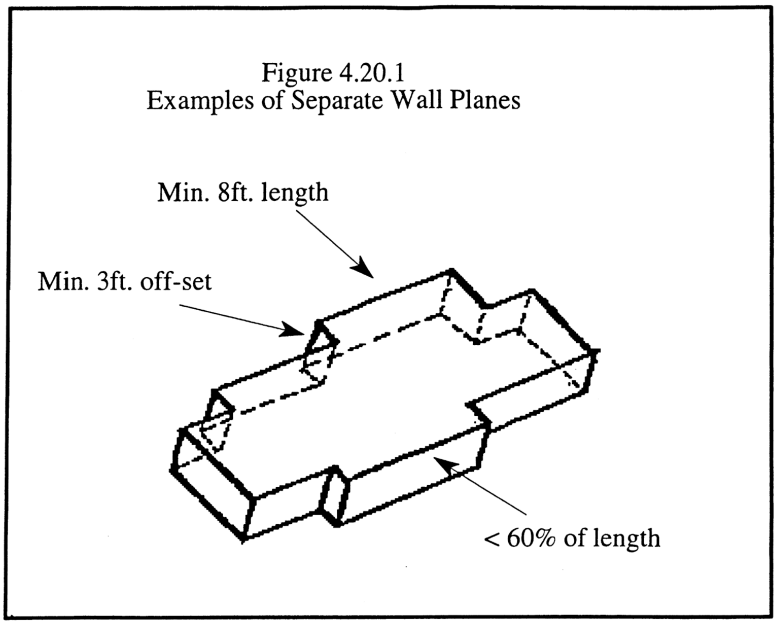
(Ord. No. 617, pt. 1, § 4.20.1, 7-9-2002)

Sec. 4.872. Architectural design standards.

4.872.A. *Purpose and intent.* All commercial buildings and structures should be designed to maintain and enhance the attractiveness of the streetscape and the existing architectural design of the community. Buildings and structures should have architectural features and patterns that reflect human scale and proportions, reduce massing and recognize local character. Facades should be designed to reduce the mass or scale and uniform monolithic appearance of large unadorned walls, while providing visual interest that will be consistent with the community's identity and character through the use of detail and scale.

4.872.B. *Control of building mass.* On the ground floor of any primary facade, no continuous wall plane shall exceed 100 linear feet, nor shall any single wall plane constitute more than 60 percent of a

building's total length. A wall plane shall be off-set a minimum of three feet from the adjacent wall plane and be a minimum of eight feet in length to be considered a separate wall plane. However, any portion of a wall plane having a pedestrian arcade extending a minimum of eight feet out from such wall, shall be considered a separate wall plane, provided that such arcade does not extend uninterrupted farther than 120 linear feet.



Separate Wall Planes

4.872.C. *Primary facades.*

1. *Consistent architectural style.* The primary facades of all buildings and structures shall be designed with consistent architectural style, detail and trim features.
2. *Minimum design elements.* All primary facades on the ground floor shall have at least four of the following design features along a minimum of 50 percent of their horizontal length.
   a. Awnings, located over windows or doors, in increments of ten feet or less in length.
   b. Overhanging eaves, extending out from the wall at least three feet, with a minimum eight-inch facia.
   c. Pedestrian arcades, a minimum of eight feet in width and length.
   d. Raised parapet over a customer entrance.
   e. Peaked roof forms.
   f. Windows.
   g. Decorative light fixtures.
   h. Clock or bell towers.
   i. Artwork, such as but not limited to sculpture, mosaic, glass block, opaque art glass, or relief work.

j. Architectural details other than those listed above, which are integrated into the building and overall design. Examples of architectural details include, but are not limited to relief and reveal work, tile mosaic, decorative columns, pilasters or sculpture.

3. *Limitations on blank wall areas.* Blank wall areas shall not exceed ten feet in vertical direction and 20 feet in horizontal direction on any primary facade. Control and expansion joints shall be considered blank wall area unless used as a decorative pattern. Wall areas that are adorned using at least one of the design features set forth in paragraph 2., above, shall not be considered blank wall areas. Walls that are adjacent to a pedestrian arcade shall not be considered blank wall areas.

4. *Windows.* Windows shall include visually prominent sills, shutters, stucco reliefs, awnings or other such forms of framing.

5. *Major intersections.* In addition to all other requirements of this subsection 4.872.C., developments located at an intersection of two or more arterial or collector streets shall provide a prominent architectural feature such as, but not limited to a monument, sculpture or clock tower, to emphasize their location as gateways and transition points within the community.

6. *Artwork for large commercial developments.* In addition to all other requirements of this subsection 4.872.C., large commercial developments shall provide a public display of artwork, such as but not limited to sculpture, mural, or tile mosaic. The artwork may be placed on any outdoor portion of the site which is available for public viewing. Developers providing artwork in accordance with this paragraph are encouraged to coordinate with the Public Art Advisory Board.

4.872.D. *Secondary facades.* Although the design standards of subsection 4.872.C., above, do not apply to secondary facades, the secondary facades of each building shall be consistent with the primary facade in terms of the exterior finish and colors used. For example, if the dominant exterior finish of the primary facade is stucco with beige paint and white trim, the secondary facades of the building shall include a similar stucco finish, beige paint and white trim.

4.872.E. *Parking structures.*

1. A minimum of 60 percent of any primary facade of a parking structure shall have at least one of the following:

   a. Decorative metal grill-work or similar detailing which provides texture and partially covers the parking structure opening(s); or

   b. Vertical trellises extending a minimum of 20 feet in height or to the top of the parking structure, whichever is less, covering at least 50 percent of the primary facade).

2. When a parking structure is an accessory structure within a larger development, the facades of such parking structure shall be consistent with the primary facades of other buildings within the development in terms of the exterior finish and colors used. For example, if the dominant exterior finish of the primary facades of the other buildings is stucco with beige paint and white trim, the facades of the parking structure shall include a similar stucco finish, beige paint and white trim.

4.872.F. *Roofs.*

1. Generally. Variations in roof lines shall be used to add interest to and reduce the massing of buildings (see figure 4.20.2 for examples). Roof features should be in scale with building mass and should complement the character of adjoining or adjacent buildings and neighborhoods wherever possible. Roofing material should be constructed of durable high quality materials in order to enhance the appearance and attractiveness of the community.

2. Flat roofs shall:

a. Have a parapet of at least 12 inches in height along any primary facade and shall have at least two changes in height of a minimum of two feet along each primary facade.

b. Provide a three-dimensional cornice treatment along the entire length of the primary facade. The cornice treatments shall be a minimum of 12 inches in height and have a minimum of three reliefs.

3. Peaked roofs shall:

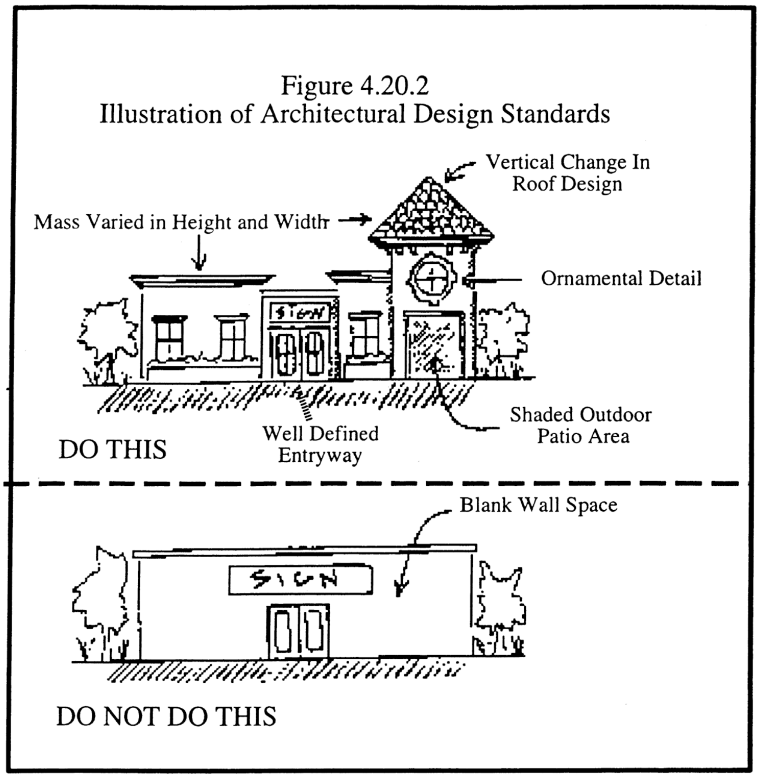
a. Provide at least two roof slope planes per primary facade, where the primary facade is less than 40 feet in horizontal length, or at least three roof slope planes where the primary facade is 40 feet or longer in horizontal length.

b. Not exceed the average height of the supporting walls.

c. Have an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run and less than or equal to an average slope of one foot of vertical rise for every one foot of horizontal run.

4. Asphalt shingles shall be prohibited, except for 320 pound, 30-year architectural grade or better shingles which otherwise meet all requirements of the Florida Building Code.

Figure 4.20.2
Illustration of Architectural Design Standards



Architectural Design Standards

4.872.G. *Customer entrances.*

1. All detached commercial buildings should have clearly defined, highly visible customer entryways (see figure 4.20.2 for examples). Entryway design elements and variations should give protection from the sun and adverse weather conditions. These elements shall be integrated into a comprehensive design style for the commercial development.

2. Commercial buildings of more than 10,000 square feet in gross floor area shall provide an outdoor patio area adjacent to the customer entryway of a minimum of 200 square feet in area.

   This patio area may be incorporated into a pedestrian arcade that is otherwise in compliance with the requirements of this division 20.

4.872.H. *Materials and color.*

1. The following shall not be used as a wall covering on a primary facade:
   a. Reflective or back-lit panels made of plastic, vinyl, fiberglass or similar materials.
   b. Unfinished concrete block (i.e., without stucco finish), specifically excepting split-faced block.
   c. Corrugated metal panels where such material will cover more than 50 percent of the primary facade area.
2. The following shall not be used on any primary facade:
   a. Black or florescent colors.
   b. Back-lit awnings.
   c. Unshielded florescent lights applied so as to accent the architectural features of a building or structure.

(Ord. No. 617, pt. 1, § 4.20.2, 7-9-2002; Ord. No. 930, pt. 3, 6-11-2013)

Sec. 4.873. Site design standards.

4.873.A. *Bicycle and pedestrian access.*

1. All commercial development should be designed to provide safe opportunities for alternative modes of transportation by connecting with existing and future pedestrian and bicycle ways and to provide safe passage from public rights-of-way to the building(s) within the commercial development, between adjoining developments, and between alternative modes of transportation. Wherever possible, pedestrian ways should be constructed of paver blocks, stamped or colored concrete or similar materials that clearly distinguish them from vehicular use areas and promote traffic calming.
2. Structural or vegetative shading shall be provided along pedestrian ways at intervals of no greater than 70 feet.

4.873.B. *Bicycle and pedestrian amenities.* Bicycle and pedestrian amenities shall be provided as determined by the square footage of buildings on the site as indicated in the table below. These amenities may be incorporated into a pedestrian arcade or similar feature that otherwise meets the requirements of this division 20. Bicycle racks shall be provided within 50 feet of any customer entrance. The design of all amenities shall be of durable, long-lasting materials, consistent with the design of the principal structures on site and principles found in Bicycle Facilities Planning and Design Handbook (State of Florida, Department of Transportation, 1997). Benches shall not be less than six feet in length and shall have either structural or vegetative shading. Required bike racks shall be the inverted "U" type and shall be designed to store a minimum of six bicycles each.

Gross Floor Area of Commercial Development	Required Bicycle or Pedestrian Amenity
0—9,999 square feet	1 bike rack

10,000—50,000 square feet	1 bike rack, 1 bench
50,001—100,000 square feet	2 bike racks, 2 benches
100,001+ square feet	4 bike racks, 4 benches, outdoor water fountain

4.873.C. *Lighting.* Lighting fixtures shall be a maximum of 30 feet in height within a parking lot and shall be a maximum of 20 feet in height within nonvehicular pedestrian areas.

4.873.D. *Screening of mechanical equipment.*

1. The required screening of roof-mounted mechanical equipment, including air conditioning units and duct work shall be as follows: when located on a flat roof, roof shall provide full parapet coverage a minimum of four feet in height, or to the highest point of the mechanical equipment, whichever is lower.
2. All mechanical equipment shall comply with the provisions of article XI, Noise, of chapter 12, Environmental Control, of the Code of Laws and Ordinances.

4.873.E. *Public transit stops.* Any development providing more than 200 parking spaces and located adjacent to any arterial or collector street shall designate a minimum 100 square foot area on the site plan as a future public transit stop. The future public transit stop shall be located immediately adjacent to the right-of-way line of the arterial or collector street. The future transit stop area may be landscaped or used for overflow parking but shall not be used to comply with the minimum landscape, buffer, open space or similar requirements. The landowner shall execute an easement authorizing the County to construct and maintain a transit stop at that location.

(Ord. No. 617, pt. 1, § 4.20.3, 7-9-2002; Ord. No. 930, pt. 3, 6-11-2013)

Sec. 4.874. Alternative compliance.

4.874.A. *Generally.* The decision-maker for a particular development application, as determined by article 10, Development Review Procedures, may approve a design plan that varies from the standards set forth in this division 20 in order to accommodate unique site features or to provide a more innovative design, provided that the decision-maker finds that the alternative plan generally fulfills the purpose and intent as set forth in section 4.871 or complies to the maximum extent practicable considering the configuration of the development that existed prior to the effective date of this division 20.

(Ord. No. 617, pt. 1, § 4.20.4, 7-9-2002; Ord. No. 930, pt. 3, 6-11-2013)

Secs. 4.875—4.910. Reserved.

DIVISION 21. SUBDIVISION REGULATIONS [15]

Sec. 4.911. General provisions.

4.911.A. *Applicability.*

1. Any person, proposing a subdivision of real property in unincorporated Martin County shall first obtain plat approval in accordance with the requirements of division 21 unless such sale or conveyance is specifically exempted.
2. The provisions of division 21 shall be in addition to the requirements of F.S. ch. 177.
3. No subdivision plat shall be approved for recording until the requirements of division 21 and F.S. ch. 177, have been met.

4.911.B. *Subdivision defined.* As used in this division 21, the term "subdivision" shall mean: The division or platting of land into three or more lots, tracts or parcels for the purpose of sale or lease, the subdivision of new streets and alleys, whether public or private, changes in an existing street or alley, whether public or private, additions and resubdivisions of any parcel divided or platted after September 27, 1977.

4.911.C. *Exemptions.* The term subdivision shall not be applied to any of the following:

1. *Lot splits:* The division of a lot of record that so existed on September 27, 1977, into two lots (parcels) provided that each lot (parcel) so created shall comply with all other Land Development Regulations.
2. *Judicial exception:* Any division or redivision of a parcel of land made pursuant to an order of a court of competent jurisdiction.
3. *Boundary settlement exceptions:* Any conveyance between adjacent land owners if:
   a. The purpose of the conveyance is to adjust or settle the common boundary line between said adjacent landowners; and
   b. Such purpose is stated in the deed of conveyance or is stated in a separate instrument recorded in the public records of Martin County.
4. *Conveyance to government:* Any division or redivision of a parcel of land, the sole purpose of which is to convey a part thereof to any Federal, state or local governmental entity or agency for a bona fide public purpose and, provided that such conveyance is accepted by such governmental entity or agency by an instrument recorded in the public records of Martin County.
5. *Creation of equal or larger building parcels in recorded subdivisions:* Any division or redivision of lots in a previously platted subdivision, the sole purpose of which division or redivision is to create new building parcels which are at least equal in size to the existing lot or lots. Under this exception for example and not by way of limitation, three adjoining platted 50-foot lots might be replaced by two 75-foot parcels or by one 70-foot parcel and one 80-foot parcel.
6. *Exception for corrective instruments:* Any conveyance from the grantor in a deed recorded prior to September 27, 1977, to the same grantee in said deed, if the purpose of such conveyance is solely to correct defects in such deed recorded prior to September 27, 1977.

7. *Agricultural exception:* Any division or redivision of a parcel of land for bona fide agricultural use, if no parcel of less than 20 acres in area is hereby created, if no public street is created, if no change is made in an existing public street, and if a declaration is contained in each deed of conveyance that the Board of County Commissioners of Martin County shall have no responsibility, duty or liability with regard to any private street to be created.

   Residential development in the areas designated Agricultural on the Future Land Use Map of the Growth Management Plan are restricted to one single-family residence per gross 20-acre tract. In order to further avoid activities that adversely impact agricultural productivity on agricultural lands as designated on the Future Land Use Map, no development shall be permitted which divides landholdings into lots, parcels or other units of less than 20 gross acres. Acreage may be split for bona fide agricultural uses into parcels no smaller than 20 gross acres. Residential subdivisions must be platted and must provide for all necessary services. Residential subdivisions at a density or intensity of greater than one single-family dwelling unit per 20 gross acre lot shall not be allowed.

4.911.D. *Plat procedures.* Applications for plats shall be reviewed and processed pursuant to article 10, Development Review Procedures.

4.911.E. *Issuance of building permits.* Compliance with this division 21 shall be a condition precedent to the issuance of a building permit for any parcel within unincorporated Martin County.

4.911.F. *Authority of county inspectors.* The county engineer or his/her designee is authorized to inspect all construction related to required subdivision improvements and infrastructure. The county engineer or his/her designee shall not be authorized to revoke, alter or waive any requirements of the approved plans and specifications, but shall be authorized to call to the attention of the subdivider any failure of work or materials to conform to the approved plans and specifications. The county engineer or his/her designee shall have the authority to reject materials or suspend work that is not consistent with the approved plans and specifications.

The county engineer or his/her designee shall in no case act as foreman or perform any duties for the subdivider, nor interfere with the management of the work, and any advise which the county engineer or his/her designee may give to the subdivider shall in no way be construed as binding to the County or release the subdivider from carrying out the intent of the plans and specifications.

When the county engineer or his/her designee determines that construction activities must cease, such determination shall be documented in writing to the subdivider.

The neglect of the county engineer to order the rejection of any material or work at the time it is proposed for use shall not act as a waiver of his right to subsequently reject such material or work in the event of discovery that such material or work is not consistent with approved plans and specifications.

4.911.G. *Testing requirements.* The expense for the testing of materials and construction related to required subdivision improvements and infrastructure shall be the responsibility of the subdivider.

Upon completion of all required improvements, the subdivider's engineer shall submit a certification to the County Engineer that all work was constructed according to the approved plans and specifications. The subdivider's engineer shall submit with the certification a construction report including the dates, locations and results of all tests and the person(s) who conducted the tests. Tests shall be made for compaction of roadways, sidewalks, grading, where applicable, subbase and base. Compression test of concrete cylinders shall be made on all phases of concrete work.

All required tests of materials shall be performed by an authorized laboratory. The samples for such tests shall be taken under supervision of, or as directed by, either the county engineer or the authorized laboratory personnel.

All density tests of compacted areas shall be made pursuant to the Modified Proctor Test (AASHTO 180) in accordance with the method specified in each case by the Department of Transportation standard specifications.

Florida Bearing Values Tests for the stability of the existing subsoil shall be taken at intervals of not more than 200 feet, and closer as may be necessary in the event of variations in the strata.

Tests for the density of the subgrade shall be taken at intervals of 200 feet, or less, where necessary. Density shall be determined as specified in the standard specifications of the state road department except that the required density shall be 95 percent of the maximum density as determined by AASHTO 180.

Tests for the density of the base shall be made at intervals of 500 feet, or less where necessary, and the density requirements shall be as specified for bases in the standard specifications of the state road department.

(Ord. No. 616, pt. 1, § 4.21.1, 6-24-2002)

Sec. 4.912. Plat requirements.

4.912.A. *Purpose.* The purpose of division 21 is to establish minimum requirements for all plats within the unincorporated area of Martin County. At a minimum, all plats must meet the requirements of F.S. ch. 177 and chapter 61G17-6 of the Florida Administrative Code. If a provision within division 21 conflicts with a provision of state law, the stricter provision shall apply.

4.912.B. *Definitions.* For purposes of division 21, the following words, terms and phrases shall have the meaning set forth bellow:

Apparent shoreline means the line drawn on a map or chart in lieu of the mean high water line, MHWL or mean low-water line in areas where either or both may be obscured by marsh or mangrove, cypress, or other types of marine vegetation. This line represents the intersection of the mean high water line, MHW datum with the outer limits of vegetation and appears to the navigator as the shoreline.

Benchmark means a relatively permanent material object, bearing a marked point whose elevation above or below an adopted datum is known.

Certified corner record means a document prepared by a surveyor and mapper that is required by F.S. ch. 177 when a public land survey corner is used as a control in a survey or resurvey.

Computer aided drafting (CAD) means computer software and hardware commonly used in the preparation of maps, drawings, plats and other similar documents.

Digital exchange file (DXF) means a standard format for the electronic transfer of CAD information.

Drawing (DWG) means a specific computer file containing a complete drawing in its native format.

Geodetic control station means a relatively permanent fixed point on the earth that has been established and adjusted by geodetic methods (NAD 88/90), and in which the size and shape of the earth (geoid) have been considered in position computations.

Mean high water line (MHWL) means the intersection of the tidal plane of mean high water with the shore. The MHWL is recognized and declared to be the boundary between the foreshore owned by the state in its sovereign capacity and upland subject to private ownership.

Mean high water (MHW) means the average height of the high waters over a 19-year period. For shorter periods of observations, MHW means the average height of the high waters after corrections are applied to eliminate known variations and reduce the result to the equivalent of a mean 19-year value.

Permanent control point (PCP) means a reference monument as defined in F.S. ch. 177.

Permanent reference monument (PRM) means a reference monument as defined in F.S. ch. 177.

Plat means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirements of all applicable sections of F.S. ch. 177 and the Martin County Land Development Regulations.

Safe upland line means the intersection of the shore with a contour line established at a elevation known to be above the MHW elevation.

State plane coordinates means the system of plane coordinates which has been established by the National Ocean Survey for defining and stating the positions or locations of points on the surface of the earth (NAD 88/90), as such system is further defined in F.S. ch. 177.

Surveyor and mapper means a professional surveyor and mapper registered under F.S. ch. 472 who is in good standing with the State Board of Surveyors and Mappers.

All references within this subsection to particular governmental agencies, officers or provisions of law are to be construed as including any agencies, officers or provisions of law, however designated, which succeed current agencies, officers or provisions of law.

4.912.C. *Plat standards.* The following standards shall be applicable to all plats within the unincorporated area of Martin County:

1. Each plat must be prepared on 24-inch by 36-inch sheets of material in conformity with F.S. ch. 177 and must contain a three-inch margin on the left side of the plat for binding purposes. The remaining three sides must have a one-inch margin.

2. The plat must be prepared under the responsible direction and supervision of a surveyor and mapper, and be clearly and legibly drawn with black permanent drawing ink or varitype process, to a scale of not smaller than one inch equals 100 feet, unless the county surveyor and mapper issues prior written approval of a smaller scale, based upon good cause shown.

3. All text and numerical data on the plat must be a minimum of one-tenth inch in height, including lower case letters.

4. The first page of the plat must contain a vicinity sketch illustrating the subdivision location in reference to major roadways and adjoining properties. Plats with greater than two sheets of map information must provide a key map detail on each sheet showing the relationship of each sheet to the total plat. Each sheet of a plat must be numbered in the lower right hand corner as "Sheet _ of _" (i.e, particular sheet number out of the total number of sheets). Clearly labeled matchlines are required on all multiple-sheet plats. Surveyor's notes and a legend must appear on all plat sheets.

5. PRMs must be set in the field and shown on the plat in accordance with F.S. ch. 177 and subsection 4.912.E. Prior to final approval of a plat for recordation, the county surveyor and mapper or his designee shall physically inspect the PRMs to verify placement. The surveyor and mapper certifying the plat or his designee must be present at the inspection by the county surveyor and mapper, or his designee, to identify the location of the PRMs.

6. PCPs must be set and shown on the plat in accordance with F.S. ch. 177.

7. PRMs, PCPs and lot corners must be in place prior to final improvement inspection of subdivision improvements by the county. The county surveyor and mapper, or his designee, must make a field inspection to verify existence and placement of PRMs, PCPs and lot corners upon completion of subdivision improvements. The subdivider shall be responsible for ensuring that PRMs, PCPs and lot corners are in place after construction and that such PRMs, PCPs and lot corners are marked clearly for inspection. The developer or his designee shall be present, if requested, at PRM, PCP and lot corner inspections to identify the location of the PRMs, PCPs and lot corners. In circumstances involving subdivisions as to which a bond or other surety is required, the cost of setting or resetting all PRMs, PCPs and lot corners must be included separately as a line item in the project engineer's cost estimate for bonding purposes. The cost of setting these control points must be determined by a surveyor and mapper. The developer is

responsible for the proper placement of destroyed, damages, or otherwise altered PRMs, PCPs and lot corners through securing the services of a surveyor and mapper. PRMs, PCPs and lot corners that are replaced must meet all updated requirements of F.S. ch. 177 and must include stamping thereon of "PRM Re-set" and the registration number of the individual replacing the original PRMs.

8. Plat curve data may be tabulated subject to the following conditions:

   a. External plat boundary or roadway centerline curve data may not be tabulated.

   b. When lot line curve data are tabulated, a minimum of the arc length and the curve designation number or letter must be shown on the actual curve.

   c. Curve tables reflecting the tabulated data must appear on the map sheet on which the curves appear.

9. Tangent line tables shall not be permitted unless the county surveyor and mapper issues prior written approval of such tables, based upon good cause shown. Plat scale will not be considered as a factor in allowing tangent line tables. Tangent line tables, if approved, must appear on the applicable map sheet.

10. The following notes shall appear on plats:

    a. "This plat, as recorded in its original form in the public records, is the official depiction of the subdivided lands described hereon and will in no circumstances be supplanted in authority by any other form of the plat, whether graphic or digital."

    b. "There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county."

    c. For plats which contain public easements located within private streets or rights-of-ways: "In the event that Martin County disturbs the surface of a private street due to maintenance, repair or replacement of a public improvement located therein, then the county shall be responsible for restoring the street surface only to the extent which would be required if the street were a public street, in accordance with county specifications."

11. Plats or portions of plats in flood zones A1-30, AH, and V1-30, as shown on the applicable FEMA map, shall have two permanent benchmarks established on site in an accessible location and shall be shown and described on the plat in its current location together with identification number, elevations of the benchmarks and including vertical datum as approved by the County. Benchmarks shall consist of a brass or aluminum disc set in concrete or other permanent material, stamped with benchmark identification number, elevation and datum.

12. Plats bordering on tidally affected navigable waters must comply fully with the requirements of F.S. ch. 177 regarding establishment of a local tidal datum and the determination of the MHWL in the event that the MHWL is used to determine building or other setbacks required for development. The elevation and date of determination of the MHWL, as approved by the Florida Department of Environmental Protection (FDEP) Bureau of Surveying and Mapping, or its successor agency, must appear on the plat. A copy of written MHWL survey approved from the FDEP must be submitted to the county surveyor and mapper prior to plat recordation.

13. Plats immediately bordering on tidally affected navigable waters are exempted, to the extent permitted by the provisions of F.S. ch. 177 from compliance with the requirement of establishing the MHWL in conformity with FDEP requirements provided that the MHWL location is not required for determining building or other setbacks required for development. In case of such an exemption, a safe upland line shall be physically established on the site in the vicinity of the shoreline at a location or elevation approved by the FDEP or the county surveyor and mapper. The safe upland line may be used to determine the total plat acreage only and may not constitute a boundary line; also, the safe upland line must be shown on the plat with tie-ins to the apparent shoreline. The location and the courses of the safe upland line also must be

shown on the boundary survey of the subject property, in conformity with the professional standards provided in Chapter 61G17-6, Florida Administrative Code, and such survey must be submitted at the time when the plat is initially submitted for review by the county. The boundary survey must show the apparent shoreline, as applicable. Top of bank location must be used as a safe upland line if approved in writing, for good cause shown, by the county surveyor and mapper. When a safe upland line is used, the apparent shoreline shall be shown on the plat and the plat must contain a note indicating that the plat boundary is the MHWL of the water body, as approximated by the safe upland or apparent shoreline. PRMs must be set in accordance with division 21 along the safe upland line. The safe upland line may be used as the apparent shoreline provided that the surveyor and mapper certifying the plat demonstrates that the safe upland line is a proper representation of the apparent shoreline.

14. Each plat submitted must be accompanied by a boundary survey which is signed and sealed by the surveyor and mapper whose signature and seal appears on the plat. The date of the field survey must be less than 180 days prior to the date of initial submittal of the plat. A specific purpose survey may be submitted in the circumstance in which a safe upland line is used to approximate the boundary adjacent to a navigable water body.

15. A minimum of two boundary monuments shall be tied by a closed field traverse to the nearest approved Martin County geodetic control station and azimuth mark or approved pair of Martin County adjusted traverse points or to other control points established by Global Positioning System (GPS) which meet or exceed Third Order Class I Accuracy Standards according to current publication of the Federal Geodetic Control Committee (FGCC) procedures. Field traverse from plat boundary to geodetic control shall meet Third Order Class II Traverse Closure Standards when possible; however, at a minimum, traverse closure must meet the minimum technical standards set forth in Chapter 61G17-16, Florida Administrative Code. A signed copy of geodetic tie-in field notes and traverse closure data is required along with closure documentation for the external boundary of the plat.

16. Prior to plat recordation, a CAD file, preferably in DWG format or, alternatively, in DXF format, or in a digital format that is acceptable to the county surveyor and mapper, shall be provided to the county showing all final plat survey data and line annotations, including, but not limited to, lots, roadways, easements, preserve areas, buffer areas, maintenance areas, and other specific information which appears on the map portion of the plat. The purpose of such a computer file is to provide direct, efficient updates to the county's geographic information systems (GIS) parcel map coverage. The coordinate positions within this file are to be rotated and translated to state plane coordinates in the North American Datum of 1983/adjustment of 1990 (NAD 83/90) Florida East Zone, or currently approved datum, based upon the required tie-in to geodedic control. The conversion of ground distance to grid distance within the digital file is not required.

17. A plat checklist shall be submitted with all applications for plat approval. The checklist shall be submitted on a form approved by the county and shall be completed and signed by the surveyor and mapper responsible for the preparation of the plat. Plat review by county shall not commence until the signed plat checklist has been submitted.

18. Certified corner records must be filed in accordance with F.S. ch. 177 for public land corners identification, recovered, reestablished, remonumented, restored or used as controls in the preparation of a plat. The original certified corner record must be submitted to the FDEP Bureau of Surveying and Mapping, and a copy thereof must be provided to the county surveyor and mapper. Each certified corner must indicate the state plane coordinate value of the corner, based upon the geodetic tie-in requirement of this section. Upon approval of the certified corner record by FDEP, the certified number of the public land corner shall be shown on the plat prior to recordation of the plat.

19. All properties contiguous to property which is to be platted must be identified, along the periphery of the plat, according to the applicable plat book and page or identified as unplatted consistent with Chapter 177, Florida Statutes.

20. The legal description on the plat must contain the total acreage of the platted land and such acreage must be consistent with the title certification.

21. A five-inch line for the subdivision parcel control number must be provided in the upper right-hand corner of the first page of the plat.

22. The title of the plat (i.e., the name of the subdivision which is the subject of the plat) must be set forth on each page of the plat and must contain text of uniform size and type. If the plat encompasses a planned unit development (PUD), then the title on the plat shall contain the abbreviation "PUD".

23. The title of the plat must be consistent with F.S. ch. 177 which requires that each subdivision be given a name and that such name must not be the same or in any way so similar to any name appearing on any recorded plat in the same county as to confuse the records or to mislead the public as to the identity of the subdivision which is the subject of the plat, except when the subdivision is subdivided as an additional unit or section by the same subdivider or his successor(s) in title.

24. All names, signatures, seals, stamps and related data on plats must be inscribed in "India" or similar indelible ink.

25. The following shall be submitted with the record plat:

    a. Acceptable 100 percent security, if the subdivider has not elected to construct required improvements.

    b. In the event that improvements have been made before a record plat is submitted, a certificate from the subdivider's engineer shall be submitted indicating that all improvements have been constructed in accordance with the approved plans and specifications, and an affidavit shall be submitted by the subdivider indicating that all bills for improvements have been paid.

4.912.D. *Required textual exhibits.* The required textual components for plats shall be established by resolution of the Board of County Commissioners and may be amended from time to time to assure compliance with F.S. ch. 177 and division 21.

4.912.E. *Permanent reference monuments.* Permanent reference monuments, at least four in number, and no more than 800 feet apart, shall be placed within the platted lands and on the exterior boundaries thereof so as to provide definite reference points from which may be located any points, lines or lots shown on the plat. All point of curvature, points of reverse curvature, points of tangency and at least two points in each block shall be permanently marked with PRMs. The monuments shall be four inches by four inches reinforced concrete, 24 inches long, said monument having the reference point marked thereon. They shall have their position in reference to each other included by distances and angles and not less than one of said monuments shall have its location indicated on the plat in reference to the nearest government corner. The top of the monuments shall be set not less than one inch nor more than four inches above finished grade at their respective locations. The position of said monuments shall be indicated on the plat and shall be marked "Permanent Reference Monument" or the initial "PRM" to designate the same.

(Ord. No. 616, pt. 1, § 4.21.2, 6-24-2002)

Sec. 4.913. Required improvements and infrastructure.

4.913.A. *Improvements and infrastructure required prior to plat recording.* Before a plat shall be recorded in the public records all improvements and infrastructure required by the Land Development Regulations, Code of Laws and Ordinances and state law, including but not limited to

roads, sidewalks, stormwater and drainage facilities, utilities and landscaping, shall have been constructed and approved by the County Engineer.

4.913.B. *Provision of security in lieu of completion.* In lieu of the completion of the required improvements and infrastructure prior to plat recordation, security may be posted in a form acceptable to the BCC to insure such completion. The terms and conditions for the required improvements and the forms necessary to insure completion shall be established by resolution of the BCC and may be amended from time to time to assure compliance with F.S. ch. 177 and division 21.

Security shall be posted in the amount of 100 percent of the estimated costs of improvements, which estimate shall be prepared by a professional engineer registered in the State of Florida and approved by the County Engineer. Upon completion and approval of the county engineer of all the required improvements, 90 percent of the posted security shall be released by the BCC. A ten percent warranty security will be held for an additional 12 months, following which time, if all improvements are free of defects due to faulty field engineering, workmanship or materials, the ten percent security will be released by the County Engineer.

In lieu of the above security, the subdivider may post an escrow account of 100 percent of the estimated cost of improvements. This may be broken down into drainage, curb and gutters, base, paving, etc., with security to be 100 percent of each item. Partial release may be authorized up to 90 percent of the posted security as work is approved. The remaining ten percent will be held for an additional 12 months, following which time, if all improvements are free of defects due to faulty field engineering, workmanship or materials, the ten percent or the remaining security will be released by the BCC.

In lieu of the ten percent security, an acceptable ten percent maintenance security may be posted for a period of 12 months.

(Ord. No. 616, pt. 1, § 4.21.3, 6-24-2002)

Sec. 4.914. Vacation of plats.

4.914.A. *Authorization and applicability.* The owner of any land that has been platted may request that the BCC vacate said plat either in whole in part. Such requests shall be reviewed and processed pursuant to the requirements of F.S. ch. 177, this division 21, and article 10, Development Review Procedures.

4.912.B. *Action may be initiated by Board of County Commissioners.* The Board of County Commissioners may initiate the vacation of a recorded plat subject to compliance with F.S. ch. 177, this division 21, and article 10.

(Ord. No. 616, pt. 1, § 4.21.4, 6-24-2002)

FOOTNOTE(S):

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Editor's note— Part 3 of Ord. No. 616, adopted June 24, 2002, repealed ch. 30½ in it's entirety, which had been redesignated from the 1974 Code as §§ 4.911—4.916, 4.931—4.946, 4.971—4.982, and 4.1011—4.1017, during recodification. Said sections had been amended by Res. of Oct. 8, 1963; Res. of Oct. 13, 1964; Ord. No. 12, adopted Nov. 7, 1972; Ord. No. 14, adopted Nov. 7, 1972; Ord. No. 17, adopted Nov. 7, 1972; Ord. No. 18, adopted Feb. 6, 1973; Ord. No. 24, adopted May 8, 1973; Ord. No. 44, adopted Jan. 28, 1975; Res. No. 75-1.9, adopted Jan. 28, 1975; Ord. No. 76, adopted Sept. 9, 1975; Ord. No. 91, adopted June 15, 1976; and Ord. No. 107, adopted Sept. 27, 1977; Ord. No. 138, adopted April 10, 1979; Ord. No. 150, adopted Nov. 27, 1979; Ord. No. 184, adopted Sept. 22, 1981; Ord. No. 321, adopted March 10, 1987; Ord. No. 483, adopted Dec. 5, 1995; Ord. No. 549, adopted July 13, 2000; Ord. No. 561, adopted Dec. 7, 1999; and Ord. No. 568, adopted May 16, 2000; also Laws of Fla. ch. 61-2466, § 4. Part 1, § 4.21 of Ord. No. 616 enacted similar provisions which have been redesignated as §§ 4.911—4.914 in order to maintain the alphanumeric style of the recodified LDR. (Back)

Cross reference— Potable water, § 4.181 et seq.; wastewater disposal systems, § 4.261 et seq.; stormwater management and flood control, § 4.381 et seq.; roadway design, § 4.841 et seq.; adequate public facility standards, art. 5; impact fees, art. 6; development agreements, art. 7; development review procedures, art. 10; plat review and processing, § 10.11.G. (Back)

State Law reference— Plats, F.S. ch. 177. (Back)

Article 5 ADEQUATE PUBLIC FACILITY STANDARDS [1]

DIVISION 1. - GENERALLY

DIVISION 2. - ADEQUATE PUBLIC FACILITIES

DIVISION 3. - TRAFFIC IMPACT ANALYSIS

DIVISION 4. - TRANSPORTATION PROPORTIONATE FAIR-SHARE PROGRAM

DIVISION 5. - PUBLIC SCHOOL CONCURRENCY

FOOTNOTE(S):

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Cross reference— Potable water, § 4.181 et seq.; wastewater disposal systems, § 4.261 et seq.; stormwater management and flood control, § 4.381 et seq.; subdivisions, § 4.911 et seq.; impact fees, art. 6; development agreements, art. 7; development review procedures, art. 10. (Back)

DIVISION 1. GENERALLY

Sec. 5.1. Short title, authority and application.

5.1.A. *Short title.* This article shall be known and may be cited as the "Martin County Adequate Public Facilities and Transportation Impact Analysis Ordinance" or "APFO/TIA."

5.1.B. *Authority.* The Board of County Commissioners of Martin County has the authority to adopt this article pursuant to article VIII, section 1(f), Florida Constitution, F.S. §§ 125.01 et seq., 163.3161(8), 163.3177(10)(h), 163.3180, and 163.3202(2)(g), and F.A.C. 9J-5.

5.1.C. *Application.* This article shall apply to all development in the total unincorporated area of Martin County.

(Ord. No. 564, pt. I, § 5.1, 12-21-1999)

Sec. 5.2. Intent and purpose.

5.2.A. *Implementation of Comprehensive Growth Management Plan.* This article is intended to implement and be consistent with the Martin County Comprehensive Growth Management Plan, F.S. § 163.3161 et seq., and F.A.C. 9J-5, by ensuring that: all development in unincorporated Martin County is served by adequate public facilities, the requirement of fiscal conservancy and efficient delivery of service is met, and that development pays its share of the cost of new public facilities.

5.2.B. *Establishment of management/monitoring and regulatory program.* This objective is accomplished by establishing a management and monitoring program to evaluate and coordinate the timing and provision of the necessary public facilities to service development, and by establishing a regulatory program that ensures that each public facility is available to serve development concurrent with the impacts of development on the public facilities.

5.2.C. *Minimum requirements.* The provisions of this article in their interpretation and application are declared to be the minimum requirements necessary to accomplish the stated intent, purposes, and objectives of this article.

(Ord. No. 564, pt. I, § 5.2, 12-21-1999)

Sec. 5.3. Definitions.

For the purposes of this article, the following definitions shall be used.

Adequate public facilities means public facilities that are consistent with their LOS standards.

Affidavit deferring public facilities reservation means an affidavit signed by the applicant that defers public facilities reservation pursuant to section 14.4.A.3.d(2) of the Comprehensive Plan and section 5.32.C of this article until receipt of a final development order for the proposed development, acknowledging that future rights to develop the land are subject to the receipt of a certificate of public facilities reservation and acknowledging that no vested rights are granted by Martin County, or acquired by the applicant as it relates to the availability or reservation of adequate public facilities.

Aggregated segment means a group of continuous links with similar roadway characteristics, land use and roadway operating conditions as defined in the Highway Capacity Manual and the Florida Department of Transportation (FDOT) publication, Florida's Level of Service Guidelines Manual For Planning.

Annual average daily traffic (AADT) denotes the daily traffic averaged over the calendar year.

Background traffic growth means the number of years of traffic growth, typically three years, that represents approved but unbuilt development.

Boundary plat means a final plat approval which does not create new lots or parcels but which plats legally created existing parcels or lots of record (created before November 7, 1972), or legal lot splits, and does not create additional concurrency impact or authorize site development.

Capital Improvement Element (CIE) means Capital Improvement Element of the Comprehensive Growth Management Plan. The CIE generally includes five fiscal planning years, calculated exclusive of the current budget year.

Certificate of public facilities exemption means a certificate approved pursuant to section 5.32.B of this article demonstrating that a proposed development is exempt from this article.

Certificate of public facilities reservation means a certificate approved pursuant to section 5.32.D of this article that constitutes proof of adequate public facilities to serve a proposed development.

Committed development means the unbuilt portions of development that are exempt pursuant to section 5.32.B, and those unbuilt portions of development orders that have received a valid and unexpired certificate of public facilities reservation. For purposes of regional water and sewer facilities, committed development shall be limited to commitments contained in valid utility service agreements.

Community park facilities means the planning of, engineering for, acquisition of land for, permitting for, or construction of park facilities necessary to meet the adopted LOS for community park facilities.

Concept plan for APFO variance means a generalized parcel plan approved pursuant to the APFO variance procedures in section 5.33 of this article, showing lots, roads, preserve areas, and other general features as are appropriate, and indicating the use and development intensity of each lot and the entire parcel, consistent with the approved land use and zoning, all applicable performance standards. A concept plan shall have an informational legend, title, preparer identification, and preparation and/or revision dates. A concept plan is not a development order and conveys no rights to the property owner and/or developer nor does it impose any obligation upon the County.

Concurrency Service Area (CSA) means the geographic subsection of the school district within which school concurrency is measured.

Constrained facility means a roadway facility in which the addition of lanes to meet current or future traffic needs is not possible because of extraordinary physical or policy constraints.

Deficient link means a roadway link that is operating, or is projected to operate, below the adopted level of service designated for that road.

De minimis impact means an impact that would not affect more than one percent of the maximum volume at the adopted level of service of the affected road facility as determined by Martin County. No impact will be de minimis if the sum of existing roadway volumes and the projected volumes from approved projects on a road facility would exceed 110 percent of the maximum volume at the adopted level of service of the affected road facility. Further, no impact will be de minimis if it would exceed the adopted level of service standard of any affected designated hurricane evacuation routes.

Development agreement means an agreement entered into between a local government and a person associated with the development of land, including but not limited to development agreements pursuant to the Florida Local Government Development Agreement Act (F.S. § 163.3220 et seq.) and the Martin County Development Agreement Ordinance [article 7 of the Land Development Regulations].

Development completion means all components of a development are finished and approved by Martin County, including infrastructure, buildings, and any required off-site improvements. Development completion for purposes of a single-family lot sale subdivision as defined in section 5.32.D.4.d(2) means all components of the development are finished, and have been approved by Martin County, except for the construction of single-family units.

Development order, final, means a building permit, plat approval (except for "boundary plats"), final site plan approval, excavation, fill or mining permit, or any other development order not listed in this definition which may result in an immediate and continuing impact upon public facilities.

Development order, preliminary, means a development order for a development of regional impact, master site plan approval, a "boundary plat" where no site improvements are authorized, PUD master site plan approval, conditional use approval, and any other development order other than a final development order.

Discrete phase means a phase of a larger development which can stand alone if necessary, such that if no other phase is constructed, or subsequent phases are delayed, the development is separate and distinct and complete by itself. A discrete phase has infrastructure which relates to the lots and units within that phase. A discrete phase does not overbuild infrastructure. Notwithstanding the above, the discrete phase requirement shall not prohibit construction of infrastructure to be dedicated to the public. As regards improvements dedicated to the public, such improvements shall be required to serve existing public purposes and not merely facilitate the development of vacant land. Such public dedications shall

not be utilized by the developer as evidence of good faith expenditures in a vested rights claim. The developer shall agree in writing that compensation for expenditures beyond the immediate needs of the approved discrete phase shall be limited to impact fee credit, if in fact, it is a creditable improvement. The discrete phase requirement shall not prohibit construction of infrastructure (public or private) demonstrated to be essential to protection of the public safety of the residents of the development. The Emergency Services Department shall make a specific finding that such improvement is required for the safety of the residents of the development. When such improvements are required for public safety they shall be deemed essential to the phase to stand alone and the developer shall agree in writing that such improvements do not entitle the developer to future phases. When an early phase of a development is a golf course, and the developer claims that this improvement is a discrete phase, the developer must agree in writing that the golf course can stand alone as a fee based public use golf course and does not entitle the developer to residential development.

Encumbered revenue means the commitment by Martin County of impact fees, capital facility charges, construction guarantees or other user fee monies or approved security instruments for the purpose of expenditures on the planning or design of, land acquisition for, or construction of capital improvements that provide a benefit to new growth and development.

Exempt project means any proposed development project in Martin County which has received an exemption based on the adequate public facilities requirements set forth in section 5.32.B of this article.

Existing development means development where physical site infrastructure improvements are in place and either buildings are permitted (building permit issued), under construction, or completed.

Expiration of the approved timetable means the time for obtaining approval, constructing or completing any part of the existing development order timetable has passed and come to an end.

Florida Intrastate Highway System (FIHS) means the State road facilities located in Martin County that are designated by the Florida Department of Transportation as being included on the FIHS.

Functional classification means a classification system for the highway network which denotes what "function" particular roads serve within the overall network.

Interim level of service means the maximum allowable volume on deficient links and aggregated segments.

Interlocal agreement for school facilities planning and siting means the interlocal agreement between Martin County, the City of Stuart, and the School Board of Martin County, signed by the School Board on February 19, 2008, and made effective by Martin County on March 11, 2008, which details the responsibilities and coordination processes necessary to implement joint planning, school siting procedures, and school concurrency.

Internal capture means the percentage of the estimated total trips generated by the land uses of a proposed development that are trips that travel from one land use to another land use on roads within the proposed development.

Large project means any proposed development project, which after consideration of pass-by capture and internal capture trips, is projected to generate equal to or greater than 50 peak hour vehicle trips.

Level of service (LOS) means the service provided by, or proposed to be provided by, a public facility based on and related to the operational characteristics of the facility. The LOS for each type of public facility shall be the LOS or interim LOS standards adopted for such public facility in the Comprehensive Plan.

Major road network (MRN) means those roads located in Martin County having a functional classification of at least collector and above and which are illustrated in figure 1.

Editor's note— Figure 1 is not printed herein, but is available for public inspection at the office of the Growth Management Department.

Mass transit facilities means the planning of, engineering, land or equipment acquisition, permitting, or construction of mass transit facilities necessary to meet the adopted LOS for mass transit facilities.

Maximum allowable volume means the limiting volume on deficient links and aggregated segments computed by the sum of the existing traffic volume plus the background traffic growth plus the estimated allowable future growth attributed to development not already approved.

Model unit means any residential structure used for demonstration and sales purposes which is open to the public for inspection and not occupied or used as a dwelling unit.

Negative evaluation of adequate public facilities means an analysis which indicates that sufficient public facility capacity is not available, programmed, or planned for in the Capital Improvement Element of the adopted Martin County Comprehensive Growth Management Plan, as amended, the 2005 roadway plan as amended, or 1993 utility master plans, as amended, in the appropriate year, based on adopted LOS standards for those public facilities to service the proposed development, after accounting for existing and committed development, projected future demand, and other factors considered in the public facilities level of service (PFLOS) review and recommendation under section 5.31.B.

Pass-by capture means the percentage of the estimated total trips generated by a land use of a proposed development that are already travelling on the major road network.

Performance standard multiplier means the ratio applied to only deficient links and deficient aggregated segments computed by dividing the maximum allowable volume by the link capacity at the adopted level of service standard.

Permit-ready industrial development means a development on land with a Future Land Use designation of Industrial, Expressway Oriented Transient Commercial Service Center or Expressway Oriented Research and Biotech Center which through a Planned Unit Development Zoning Agreement approved by the Board of County Commissioners has been designed exclusively for industrial uses and has satisfied all requirements that allow each individual lot to be developed without the need for site plan review.

Positive evaluation of adequate public facilities means an analysis which indicates that sufficient public facility capacity is available, programmed, or planned for in the Capital Improvement Element of the adopted Martin County Comprehensive Growth Management Plan, as amended, the 2005 roadway plan, as amended, or 1993 utility master plans, as amended, in the appropriate year, based on adopted LOS standards for those public facilities to service the proposed development, after accounting for existing and committed development, projected future demand, and other factors considered in the public facilities level of service (PFLOS) review and recommendation under section 5.31.B.

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

Project traffic means the estimated traffic generated by a new development as computed by the methodology identified in section 5.64 of this article.

Proportionality of development test means the realistic, balanced and even distribution of development order approvals and construction throughout a timetable for development. In order to assure continuous active development and to facilitate the effective monitoring of the development program and the planning for future public facilities when reserving capacity, preliminary development order timetables must show a significant final development order (e.g., final plan approval, including phase approval) within 12 months of preliminary approval and commencement of construction within 18 months of preliminary approval. After final development order approval, all timetables must show significant internal approvals of subsequent development orders and/or construction activity in each year (12-month period beginning with the initial final development plan approval), such that the development will be constructed

in a realistic, balanced and proportional manner such that development progress can be monitored throughout the timetable. All development encompassed by the timetable in the certificate or development agreement must be completed according to the timetable for development. "Realistic" as used herein means whether the units and infrastructure in the timetable can physically be completed in the time stated. The purpose of the proportionality requirement is to ensure that available category A and C public facility capacity is not reserved for future development projects when current projects which are ready to commence actual construction need the public facility capacity.

Public facilities for purposes of this article means mandatory (category A and category C) public facilities including County arterial and collector roads, mass transit, County drainage conveyance systems, County water systems, County sewer systems, County solid waste, County parks and recreation, County public safety, federal and State roads, private water systems and private sewer systems.

Road facilities means the planning of, engineering for, acquisition of land for, permitting for, or construction of roads identified in the CIE of the Comprehensive Growth Management Plan, as are necessary to meet the adopted LOS for road facilities.

Roadway capacity means the maximum number of vehicles that a roadway can accommodate at the adopted level of service.

Roadway link/segment means any portion of a roadway which is delineated by a beginning and end point (the connection between two adjacent intersections).

Rural area means the area of Martin County not included in the urban service district, generally located west of the Turnpike in the north, and west of I-95 in the central and south parts of the county, and illustrated on figure 2.

Editor's note— Figure 2 is not printed herein, but is available for public inspection at the office of the Growth Management Department.

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

Site plan means a specific parcel plan which contains sufficient information to demonstrate compliance with the Comprehensive Plan, the Land Development Regulations, and the Code with details including, but not limited to, structure locations (multifamily and nonresidential plans only), phasing, setbacks, open space, preserve areas, buffer area, drainage area, recreational amenities, utilities, parking configuration, and other dimensional data and calculations as is appropriate.

Site-related improvements means road improvements generally defined as direct site access, driveways, turn lanes for traffic entering and exiting the site, project signalization or other improvements directly required for and benefiting the proposed development.

Small project means any proposed development project, which after consideration of pass-by capture and internal capture trips, is projected to generate less than 50 peak hour vehicle trips.

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

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

Timetable of development means the schedule for project phasing, construction, and completion as required in a development order. The timetable of development commences on the date of approval of a certificate of public facilities reservation.

Traffic analysis zone (TAZ) means the basic geographical entity or portion of a study area delineated for transportation analysis. This generally corresponds with one or more Census Bureau designated units for data collection (i.e., block group, enumeration district or census tract).

Traffic congestion mitigation program (TCMP) means a program of specific actions developed by government and/or private sector interests designed to maintain and improve the capacity of roadway links in heavily congested areas, address link/intersection deficiencies and improve the overall traffic flows in congested areas of the County. In addition to addressing capacity improvements to deficient roadways, the TCMP may include:

1. Parallel roadway improvements within the corridor or area;
2. Improved traffic signalization including timing, road marking and signing, access control measures, intersection redesigns and turn lane additions;
3. Transportation demand management techniques including but not limited to ride sharing programs, staggered or flexible work hours, telecommuting, congestion pricing and the use of transportation management associations; and
4. Implementation of multimodal facilities including bicycle and pedestrian facilities, and enhancements to the public transportation system.

The TCMP must describe in detail a program of improvements to the transportation system and/or trip reduction measures that provide additional capacity on congested links and at problem intersections such that the development's impacts are mitigated to meet the adopted level of service or interim level of service standards. It must be based on generally accepted professional transportation engineering principles and practices. It must also provide professional analytical support in the form of traffic engineering studies acceptable to the County to demonstrate the anticipated impacts of the program. The TCMP must specify a secure and dedicated funding commitment for the proposed improvements and it must provide for a monitoring component to ensure that the program achieves the anticipated effects. The TCMP must be included in a development agreement which shall run with the land and be recorded in the public records of Martin County. The TCMP must be approved by the Transportation Planning Administrator and the Board of County Commissioners.

Trip generation means the number of trips a specific land use is estimated to generate per unit of development on a daily, peak hour and peak hour peak direction basis.

Under construction means the construction of a public facility improvement by the County or pursuant to a County contract.

Under contract means a contract for construction of a public facility improvement to which the County is a party.

Worst case scenario means the most intense use of the property in terms of intensity of use on public facilities. Relevant factors include, but are not limited to, density (units), or intensity (square footage), which can be developed on the parcels in question given the project's land use, zoning, and estimated developable area.

(Ord. No. 564, pt. I, § 5.4, 12-21-1999; Ord. No. 728, pt. 1, 11-28-2006; Ord. No. 813, pt. 1, 12-9-2008)

Cross reference— Rules of interpretation, § 1.5.

Secs. 5.4—5.30. Reserved.

DIVISION 2. ADEQUATE PUBLIC FACILITIES

Sec. 5.31. Management and monitoring program.

5.31.A. *General.* In order to ensure that adequate public facilities are available concurrent with the impacts of development on such public facilities, the County shall establish the following management and monitoring program. Its purpose is to evaluate and coordinate the timing, provision and funding of public facilities so that they are being adequately planned for and funded to maintain the adopted LOS for such public facilities and to evaluate public facility capacity for use in the regulatory program to ensure that no development order is issued unless there are adequate public facilities available to serve the development concurrent with the impact of development on the public facilities, and that future development will pay its share of the cost of the new public facilities needed to address the impact of that development.

5.31.B. *Annual public facilities level of service review.*

1. By October 1 of each year, the County Administrator shall complete a public facilities level of service (PFLOS) review. The review shall (1) include potable water, sanitary sewer, solid waste, stormwater management, community parks, boat ramps, beach parks, roads, mass transit, libraries, emergency medical services, fire services, public buildings and correctional facilities; (2) be based on the most recently adopted population projections, facilities inventories, and capital improvements plan (CIP); (3) provide the current level of service and the projected level of service for each of the five years of the adopted CIP; and (4) be included in the annual update of the CIP.

2. The School Board staff shall monitor the level of service standards for public school facilities within each concurrency service area to determine whether any deficiencies exist.

5.31.C. *Recommendations on amendments to CIP and annual budget.*

1. Based upon analysis of the PFLOS review, the County Administrator shall propose to the Board of County Commissioners, each year, any necessary amendments to the CIP and any proposed amendments to the County's annual budget for public facilities to assure compliance with the concurrency requirements of the Comprehensive Plan, F.S. § 163.3180, and F.A.C. 95-5.0055. Upon the board's approval and adoption by resolution of the CIP including the PFLOS review, the CIP including the PFLOS review may be used by the County to establish the capacity and levels of service of public facilities for the purpose of issuing development orders during the 12 months following such approval. Only the road projects under construction in the first three years of the CIP shall be used for the evaluation of adequate public facilities for roads and the roads component of the certificate of public facilities reservation.

2. In the event that one or more deficiencies are identified in the level of service standards for public school facilities, the School Board shall initiate action to cure the deficiency by no later than the time of the next annual update of the Public School Facilities Element.

(Ord. No. 564, pt. I, § 5.6, 12-21-1999; Ord. No. 813, pt. 1, 12-9-2008)

Sec. 5.32. Regulatory program to ensure adequate public facilities.

5.32.A. *General.*

1. *Purpose and intent.* The purpose of this regulatory program is to ensure that adequate potable water, sanitary sewer, solid waste, stormwater management, community park, road, public safety, public school facilities, and mass transit public facilities are available concurrent with the impact of development on each public facility. To this end, the County shall establish the following development review procedures to ensure that no development order is issued unless there are adequate public facilities available to serve the proposed development, or that development orders are conditioned pursuant to the specific provisions of this article on the availability of public facilities concurrent with the development's impact on such public facilities.
2. *Prohibitions.*
    a. *General.* No development shall be commenced or undertaken except in conformity with this article.
    b. *Preliminary development order.* No application for a preliminary development order shall be accepted without receipt of either an application for or a certificate of public facilities exemption pursuant to section 5.32.B, an application for an evaluation of public facilities and an affidavit deferring public facilities reservation pursuant to section 5.32.C, an application for or a certificate of public facilities reservation pursuant to section 5.32.D, or an application for a development agreement pursuant to the Martin County Development Agreement Ordinance [article 7 of the Land Development Regulations] and section 5.32.D. No preliminary development order shall be approved without either a certificate of public facilities exemption, a positive evaluation of public facilities and a signed affidavit deferring public facilities reservation, a negative evaluation of public facilities and signed affidavit acknowledging development order conditions, a certificate of public facilities reservation, or approval of a development agreement.
    c. *Final development order.* No application for a final development order shall be submitted without an application for a certificate of public facilities exemption pursuant to section 5.32.B, an application for or a certificate of public facilities Reservation pursuant to section 5.32.D, or an application for a development agreement pursuant to the Martin County Development Agreement Ordinance [article 7 of the Land Development Regulations]. No final development order shall be approved without either a certificate of public facilities exemption, a certificate of public facilities reservation, or a development agreement. When two parcels are created by a legal lot split, as set forth in the Subdivision Code, neither application for, nor issuance of, individual certificates of exemption shall be required.
3. *Application—General.* An application for a certificate of public facilities exemption, an application for an evaluation of public facilities and an affidavit deferring public facilities reservation, an application for a certificate of public facilities reservation or an application for a development agreement shall be processed pursuant to article 10, Development Review Procedures.

5.32.B. *Certificate of public facilities exemption.*

1. *Purpose.* A development order with a valid certificate of exemption is statutorily vested to the degree set forth herein from the concurrency requirements of this article, provided the conditions of the certificate and development order are maintained. Any development which is determined to be exempt will not be required to provide the facilities necessary to meet the concurrency provisions of the Comprehensive Plan, but instead will be treated as committed development for which the County will assure concurrency.

2. *Application and review.* See article 10, Development Review Procedures.

   a. Except when the exemption request concerns a legally created residential parcel or lot of record (created before November 7, 1972), or legal lot split, an application for a certificate of public facilities exemption shall be accompanied by a development order request or be related to an existing development order. For purposes of this subsection, existing development order does not include zoning and conditional use approvals.

3. *Standards for certificate of public facility exemption.* The following shall be exempt from the requirements of this article.

   a. *Development of regional impact, planned unit development, or site plan.* A development order for a development of regional impact approved on or before February 20, 1990; a development order for a master site plan or a final site plan for a planned unit development approved on or before February 20, 1990; or a development order for any form of site plan (but excluding any form of plat) approved on or before February 20, 1990; unless it:

      (1) Expressly states otherwise; or

      (2) Expires according to its terms or any part thereof including its timetable; or

      (3) Fails to comply with the commencement date established for the DRI; or

      (4) Extends the commencement date for the development, extends the build-out date for the development, or modifies the remainder of the timetable for development in such a way that the timetable violates the proportionality of development or impacts public facilities in such a way that there is not sufficient capacity available to accommodate the development pursuant to the modified timetable, based on the adopted LOS standards for public facilities; or

      (5) Is amended to increase the density or intensity of development such that there is an additional impact on public facilities; or

      (6) Is amended to create a substantial deviation as defined by F.S. § 380.06; or

      (7) Is invalidated or abandoned in whole or in part; or

      (8) For a planned unit development or site plan, is invalidated or breached in whole or in part; or

      (9) For a planned unit development or site plan, does not contain a timetable of development approved by the Board of County Commissioners and has not completed development by February 20, 1991.

   b. *Plat.*

      (1) A development order for a single-family residential plat approved on or before February 20, 1990, that is subject to a timetable for development, and that is proceeding in good faith by developing subject to that timetable; or

      (2) A development order for a single-family residential plat approved on or before February 20, 1990, that is not subject to a timetable for development, and has completed development of all infrastructure by February 20, 1991.

   c. *Lot of record.*

      (1) A legally created, unplatted residential lot of record (an existing lot of record on November 7, 1972, or a parcel created pursuant to an exemption or legal lot split) that has legally completed infrastructure development in accordance with the Martin County Code in effect at the time the lot was created, and said infrastructure was completed prior to February 20, 1991.

(2) A platted single-family residential lot, recorded on or before February 20, 1990, that has legally completed infrastructure development in accordance with the Martin County Code in effect at the time the lot was platted, and said infrastructure was completed prior to February 20, 1991.

(3) When two parcels are created by legal lot split as set forth in the Subdivision Code, both lots shall be exempt from the concurrency reservation test of this article. For purposes of this Article, a parcel of land is considered a lot of record. Issuance of individual certificates of exemption shall not be required for such lot splits.

d. *Building permit.* A development order for a building permit issued prior to February 20, 1990, unless it:

(1) Expires according to its terms or any part thereof; or

(2) Is invalidated in whole or in part.

e. *Letter of vesting determination.* Development that has received a letter of vesting determination pursuant to section 1.12 of the Comprehensive Growth Management Plan.

f. *Development, development alterations or expansions creating no impact.* Development, development alterations or expansions that do not create additional impact on public facilities, including but not limited to:

(1) Construction of room additions to dwelling units; or

(2) Construction of accessory structures to dwelling units, including swimming pools, garages and fences; or

(3) Additions to nonresidential uses that do not create additional impact on public facilities; or

(4) A change in use, as defined in section 10.1.B., when the new use does not increase the impact on public facilities over the previous use or does not generate more than 105 percent of the number of daily traffic trips or more than 15 peak hour traffic trips. No change in use will be considered exempt when the previous use has been discontinued for two years or more. For changes in the use of property that generate more than 105 percent of the number of daily trips or 15 peak hour trips, the previous use shall be exempt and any increase over the existing intensity shall not be exempt; or

(5) Residential docking facilities for exclusive use by the residents of the property on which the dock facilities will be located. For purposes of this section dock facilities refers to improvements over water and does not include parking or a docking facility with water and sewer service; or

(6) Replacement of an existing dwelling unit when no additional units are created; or

(7) Zoning district changes to a zoning district which is consistent with the Future Land Use designation of the Comprehensive Growth Management Plan; or

(8) Boundary plats which permit no site development.

g. *Public facilities in CIE.* Construction of facilities identified in the CIE of the Comprehensive Growth Management Plan, or the adopted Martin County Capital Improvement Program.

h. *De minimis development.* Development having a de minimis impact as defined in section 5.3 shall be exempt from the requirements of this article only with regard to road facilities. The requirements pertaining to any and all other public facilities shall continue to apply.

4. *Prohibition.* Notwithstanding the exemptions in section 5.32.B.3 above, a timetable extension to a development order for a master or final site plan that is submitted after the expiration of the

approved timetable for the development order, or if no timetable exists, after February 20, 1991, shall not be considered exempt from the provisions of this article. An application must be determined to be complete pursuant to article 10 of the Land Development Regulations for an application to be deemed submitted. In addition, notwithstanding the exemptions in section 5.32.B.3 above, any timetable amendment to a PUD phase or portion thereof, of five years or more in length, measured cumulative since February 20, 1990, shall not be exempt from the provisions of this article.

5. *Utility prohibition.* Notwithstanding the exemptions in section 5.32.B.3 above, any timetable extension for a preliminary or final development order with an existing Martin County utility reservation shall require the imposition of current service availability charges for the remaining development, exclusive of building permits for existing single-family lots in completed phases. Such an imposition shall be detailed in an amended utility agreement approved concurrent with the development order. The SAC requirements shall not invalidate an otherwise valid exemption.

6. *Effect of certificate of public facilities exemption.* A certificate of public facilities exemption serves as a statement that the development subject to the certificate is exempt from the terms of this article, as long as the conditions of its approval are maintained. A certificate of public facilities exemption does not have the effect of exempting the development from the payment of impact fees at building permit issuance or in the event the terms of the development order are violated.

7. *Assignability and transferability.* A certificate of public facilities exemption is specific to the development order and is assignable or transferable to the extent the development order, or portions thereof, is assignable or transferable. Maintenance of a valid development order is essential to the maintenance of a valid exemption. A certificate of public facilities exemption shall run with the land, consistent with the development order on which it is based.

8. *Appeal or vested rights determination.* An appeal from a determination that a proposed development does not meet the exemption criteria in section 5.32.B of this article may be filed pursuant to the provisions of article 10 of the Land Development Regulations. A claim that a proposed development is otherwise vested from the provisions of this article must be processed in accordance with the vested rights determination procedures and standards outlined in section 1.12 of the [Comprehensive] Plan. Any allegation that a proposed development is vested from the provisions of this article in a vested rights determination must be preceded by a request for and denial of a request for a certificate of public facilities exemption.

9. *Exemptions from requirements of school concurrency.* The following residential uses shall be exempt from the requirements of school concurrency:

   a. Single-family lots of record, existing as of September 25, 2008.

   b. Any new residential development that has final site plan approval prior to September 25, 2008.

   c. Any amendment to any previously approved residential development that does not increase the number of dwelling units or changes the type of dwelling units (single-family to multifamily, etc.)

   d. Age restricted communities with no permanent residents under the age of 18. Exemption of an age restricted community will be subject to a restrictive covenant limiting the age of permanent residents to 55 years and older.

5.32.C. *Procedure to obtain an evaluation of adequate public facilities (nonbinding) and affidavit deferring adequate public facilities reservation.*

1. *Purpose.* An application for an evaluation of adequate public facilities and affidavit deferring public facilities shall be submitted with an application for a preliminary development order to

ensure that the County and the developer plan together to meet concurrency at the preliminary development order stage. The evaluation provides a current view of the availability of public facilities for a proposed development based upon the concurrency evaluation and concurrency reservation tests of this article. Neither a positive nor a negative evaluation confers concurrency rights or is binding on the County pursuant to section 14.4.A.3.d(2) and (3) of the Comprehensive Plan.

2. *Standard.* The evaluation test for all public facilities, except for public school facilities, shall apply the reservation test in section 5.32.D to the preliminary development plan approval for the dates shown in the project timetable. For public school facilities, the evaluation test shall be the general capacity analysis outlined in section 5.82.A. A positive evaluation means that the project passes the evaluation, and a negative evaluation means that the project fails the evaluation test. The concurrency evaluation test for rezonings, commercial subdivisions, and industrial subdivisions shall be based upon an intensity which represents the worst case scenario which can be developed on the parcels in question given the project's land use, zoning, and estimated developable area. Reservation of worst case scenario intensity shall be assumed to occur within the applicable timetable of development for that project. If such analysis results in a failure of the concurrency evaluation test, the analysis will utilize a lower intensity scenario, but in no case less than one unit for residential parcels or minimum buildable square footage for commercial and industrial subdivisions, and will assume reservation at a later time but in no case beyond the last available date for reservation in the CIE and other long range utility or roadway plans. Evaluations for rezonings, commercial and industrial subdivisions are subject to the notification requirements in section 5.32.D.4.b of this article. For purposes of this section minimum buildable square footage for industrial and commercial subdivision lots shall be 15 percent of the permitted intensity of the site exclusive of required wetland/upland preserve and buffer zones under the Comprehensive Growth Management Plan and Zoning Code.

3. *Effect of a positive evaluation of adequate public facilities.* A positive evaluation of adequate public facilities approved in conjunction with a preliminary development order serves as a determination that based on the existing public facility capacity, adequate public facilities are either available, programmed, or planned to serve the development at the time of anticipated impact of the development on public facilities. The positive evaluation of adequate public facilities is provided for informational purposes only, and provides no assurance or guarantee that sufficient facility capacity will be available to accommodate a proposed development. In addition, a positive evaluation of adequate public facilities shall be accompanied by an affidavit deferring public facilities reservation, executed by the applicant, acknowledging the following:

   a. Final development orders for the subject property are subject to a determination and reservation of adequate capacity of category A and category C public facilities pursuant to chapter 14 of the Comprehensive Plan and section 5.32.D of this article. No rights to obtain final development orders, nor any other rights to develop the subject property have been granted or implied by the County's approval of the preliminary development order without a determination and reservation of adequate capacity of category A and category C public facilities.

   b. The approval of the preliminary development order with a positive evaluation by the County shall not be used by the applicant, or their successors in title, in any way whatsoever as committing the County legally through the theory of equitable estoppel or any other legal theory, to approve any final development order for the project without a determination and reservation of adequate capacity of category A and C public facilities, pursuant to section 14.4.A.3.d.1(b)(2) of the Martin County Comprehensive Growth Management Plan and section 5.32.D of this article.

   c. If the subject property is to be developed in discrete geographical phases, the approval of a final development order for one phase grants or implies no right to the approval of a final

development order for any other discrete phase. The approval of the final development order for a discrete phase by the County shall not be used by the applicant, or their successors in title, in any way whatsoever as committing the county legally through the theory of equitable estoppel or any other legal theory, to approve a final development order for any other phase of the project without a determination and reservation of adequate capacity of category A and C public facilities pursuant to section 14.4.3.d(1)(b)[2] of the Comprehensive Plan and section 5.32.D of this article. Final development orders for phased projects cannot utilize the exemption to the prepayment requirement contained in section 5.32.D.4.c(3) and section 14.4.A.3.d(1)(b)[1] of the Comprehensive Plan. This subsection shall not prohibit a variance procedure which would permit development of a discrete phase.

d. A preliminary development order with a positive evaluation of adequate public facilities does not authorize site development. Model units are expressly prohibited in phases that have not reserved capacity.

4. *Effect of a negative evaluation of adequate public facilities.* A negative evaluation of adequate public facilities approved in conjunction with a preliminary development order serves as a determination that based on the existing public facility capacity, adequate public facilities are not available, programmed, or planned to serve the development at the time of anticipated impact of the development on public facilities. The negative evaluation of adequate public facilities is provided for informational purposes only, and provides no assurance or guarantee that sufficient facility capacity will be available to accommodate a proposed development. In addition, a negative evaluation of adequate public facilities shall be accompanied by an affidavit acknowledging development order conditions, executed by the applicant, acknowledging the following:

   a. The preliminary development order shall not count as committed units in the ARDP preference system.

   b. The preliminary development order shall be effective for a period not to exceed two years from the date of approval. If the applicant has not solved the concurrency constraint during the period of effectiveness of the development order, as evidenced by an amended development order and positive evaluation pursuant to 5.32.C.4 above, or an amended development order and determination and reservation of adequate capacity of category A and C public facilities pursuant to section 5.32.D, then the preliminary development order shall automatically expire. There shall be no extension of time for preliminary development orders under this subsection, and amendment to the land uses, densities or intensities as represented on the development order shall not reset the period of effectiveness. The approval of a preliminary development order pursuant to this subsection shall not be interpreted to imply a priority pursuant to section 14.4.A.1.j(4) or any other provision of the Comprehensive Plan or duty on the part of the County to add category A and C public facilities in the Capital Improvements Element, or provide category A and C public facilities necessary to service the development.

   c. Resolution of the concurrency problem must be accomplished for the entire project. Discrete phases may not proceed unless the preliminary development order receives a positive evaluation pursuant to section 14.4.A.3.d(2) of the Comprehensive Plan.

   d. The approval of a preliminary development order pursuant to this subsection is subject to the specific conditions set forth in 5.32.C.4 above.

5. *Assignability and transferability.* A negative or positive evaluation of adequate public facilities is specific to the development order and is assignable or transferable only to the extent the development order is assignable or transferable. Maintenance of a valid development order is essential to the maintenance of a valid evaluation. An evaluation of adequate public facilities shall run with the land, consistent with the development order on which it was based.

5.32.D. *Procedure to obtain certificate of public facilities reservation.*

1. *Purpose.* A certificate of public facilities reservation is required with a final development order in order to ensure that adequate public facilities will be available to service the development concurrent with the impacts of development.

2. *Application requirements.*

   a. An application for a certificate of public facilities reservation must be accompanied by either an application for a proposed development order or be directly related to an existing and valid development order and shall follow the procedures for such development order.

   b. *Priority for public facility capacity and encumbrance.* Priority for remaining public facility capacity for an application being reviewed for a certificate of public facilities reservation shall be based upon the date the application is determined to be complete pursuant to article 10 of the LDR but in no case earlier than the date upon which the application for a proposed development order is determined complete in those cases where the certificate is not related to an existing and valid development order, with the earliest dates having first priority for available capacity. After the County departments determine there is adequate public facility capacity for a development, that capacity shall be encumbered until final action is taken on the application pursuant to article 10, provided the applicant proceeds in a timely manner consistent with the timeframes of the development review process established in the Land Development Regulations for the remainder of the development review process. In no case shall capacity encumbrance be allowed for more than 12 months for developments of regional impact (DRI), development orders with PUDs, nine months for planned unit developments (non-DRI), and four months for all other development applications. For any development application request that exceeds the above maximum limits, or in any manner violates the development review timeframes, its encumbrance expires and the application will lose priority relative to all subsequently submitted applications. Reapplication will result in placement on the priority list based on the completeness determination of the reapplication.

   c. If the PDS Director's recommendation is that an application fails to meet any of the public facility component standards, the applicant shall be notified of such deficiency, and may amend the application for a certificate of public facilities reservation to remedy the deficiency within 30 days, after which the application shall be reconsidered by the PDS Director and forwarded for action in the review process consistent with the requirements of article 10. Deficiencies may be remedied by reducing the impact of the proposed development, providing a facility pursuant to a development agreement, or entering the negative evaluation track.

3. *Standards for review of certificate of public facilities reservation.* Before issuance of a certificate of public facilities reservation, the application shall fulfill the standards for each and every public facility component listed in 5.32.D.3. Therefore, the determination of whether or not there is sufficient public facility capacity for each of the mandatory public facilities to accommodate the development proposed shall be based on the generic methodology set forth in figure 5.32.D.3 below. This generic methodology may be modified to address each public facility type if such specific methodology is contained in a resolution approved by the Board of County Commissioners:

FIGURE 5.32.D.3. GENERIC METHODOLOGY

An identification of the public facilities necessary to service this development.

An identification of the facility provider.
Identification of the adopted LOS for the public facilities.
Identification of the current LOS for the facilities or a finding that the current LOS is acceptable.
An identification of available capacity of the public facilities after accounting for existing and committed development, including the identification of any new facilities, if needed to accommodate the proposed development and the date those facilities are planned to be initiated and completed, projected future demand, and other factors considered in the public facilities level of service review and recommendation under section 5.31.B.
A schedule which compares the timetable of development for the development order, including construction initiation, building permit and certificate of occupancy dates, with the availability of the public facilities identified above, to assure that the proposed timetable is consistent with the availability of public facilities and the LOS standards for the public facilities are met prior to the identified impacts of the development in accordance with the following public facility component standards and conditions for each and every public facility component.

Note: Intensity and timing of impact for rezonings, commercial and industrial subdivisions shall be as set forth in section 5.32.C.3. Notwithstanding the above, reservation of capacity is prohibited with a rezoning unless such rezoning is to a PUD.

a. *Potable water facilities.* A certificate of public facilities reservation shall meet one of the listed potable water standards for each of the three elements which constitute the potable water facility (plant capacity, permitted allocation and water lines):

(1) Plant capacity for potable water facilities are (select one of the following):

(a) In place; or

(b) Under construction; or

(c) Subject to a binding executed construction contract; or

(d) Planned to be initiated in the current budget year and completed before the end of the first year of the five-year CIE; or

(e) Subject to conditions noted in section 5.32.D.3.i(2), planned to be initiated no later than the third year of the five-year CIE and completed in the fifth year of the five-year CIE, as set forth in a CIE facility commitment development agreement; or

(f) To be provided by the applicant, pursuant to a CIE ordinance update or CIE plan amendment development agreement;

and will provide the proposed development sufficient services based upon the adopted LOS for potable water facilities, and a reservation of capacity has been received from the appropriate service provider, demonstrating that sufficient flow capacity will be available prior to issuance of a certificate of occupancy.

(2) Plant capacity conditions. The following condition is imposed when using standard (b), (c), (d), (e) or (f) above: No building permit will be issued if the peak day flows exceed 90 percent of DEP rated capacity, unless additional capacity is under construction and will be completed within six months.

(3) Water line capacity for potable water facilities are (select one of the following):

(a) In place; or

(b) Under construction; or

(c) Subject to a binding executed construction contract; or

(d) Planned to be initiated in the current budget year and completed before the end of the first year of the five-year CIE; or

(e) Subject to conditions noted in section 5.32.D.3.i(2), planned to be initiated no later than the third year of the five-year CIE and completed in the fifth year of the five-year CIE, as set forth in a CIE facility commitment development agreement; or

(f) To be provided by the applicant, pursuant to a CIE ordinance update or CIE plan amendment development agreement; or

(g) To be provided by the applicant because the improvement is a line extension within the primary urban service district, of less than 1,320 feet with accessibility by public right-of-way or utility easement, and the extension is subject to a binding executed contract for construction of required improvements and 110 percent security;

and will provide the proposed development sufficient services based upon the adopted LOS for potable water facilities, and a reservation of capacity has been received from the appropriate service provider, demonstrating that sufficient flow capacity will be available prior to issuance of a certificate of occupancy.

(4) Water line conditions. The following condition is imposed when using water line standard (b), (c), (d), (e), (f), or (g) above: No building permit will be issued if potable water lines necessary to service the project are not in place.

(5) Permitted allocation for potable water facilities are (select one of the following):

(a) In place; or

(b) Sought, as evidenced by a CIE project, before the end of the third year of the CIE and obtained before the end of the fifth year of the CIE, as set forth in a CIE facility commitment development agreement;

and will provide the proposed development sufficient services based upon the adopted LOS for potable water facilities, and a reservation of capacity has been received from the appropriate service provider, demonstrating that sufficient flow capacity will be available prior to issuance of a certificate of occupancy.

(6) Allocation condition. The following condition is imposed when using permitted allocation standard (b) above: No building permit will be issued if average daily flows exceed 90 percent of the SFWMD permitted allocation, unless an application for a permit for additional allocation has been submitted to the SFWMD by Martin County

and the increased allocation is reasonably expected to be granted within two years of the issuance of the building permit. In addition, no building permits will be issued if average daily flows exceed 100 percent of SFWMD permitted allocation.

b. *Sanitary sewer facilities.* A certificate of public facilities reservation shall meet one of the listed sanitary sewer standards for each of the two elements which constitute the sanitary sewer facility (plant capacity and wastewater lines):

(1) Plant capacity for sanitary sewer facilities are (select one of the following):

(a) In place; or

(b) Under construction; or

(c) Subject to a binding executed construction contract; or

(d) Planned to be initiated in the current budget year and completed before the end of the first year of the five-year CIE; or

(e) Subject to conditions noted in section 5.32.D.3.i(2), planned to be initiated no later than the third year of the five-year CIE and completed in the fifth year of the five-year CIE, as set forth in a CIE facility commitment development agreement; or

(f) To be provided by the applicant, pursuant to a CIE ordinance update or CIE plan amendment development agreement;

and will provide the proposed development sufficient services based upon the adopted LOS for sanitary sewer facilities, and a reservation of capacity has been received from the appropriate service provider, demonstrating that sufficient flow capacity will be available prior to issuance of a certificate of occupancy.

(2) Plant capacity conditions. The following condition is imposed when using standard (b), (c), (d), (e), or (f) above: No building permit will be issued if the historical peak three-month average daily flow exceeds 90 percent of DEP rated capacity, unless additional capacity is under construction and will be completed within six months.

(3) Wastewater line capacity for wastewater facilities are (select one of the following):

(a) In place; or

(b) Under construction; or

(c) Subject to a binding executed construction contract; or

(d) Planned to be initiated in the current budget year and completed before the end of the first year of the five-year CIE; or

(e) Subject to conditions noted in section 5.32.D.3.i(2), planned to be initiated no later than the third year of the five-year CIE and completed in the fifth year of the five-year CIE, as set forth in a CIE facility commitment development agreement; or

(f) To be provided by the applicant, pursuant to a CIE ordinance update or CIE plan amendment development agreement; or

(g) To be provided by the applicant because the improvement is a line extension within the primary urban service district, of less than 1,320 feet, with accessibility by public right-of-way or utility easement and the extension is subject to a binding executed contract for construction of required improvements and 110 percent security;

and will provide the proposed development sufficient services based upon the adopted LOS for sanitary sewer facilities, and a reservation of capacity has been received from the appropriate service provider, demonstrating that sufficient flow capacity will be available prior to issuance of a certificate of occupancy.

(4) Wastewater line condition. The following condition is imposed when using wastewater line standard (b), (c), (d), (e), (f), or (g) above: No building permit will be issued if wastewater lines necessary to service the project are not in place.

c. *Solid waste facilities.* A certificate of public facilities reservation shall meet one of the following solid waste standards:

(1) Solid waste facilities are (select one of the following):

(a) In place; or

(b) Under construction; or

(c) Subject to a binding executed construction contract; or

(d) Planned to be initiated in the current budget year and completed before the end of the first year of the five-year CIE; or

(e) Planned to be initiated no later than the second year of the five-year CIE and will be completed before the end of the third year of the CIE, as set forth in a CIE facility commitment development agreement;

and will provide the proposed development sufficient services based upon the adopted LOS for solid waste facilities, and assurance has been received demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy.

(2) Solid waste condition. The following condition is imposed when using standard (b), (c), (d), or (e) above: No building permit will be issued if solid waste facilities necessary to service the project are not in place.

d. *Stormwater management facilities.* A certificate of public facilities reservation shall meet one of the following stormwater management standards:

(1) Stormwater management facilities are (select one of the following):

(a) In place; or

(b) Under construction; or

(c) Subject to a binding executed construction contract; or

(d) Planned to be initiated in the current budget year and completed before the end of the first year of the five-year CIE; or

(e) Planned to be initiated no later than the second year of five-year CIE and completed in the third year of the five-year CIE, as set forth in a CIE facility commitment development agreement; or

(f) To be provided by the applicant, pursuant to a CIE ordinance update or CIE plan amendment development agreement;

and will provide the proposed development sufficient services based upon the adopted LOS for stormwater management facilities, and assurance has been received demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy.

(2) Stormwater condition. The following condition is imposed when using stormwater standard (b), (c), (d), (e), or (f) above: No construction plan approval will be issued if stormwater management facilities necessary to service the project are not in place.

e. *Community park facilities.* A certificate of public facilities reservation shall meet one of the following community park standards:

(1) Community park facilities are (select one of the following):

(a) In place; or

(b) Under construction; or

(c) Subject to a binding executed construction contract; or

(d) Planned to be initiated in the current budget year and completed before the end of the first year of the five-year CIE; or

(e) Planned to be initiated no later than the second year of five-year CIE and completed in third year of the five-year CIE, as set forth in a CIE facility commitment development agreement; or

(f) To be provided by the applicant, pursuant to a CIE ordinance update or CIE plan amendment development agreement;

and will provide the proposed development sufficient services based upon the adopted LOS for community park facilities, and assurance has been received demonstrating that sufficient community park facilities will be under actual construction within one year of issuance of the reserving final development order and completion of the required facilities will occur no later than two years following the reserving final development order issuance.

(2) Community park condition. The following condition is imposed when using community park standard (b), (c), (d), (e), or (f) above: No building permit will be issued if community park facilities necessary to service the project are not, at least, subject to a binding executed contract for acquisition and/or actual construction which provides for the facilities to be commenced within one year of issuance of the reserving final development order and completion of the required facilities will occur no later than two years following issuance of the reserving final development order.

f. *Road facilities.* A certificate of public facilities reservation shall meet one of the following road standards:

(1) Road facilities are (select one of the following):

(a) In place; or

(b) Under construction; or

(c) Subject to a binding executed construction contract; or

(d) Planned to be initiated in the current budget year and completed before the end of the first year of the five-year CIE; or

(e) Planned to be initiated no later than the third year of the five-year CIE and completed in the fifth year of the five-year CIE, as set forth in a CIE facility commitment development agreement; or

(f) To be provided by the applicant, pursuant to a CIE ordinance update or CIE plan amendment development agreement; or

(g) The subject of a Proportionate Fair-Share Agreement approved by the Board of County Commissioners pursuant to division 4 of this article;

and will provide the proposed development sufficient services based upon the adopted LOS for road facilities.

(2) Road condition. The following condition is imposed when using road facility standard (b), (c), (d), (e), or (f) above: No building permit will be issued if construction of road facilities necessary to service the project is not scheduled to be initiated no later than the third year of the five-year CIE and completed before the end of the fifth year of the adopted CIE.

g. *Mass transit facilities.* The mass transit component shall be approved if the following conditions are met:

(1) Mass transit facilities are in place to provide the proposed development sufficient services based on the adopted LOS for mass transit facilities; and

(2) Capital improvements and/or payments are in the adopted CIE that will provide for the continuation of sufficient mass transit services based on the adopted LOS for mass transit facilities.

h. *Public safety facilities.* A certificate of public facilities reservation shall meet one of the following public safety standards:

(1) Public safety facilities are (select one of the following):

(a) In place; or

(b) Under construction; or

(c) Subject to a binding executed construction contract; or

(d) Planned to be initiated in the current budget year and completed before the end of the first year of the five-year CIE; or

(e) Planned to be initiated no later than the second year of the five-year CIE and will be completed before the end of the third year of the CIE, as set forth in a CIE facility commitment development agreement;

and will provide the proposed development sufficient services based upon the adopted LOS for public safety facilities, and assurance has been received demonstrating that sufficient capacity will be available prior to issuance of a certificate of occupancy.

(2) Public safety condition. The following condition is imposed using standard (b), (c), (d), or (e) above: No building permit will be issued if public safety facilities necessary to service the project are not in place.

i. *Public school facilities.* A certificate of public facilities reservation shall meet the requirements of section 5.84.A. for public school facilities.

j. *Additional standards and conditions applicable to reservation standards.*

(1) Use of a CIE facility commitment development agreement pursuant to section 5.32.D.3.a(1)(e), 5.32.D.3.a(3)(e), 5.32.D.3.a(5)(b), 5.32.D.3.b(1)(e), or 5.32.D.3.b(3)(e) is subject to the following limitation: A CIE facility commitment development agreement shall not be approved unless it contains a condition permitting the County to delay the scheduled CIE improvement when flow triggers for new improvements, after consideration of the anticipated uptake of existing and committed reservations, are not met.

(2) *Standards for certificates of public facilities reservation as they relate to facilities provided by other agencies and private utilities.* If future public facility improvements

by other public agencies or private utilities are utilized to determine adequate public facility LOS for an application for development order under these standards, then the development order and certificate shall be conditioned to provide that building permits for that portion of the proposed development intensity that would violate public facility LOS without these improvements would not be issued until the needed public facilities are in place or are assured by these standards.

k. *Model units.* Notwithstanding the prohibition on building permits pursuant to sections 5.32.D.3.a through h, building permits for up to five model units, as defined herein, shall be permitted for a reserving phase when the removal of the model unit(s) in its entirety, as well as necessary infrastructure, is fully bonded to the satisfaction of the County Administrator.

4. *Terms, expiration and effect of certificate of public facilities reservation.* A certificate of public facilities reservation shall be subject to the following terms, expiration and effect.

a. *Timetable for development.* A timetable for completion of the development, or portion thereof, that is subject to the certificate of public facilities reservation shall be identified in the certificate of public facilities reservation and shall be consistent with the valid duration of the certificate of public facilities reservation. The timetable of development commences on the date of approval of a certificate of public facilities reservation. The development encompassed by the timetable in a valid, unexpired certificate issued prior to the effective date of this article must be completed in the timeframe required in such certificate of public facilities reservation and remains subject to the proportionality of development tests and the limitations of section 5.32.D.4.d; provided, however, such certificate shall not be further amended nor extended except in accordance with this article. The development encompassed by the timetable in a certificate issued on or after the effective date of this article must be completed within the "timetable" specified in section 5.32.D.4.a(1), for the "type of development" referenced therein. In addition, the project timetable must meet the proportionality of development test as defined in section 5.3.

(1) [*Development time limits.*]

Type of Development	Timetable	Optional Extension
As defined in article 10 of the Land Development Regulations, standard or minor development master site plan, standard or minor development final site plan, major or other conditional development final site plan	Up to 2 years	1 extension of up to 1 year
As defined in article 10 of the Land Development Regulations, major or other conditional development master site plan	Up to 3 years	Up to 2 extensions of up to 2 years each, with updated traffic study required for each extension (see section 5.32.D.8.b)
DRI	Up to 5 years	Up to 2 extensions of up to 5 years each, with updated traffic study required for each extension (see section 5.32.D.8.b)

b. *Notification of adequate public facilities status.* All owners of land subject to a certificate of public facilities reservation shall provide written notification of the status of the certificate for that land to any subsequent purchaser of that land, prior to its conveyance, by recording the certificate of public facilities reservation in the public records. Approval resolutions for rezonings as well as commercial and industrial subdivisions shall note the intensity and timing utilized in performing the evaluation and reservation tests of this article. Certificates for commercial, residential, and industrial subdivisions shall note the allocation of capacity per lot.

c. *Prepayment of fees.*

(1) *Preliminary development order.* Impact fees, with the exception of school impact fees, service agreements, capital facility charges, and other user fees associated with the provision of public facilities shall be either paid in full, or as follows, as part of a certificate of public facilities reservation approval for a preliminary development order. Twenty-five percent of the fees shall be paid within 60 days of approval with payment of 25 percent plus interest on the fourth, eighth, and 12th month anniversary of the approval date. Payment shall not extend beyond 12 months, or approval of a final development order, whichever occurs first. The capacity reservation automatically expires if payments are not made as required.

(2) *Final development order.* Except in the case of a designated permit-ready industrial development, impact fees, with the exception of school impact fees, service agreements, capital facility charges, and other user fees associated with the provision of public facilities for a certificate of public facilities reservation approved for a final development order shall be paid in full within 60 days of the approval of the final development order. The capacity reservation automatically expires if the payment is not made as required. Final commercial and/or industrial plats may either reserve capacity at the final plat stage or defer capacity reservation to the subsequent site plan approval stage for the individual platted lots. In the case of a permit-ready industrial development, the payment of impact fees shall be as specified in article 6 of the LDR. School impact fees shall be paid as specified in article 6, division 2, LDR.

(3) *Exception.* Either a preliminary development order or a final development order with a final completion date of two years or less for the entire development is not required to prepay impact fees under this subsection in order to receive a certificate of public facilities reservation and shall pay such fees at building permit issuance. Utility agreements must, however, be submitted within 60 days with SAC charges paid thereafter. CFC charges will be paid in accordance with the agreement but no later than certificate of occupancy. This exception will not apply to single-family lot sale developments or to phased projects. A certificate issued pursuant to this exception conveys no rights to development orders beyond the two-year reservation period except as provided in section 5.32.D.8, and provided that all remaining impact fees and capital facility charges are paid in full within 60 days of an approval of a requested extension.

(4) *Letters of credit in lieu of monetary prepayment.* A letter of credit (LOC) may be utilized at the preliminary development order stage in conjunction with a letter of credit administration agreement as a mechanism for the fee and/or charge prepayment requirement of this article provided the following standards are met:

(a) The LOC is submitted on a standard form approved by the Martin County Administrator;

(b) The issuing financial institution must be an approved depository as listed by the State of Florida;

(c) It must be a clean, standby LOC;

(d) The LOC must be irrevocable;

(e) LOC is callable when any impact fee supported facility benefiting the district in which the development is located is either adopted in the annual budget, the first year of the adopted CIE or at final development plan approval, whichever is earlier;

(f) LOC total amount must encompass the total fee or charge principal plus ten percent. The developer must pay the amount of the impact fees or capital facility charges in effect at the time at which the LOC is deemed callable. If subsequent phases of a project are reserved by the LOC, then a new LOC must be submitted for the remaining phases in an amount equal to the fee(s) in effect at the time of submission plus ten percent;

(g) A separate LOC must be provided for each public facility type for which fees or charges are being prepaid;

(h) Administrative fee of $25.00 per transaction or such higher fee established in a fee resolution and, based on the cost of County LOC administration, will be charged to all applicants using this option;

(i) The term of the LOC must extend to at least three months beyond the date of first final development plan approval;

(j) Refunds for LOC shall be treated the same as for cash payment, including retention by the County of any applicable administrative charge.

(5) *Refund of fees.*

(a) Any impact fee not expended or encumbered by the end of the calendar quarter immediately following six years from the date the fee or capital facility charge was paid shall be returned to the feepayer with interest at a per annum which is the average of the rate the County earned on its investments with the local government surplus trust fund administered by the State Board of Administration over the period of time the County was in receipt of the funds, provided that the feepayer submits an application for a refund within 180 calendar days of the expiration of the six-year period. An administrative charge, in accordance with the adopted County impact fee regulations in effect at the time of the refund, will be paid to the County by the feepayer to help defray the costs of the refund program.

(b) If a certificate of adequate public facilities expires or is revoked, and the fee or capital facility charge has not been expended or encumbered, then upon application of the feepayer, the fee or capital facility charge shall be refunded to the feepayer, without interest, except that the County shall retain an administrative charge, in accordance with the adopted County impact fee regulations in effect at the time of the refund, to account for the costs of collection and refund.

(c) If a certificate of adequate public facilities expires or is revoked, and the fee or capital facility charge has been expended or encumbered, upon application and at the option of the feepayer:

(i) The feepayer shall receive a full monetary credit in the amount of the prepaid fee or capital facility charge which shall remain valid and run with the land for a period of ten years from the date of receipt of the credit; or

(ii) The feepayer and Martin County shall enter into a cost reimbursement agreement, in which the feepayer shall be repaid up to the full amount of the fee or capital facility charge paid by the feepayer (less an administrative charge, in accordance with the adopted County impact fee regulations in effect at the time of the cost reimbursement agreement, to account for the cost of collection and refund), based upon the County's receipt of other applicable fees or charges over the next five years from the benefit district in which the property subject to the refund is located and provided that the timely and efficient provision of programmed facilities in the benefit district are not adversely impacted.

d. *Expiration.*

(1) *Certificate of public facilities reservation approved pursuant to a preliminary or final development order.* A certificate of public facilities reservation approved pursuant to a preliminary or final development order shall remain valid as long as all of the following conditions are met:

(a) The internal and final completion deadlines in the timetable of development contained in the certificate are not violated.

(b) The water and sewer availability charge (SAC), if applicable, is paid to the County.

(c) If adopted by the Board of County Commissioners, an annual public facilities availability charge for the remaining public facilities is paid to the County for all portions of the development subject to the certificate which have been completed, but for which a certificate of occupancy has not been issued. If adopted, the service availability charge will be based on the cost to Martin County of operating and maintaining public facility capacity in the area of the development until that capacity is actually utilized by the development, or portion thereof, subject to the certificate.

(2) *Extension of certificate for single-family lot sales developments.* A certificate of public facility reservation for a detached single-family platted lot sales development where infrastructure and off-site improvements have been completed may be extended beyond the period established in the certificate of public facility reservation and in perpetuity for such vacant lots, provided the service availability charge, if applicable, is paid annually. Once a building is constructed on a lot, the certificate is valid in perpetuity for the building subject to the certificate. The determination of whether a development is a detached single-family platted lot sales development shall be made no later than at the time of application for the certificate of public facilities reservation, or amendment thereof. Any project that represents itself as a "detached single-family platted lot sales development," either in total or within specified phases, will not be permitted to restrict lot owners as to builder or unit selection in the development or applicable portion thereof. Any single-family residential development, or portion thereof, in which the developer or subsequent purchasers utilize a common development plan for five or more lots which provides for the consecutive construction of units will be considered a builder type of development (or portion) and must have an approved timetable showing the completion of the dwelling units. This is not intended to prohibit building construction on five or more lots, if the effect is not to produce whole phases or subphases, consecutively. After approval of the development and until all lot sales have occurred, detached single-family platted lot

sales developments shall submit an annual report on vertical construction to the County Administrator for inclusion in the PFLOS review.

(3) *Expiration due to lack of development intent.* If the holder of a certificate of public facilities reservation expresses in writing to the Growth Management Director their desire to terminate the subject certificate, then upon proper notice and action of the Growth Management Director, the certificate will be rendered invalid and the capacity reservation terminated. The refund provisions [of section] 5.32.E.9.c(5) [5.32.D.4.c(5)] shall apply to such cases.

e. *Effect of expiration.* If a certificate of public facilities reservation either expires or becomes invalid, the public facility capacity reserved by the certificate expires, is released, and becomes additional available public facility capacity.

f. *Assignability and transferability.* A certificate of public facilities reservation is specific to the development order and is assignable or transferable to the extent the development order, or portions thereof, is assignable or transferable. A certificate of public facilities reservation shall run with the land, consistent with the development order on which it was based.

5. *Effect of certificate of public facilities reservation approved with conditions.* A certificate of public facilities reservation with conditions, approved under the terms of this article, shall bind the County and the developer pursuant to the terms and conditions of the certificate to its determination pursuant to this article that adequate public facilities are or will be available to serve the proposed development concurrent with the impacts of the development on the public facilities. The County's commitment to provide public facilities shall be in accordance with the terms and conditions in the certificate and may be amended only in accordance with this article. When the certificate is conditioned on the completion of construction, a contract, or a budgeted improvement, the County shall proceed in good faith to meet the commitment in a timely fashion. However, a certificate of public facilities reservation shall not contain a binding timetable for the completion of said improvements.

6. *Effect of certificate of public facilities reservation accompanied by or incorporated into a development agreement.* A developer may enter into a development agreement with the County, for those public facilities for which a development agreement is acceptable, in conjunction with the approval of a development order and certificate of public facilities reservation to ensure adequate public facilities are or will be available concurrent with the impacts of development on the public facility. The effect of the development agreement shall be to bind the County and the developer pursuant to the terms and duration of the development agreement to its determination pursuant to this article that adequate public facilities are or will be available to serve the proposed development concurrent with the impacts of the development on the public facilities. The County's commitment to provide public facilities shall be in accordance with the terms and conditions in the agreement, including a binding timetable, and may be amended only in accordance with the Martin County Development Agreement Ordinance [article 7 of the Land Development Regulations]. Except when the agreement expressly provides otherwise, in the event a CIE improvement identified in a development agreement is proposed to be delayed in the CIE from the date identified in the development agreement, the board may delay the facility only after a finding consistent with the unilateral amendment findings identified in section 23-210 [23-207] of the Development Agreement Ordinance [section 7.7 of the Land Development Regulations].

7. *Appeal.* An applicant may appeal a decision regarding an application for a certificate of public facilities reservation pursuant to the provisions of article 10 of the Land Development Regulations.

8. *Amendment and extension of certificate of public facilities reservation.*

a. *Amendments.* An amendment to a certificate of public facilities reservation shall be required prior to or concurrent with the approval of any amendment to a development order

for which a certificate of public facilities reservation has been approved, if the amendment increases or decreases the need for capacity for any required public facility, or alters the timing of construction for required public facilities. The amendment of a certificate of public facilities reservation shall only require evaluation and reservation of additional public facility capacity demanded by the proposed development, as well as the impact of any modification to the timing of required capital improvements for public facilities.

b. *Extensions.* Pursuant to the provisions of article 10 of the Land Development Regulations, the County Administrator has the discretion to approve timetable extensions only in accordance with the number of extensions and amount of time for each extension as shown within the "optional extension" specified in section 5.32.D.4.a(1) for the "type of development" referenced therein, and then only if (1) a development is proceeding in good faith and in compliance with its development order, (2) an updated traffic study is required pursuant to section 5.32.D.4.a(1) for the extension sought, then the applicant shall provide an updated traffic study consistent with the requirements and procedures of sections 5.61 through 5.64 of this article which demonstrates that the development currently satisfies the transportation concurrency requirements, and (3) the extension will not violate adopted LOS standards for public facilities.

c. *2007 Market Condition Extension.*

(1) A project whose time periods are extended pursuant to section 10.14.F.1. or 10.14.F.2., LDRs, shall be eligible to obtain a Certificate of Public Facilities Reservation ("Certificate"), or extend an existing Certificate, for the duration of the extended timetable for development upon a demonstration of available capacity pursuant to this Article 5. Expiration of an existing Certificate for a project extended herein shall not void the master site plan or final site plan approval for that project if such approval otherwise remains valid pursuant to all applicable code requirements, however no further development shall occur after the expiration of the Certificate until sufficient capacity has been demonstrated and an extension to the Certificate is issued as provided for herein. An extension to a Certificate is not an extension of any other development order.

(2) The extension granted herein is in addition to and not in lieu of any extensions to a Certificate of Public Facilities Reservation as the same may be authorized pursuant to the table set forth in section 5.32.D.4.a.(1).

(3) A Fee for the extension request shall be established in accordance with the adopted Development Review Fee Schedule as established by resolution of the Board of County Commissioners as may be amended from time to time.

(Ord. No. 564, pt. I, § 5.7, 12-21-1999; Ord. No. 587, pt. 3, 5-15-2001; Ord. No. 608, pt. 2, § 5.7.B.3, 3-19-2002; Ord. No. 728, pt. 1, 11-28-2006; Ord. No. 731, pt. 1, 12-5-2006; Ord. No. 792, pt. 2, 3-18-2008; Ord. No. 813, pt. 1, 12-9-2008; Ord. No. 835, pt. 2, 11-17-2009)

Cross reference— Development review procedures, art. 10.

Sec. 5.33. Adequate public facilities variance.

5.33.A. *Purpose.* If an application for a certificate of public facilities reservation is denied by the decision-maker, the applicant may submit an application for an adequate public facilities variance pursuant to this section 5.33.

5.33.B. *Application.* An application for an adequate public facilities variance shall be submitted pursuant to article 10 of the Land Development Regulations.

5.33.C. *Standards for adequate public facilities variance.* An adequate public facilities variance shall allow no more than one dwelling unit for each two acres of land, or 15 percent of the permitted density/intensity of a site exclusive of required wetland/upland preserve and buffer zones under the Comprehensive Growth Management Plan and Zoning Code, whichever is less, provided that:

1. A certificate of public facilities reservation has been denied for the proposed development and an appeal to the Board of County Commissioners has affirmed that decision;
2. All available capacity for each public facility for the development allowed under the adequate public facilities variance has been reserved by the applicant and there is sufficient capacity for potable water, sanitary sewer, drainage, public school facilities, and solid waste facilities;
3. A concept plan for the APFO variance for the land subject to the adequate public facilities variance demonstrates how the land will be developed at its proposed density or intensity pursuant to an adequate public facility variance, and allowable density or intensity under the Comprehensive Growth Management Plan and the County's Land Development Regulations.
    a. The concept plan shall be used to ensure development pursuant to an adequate public facilities variance is consistent with the Comprehensive Growth Management Plan and the County's Land Development Regulations, but does not constitute approval of a development order;
    b. The land made part of the concept plan must include all contiguous lands either owned by the applicant or in which the applicant has any partial ownership or financial interest;
    c. The concept plan must show enough detailed information to calculate overall net density and/or intensity and ensure the development of the adequate public facilities variance can be integrated into the entire parcel of land in a logical and prudent development layout that is consistent with the Comprehensive Growth Management Plan and the County's Land Development Regulations.
    d. The review of a concept plan for development at the allowable density and or intensity shall in no way reserve capacity for public facilities which are not available at the time of approval of an adequate public facilities variance.
4. No beneficial use of land will be provided without issuance of the adequate public facilities variance.
5. An adequate public facilities variance shall expire within one year if the appropriate development orders and building permits have not been approved for the proposed development subject to the adequate public facilities variance.

5.33.D. *Appeal.* An applicant may appeal a decision regarding an application for a adequate public facilities variance pursuant to the provisions of article 10 of the Land Development Regulations.

(Ord. No. 564, pt. I, § 5.8, 12-21-1999; Ord. No. 813, pt. 1, 12-9-2008)

Secs. 5.34—5.60. Reserved.

DIVISION 3. TRAFFIC IMPACT ANALYSIS [2]

Sec. 5.61. Traffic impact analysis requirement.

The purpose and intent of the traffic impact analysis is the protection and enhancement of the public health, safety and welfare by requiring a detailed analysis of the potential traffic impact of developments upon the county roadway network. This is accomplished through a process of analyzing potential traffic impact on roadways and comparing this impact, together with existing and projected traffic volumes, to the ability of the roadway segments to accommodate both the traffic impact and anticipated traffic volumes. Applicable level of service (LOS) standards are contained in the Transportation Element of the Comprehensive Growth Management Plan.

(Ord. No. 564, pt. I, § 5.9, 12-21-1999; Ord. No. 835, pt. 3, 11-17-2009)

Sec. 5.62. Development project categories.

Development projects shall be categorized as either exempt, de minimis, or with significant impacts.

No development application shall be accepted without an appropriate traffic review based on one of the categories. The traffic review will be the basis for determining whether a proposed development meets the requirements of the adequate public facilities section of these regulations.

(Ord. No. 564, pt. I, § 5.10, 12-21-1999; Ord. No. 835, pt. 3, 11-17-2009)

Sec. 5.63. Trip generation characteristics.

For the purpose of determining which requirements are applicable to a proposed project and for the purpose of preparing required transportation impact analyses, certain trip characteristic data are required. These data include trip generation, pass-by capture and internal capture. Each of these data requirements is discussed below.

5.63.A. *Trip generation.* Trip generation rates shall be taken from the Institute of Transportation Engineers' Trip Generation (current edition). Trip generation rates from other published studies must be preapproved by the County Administrator. The trip generation rate unit of measure will be the same as the unit of measure adopted in the Martin County development impact fee update study. If a proposed land use for a development project is not contained in article 6, Impact Fees, the unit of measure must be approved by the County Administrator.

5.63.B. *Pass-by capture.* Pass-by capture rates shall be computed using the percent new trips factor in article 6, Impact Fees. The pass-by capture rate shall be equal to one minus the percent new trips factor for each proposed land use of the development project. If a proposed land use for a development project is not contained in article 6, Impact Fees, the pass-by capture factor must be approved by the County Administrator.

5.63.C. *Internal capture.* The internal capture rate will be computed based on the methodology established in the ITE Trip Generation Handbook chapter on multi-use developments generation. The use of an internal capture rate must be preapproved by the County Administrator.

(Ord. No. 564, pt. I, § 5.11, 12-21-1999; Ord. No. 835, pt. 3, 11-17-2009)

Sec. 5.64. Procedures.

5.64.A. *Exempt project.* In order for a project to be classified as exempt, the County Administrator must determine whether it meets the provisions set forth in section 5.32.B.3.f. If a previously approved project with a valid concurrency reservation changes the use under which the concurrency reservation was issued, the new number of total trips generated will be compared to the total trips of trips approved under the concurrency reservation. If the new number of total trips is less than the number of trips indicated on the concurrency reservation, the project will be deemed exempt. If the new number of total projected trips is more than 105 percent of the number of trips indicated on the concurrency reservation or is more than 15 additional peak hour trips, the applicant will be required to submit an appropriate updated traffic study.

5.64.B. *Project with de minimis impact.* In order for a project to be classified as de minimis, the County Administrator must determine whether the trips generated would not affect more than one percent of the adopted level of service capacity. No impact will be de minimis if the sum of existing roadway volumes and the trips generated from the project would exceed 110 percent of the adopted level of service capacity of the affected road facility.

5.64.C. *Project with significant impact.* Applications for projects categorized as having a significant impact, excluding developments of regional impact, must be accompanied by a traffic impact analysis, signed and sealed by a qualified registered professional engineer. The traffic impact analysis must include the following information:

1. A letter of transmittal, table of contents, and narrative discussion concerning each of the required components, as appropriate.

2. Description and location of development, including land uses, number of units, and square footage. Land uses shall be defined in as great a specificity as possible for the purposes of conducting and preparing a minor traffic impact statement. Absent specific land uses being defined, the highest and most intense use available will be used for the proposed development.

3. Estimated project trip generation and assignment, considering pass-by and internal capture, on a peak hour peak direction basis.

4. A p.m. peak hour level of service analyses, unless the a.m. or mid-day peak hour is greater than the p.m. peak hour. If this is the case, the greater peak hour will be documented in the traffic impact statement and used for level of service analysis.

5. An analysis, including traffic distribution and assignment, of all links and aggregated segments or parts thereof, on the major road network on which the project traffic has an impact of at least two percent of the level of service capacity as identified in the most recent Martin County annual concurrency report. If no links are impacted at the two percent or greater level, the analysis will consider the first directly accessed road on the major road network.

    a. The following analysis will form the basis for determining concurrency on all impacted roads. The concurrency test will be completed by adding the background traffic growth plus the net number of trips generated from the project traffic on each impacted link on the road network to the existing traffic volume and comparing the total of this traffic volume to the adopted level of service capacity. If the total traffic volume is lower than the adopted level of service capacity, concurrency has been satisfied on this link and/or aggregated segment. If the total traffic volume is higher than the adopted level of service capacity, a more detailed analysis of level of service using accepted FDOT level of service methodology techniques must be undertaken. These techniques must be approved by the County Administrator and will include those indicated in the Highway Capacity Manual and FDOT's latest Quality/Level of Service Handbook. If the more detailed analysis indicates that the total traffic volume would be less than the adopted level of service capacity for all impacted links and/or aggregated segments, concurrency has been satisfied. If not, concurrency has not been satisfied, and the only way for concurrency to be satisfied is for

a traffic congestion mitigation plan (TCMP) to be accepted by the County Administrator. The TCMP, shall propose solutions to mitigate the impacts of the development on the links on which concurrency has not been satisfied. The TCMP shall demonstrate the operating conditions of the deficient links and/or aggregated segments with project traffic operate at the adopted level of service capacity.

b. The concurrency test on those roads that have an interim level of service standard is the same as set forth in paragraph a., above, except that the adopted level of service capacity is governed by the volume threshold or expiration set forth in the adopted Long-term Concurrency Management Plan. Projects that generate traffic that impacts a road with an interim level of service standard shall be required to enter into a Proportionate Fair Share Agreement, as provided in the Comprehensive Growth Management Plan.

6. An analysis of all intersections that are projected to operate below the adopted level of service standard. Such analysis will utilize the methodologies and techniques described in this section 5.64.C.

7. The study network, as defined above, will be illustrated in both tabular and map formats, and clearly show the percentage of project traffic of the level of service capacity up to and including the link where the project traffic falls below the two percent threshold. The map or maps will illustrate the project location, existing and proposed traffic control devices, existing and proposed ingress and egress locations for the project, existing and proposed bicycle and pedestrian facilities, and existing and proposed public transportation services and facilities on the study network.

8. A set of appendices documenting all data collected and used in the traffic impact statement study, including procedures, computer software printouts and other information relevant to the analysis.

The traffic impact analysis will be reviewed by the County Administrator pursuant to article 10 of the LDR. The County Administrator will either approve or disapprove the traffic impact analysis. If approved, transportation concurrency has been satisfied and a concurrency reservation may be issued subject to the requirements for adequate public facilities. Such concurrency reservation shall only apply to the total number of estimated trips generated for the timetable of development identified in section 5.32.D.4.

Developments of regional impact must follow traffic impact study procedures established in the Florida Statutes.

(Ord. No. 564, pt. I, § 5.12, 12-21-1999; Ord. No. 835, pt. 3, 11-17-2009)

Secs. 5.65—5.69. Reserved.

FOOTNOTE(S):

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Cross reference— Roadway design, § 4.841 et seq. (Back)

DIVISION 4. TRANSPORTATION PROPORTIONATE FAIR-SHARE PROGRAM [3]

Sec. 5.70. Purpose and intent.

Pursuant to F.S. § 163.3180, it is the intent of the Legislature to provide a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors through a Proportionate Fair-Share Program.

(Ord. No. 731, pt. 2, 12-5-2006)

Sec. 5.71. Applicability.

5.71.A. The Proportionate Fair-Share Program shall be available for any development which has received a negative evaluation of adequate public facility capacity for road facilities pursuant to section 5.32.D., Land Development Regulations, Martin County Code. A developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the five-year Schedule of Capital Improvements which is included in the Capital Improvement Element of the Comprehensive Growth Management Plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the five-year Schedule of Capital Improvements in the next regularly scheduled update of the Capital Improvement Element of the Comprehensive Growth Management Plan.

1. For purposes of this section, the five-year Schedule of Capital Improvements is the first five years of Martin County's ten-year Capital Improvement Plan

2. For purposes of this section, the long-term concurrency management system is described in section 5.4.A.2.e., Comprehensive Growth Management Plan, Martin County Code.

5.71.B. Proportionate fair-share mitigation for development impacts to road facilities on the Strategic Intermodal System also requires the concurrence of the Department of Transportation.

5.71.C. In the event the funds in the adopted five-year Schedule of Capital Improvements which is included in the Capital Improvement Element of the Comprehensive Growth Management Plan are insufficient to fully fund construction of a transportation improvement required by the County's concurrency management system, the Board of County Commissioners and a developer may still enter into a binding Proportionate Fair-Share Agreement authorizing the developer to construct that amount of development on which the proportionate 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 Board of County Commissioners significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate fair-share component must be adopted into the five-year Schedule of Capital Improvements at the next annual Capital Improvement Element update.

(Ord. No. 731, pt. 2, 12-5-2006)

Sec. 5.72. Methodology for calculation of proportionate fair-share mitigation.

5.72.A. The methodology used to calculate an applicant's proportionate fair-share mitigation obligation shall be the methodology established in F.S. § 163.3180(12), as set forth below:

The cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete buildout of a stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service. For purposes of this section "construction cost" includes all associated costs of the improvement.

This methodology is expressed by the following formula:

Proportionate Fair-Share = σ[[(Development Trips;sub *sub;)/(SV Increase;sub* \sub;)] × Cost;sub *sub;]*

(Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of development.)

Where:

σ;sub \sub; =	Is the summation symbol for the terms within the square bracket over all deficient links (i) proposed for proportionate fair share mitigation for a project;
Development Trips;sub *sub; =*	Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency;
SV Increase;sub \sub; =	Service volume increase provided by the eligible improvement to roadway segment "i" per section 5.71.A;
Cost;sub *sub; =*	Adjusted cost of the improvement to segment "i", Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection and costs directly associated with construction at the anticipated cost in the year that construction will occur.

5.72.B. *For the purposes of determining proportionate fair-share obligations, Martin County shall determine improvement costs based upon the actual costs of the transportation project under construction and/or anticipated cost of the transportation project in the year that construction would occur as determined by the County Engineer.*

5.72.C. *If Martin County has accepted an improvement project proposed by a developer, then the value of the improvement shall be determined by the County Engineer or the County Engineer's staff designee.*

5.72.D. *If Martin County has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the right-of-way shall be established by an appraisal. If the value of the right-of-way is over $500,000.00, two appraisals shall be required. Said appraisal(s) shall be at no cost to the County and performed by an MAI designated appraiser approved by Martin County. The appraisal shall assume no approved development plan for the site and the right-of-way shall be valued at fair market value. At no cost to the County, the applicant shall provide a title commitment and title policy acceptable to the County, three original surveys certified to Martin County and the title company and a Phase 1 Environmental Site Assessment acceptable to Martin County. If the estimated value of the right-of-way dedication proposed by the applicant is less than the applicant's proportionate fair-share mitigation obligation, the applicant shall pay the difference.*

(Ord. No. 731, pt. 2, 12-5-2006)

Sec. 5.73. Impact fee credit for proportionate fair-share mitigation.

5.73.A. Proportionate fair-share mitigation shall be applied as a credit against the transportation impact fees imposed upon a 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 article 6, Impact Fees, LDR, MCC.

5.73.B. Impact fee credits for a proportionate fair-share contribution shall be determined when the transportation impact fee obligation is calculated for the proposed development. If the applicant's proportionate fair-share obligation is less than the development's anticipated transportation impact fee for the specific stage or phase of development under review, then the applicant must pay the remaining impact fee amount.

5.73.C. A proportionate fair-share contribution is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any transportation impact fee credit based upon proportionate fair-share contributions for a proposed development shall not be transferred to any other location.

5.73.D. The amount of transportation impact fee (TIF) credit for a proportionate fair-share contribution shall not exceed the project's proportionate fair-share amount and will be determined based on the following formula:

TIF Credit = [Proportionate fair share impacted roadways' VMT × Production/Attraction Factor/Total Project VMT] × (Total Impact Fee Liability)

Where:

VMT (Vehicle miles of travel on a link) = (length of link) × (number of trips assigned to link)

Total Project VMT = Total vehicle miles of travel on all links impacted by the development

Production/Attraction Factor: adjusts for roundtrip

5.73.E. A proportionate fair share impact fee credit shall be applied consistent with the following formula:

Applicant payment = [(Total project traffic impact fees assessed) + (Proportionate Share Payment)] - (TIF Credit)

(Ord. No. 731, pt. 2, 12-5-2006)

Sec. 5.74. Transportation proportionate fair-share agreements.

5.74.A. The Proportionate Fair-Share Program shall be implemented through a Proportionate Fair-Share Agreement between the developer and Martin County.

5.74.B. Should the applicant fail to comply with the timetable of development for the project which is the subject of the Proportionate Fair-Share Agreement, then the Agreement shall be considered null and void.

5.74.C. Once a proportionate fair-share payment for a project is made, no refunds shall be given. All payments, however, shall run with the land.

5.74.D. Payment of the proportionate fair-share contribution shall be made in full at the same time as payment for transportation impact fees, pursuant to the Martin County Land Development Regulations. If the payment is based upon the anticipated cost of an improvement, the Proportionate Fair-Share Agreement may require an additional payment if the actual cost of the improvement exceeds the anticipated cost of the improvement.

5.74.E. All developer improvements accepted as proportionate fair-share contributions must be completed as established within the Proportionate Fair-Share Agreement and be accompanied by a security instrument that is sufficient to ensure the completion of all required improvements.

5.74.F. Dedication of necessary right-of-way for facility improvements accepted as proportionate fair-share contributions must occur as established within the Proportionate Fair-Share Agreement.

5.74.G. 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.

5.74.H. Applicants may submit a letter to withdraw from the Proportionate Fair-Share Agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the County will be nonrefundable.

5.74.I. The County may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

5.74.J. The terms of the Proportionate Fair-Share Agreement shall be incorporated into a Planned Unit Development Zoning Agreement adopted pursuant to article 3, division 5, Land Development Regulations, Martin County Code or a Development Agreement adopted pursuant to article 7, Land Development Regulations, Martin County Code.

(Ord. No. 731, pt. 2, 12-5-2006; Ord. No. 813, pt. 1, 12-9-2008)

Sec. 5.75. Appropriation of fair-share revenues.

5.75.A. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the five-year Schedule of Capital Improvements, or as otherwise established in the terms of the Proportionate Fair-Share Agreement.

5.75.B. In the event a scheduled facility improvement is removed from the five-year Schedule of Capital Improvements, then the revenues collected for its construction must be applied toward the construction of another improvement which the Board of County Commissioners determines will significantly benefit the impacted transportation system.

(Ord. No. 731, pt. 2, 12-5-2006)

Secs. 5.76—5.79. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 813, adopted Dec. 9, 2008, amended the title of Div. 4, Proportionate Fair-Share Program, to read as herein set out. (Back)

DIVISION 5. PUBLIC SCHOOL CONCURRENCY

Sec. 5.80. Purpose and intent.

The intent of school concurrency is to ensure that the public school facilities necessary to maintain the adopted level of service for schools are in place before or concurrent with the school impacts of new residential development.

(Ord. No. 813, pt. 1, 12-9-2008)

Sec. 5.81. Application for school concurrency review.

5.81.A. A public school impact statement shall be completed by the applicant as part of the development application for the following:

(a) Amendments to the Comprehensive Plan future land use map;

(b) Residential rezonings;

(c) Developments of regional impact;

(d) Master site plan applications which include residential units;

(e) Final site plan applications which include residential units.

The public school impact statement form shall be provided to the School District staff pursuant to the development review procedures of the County.

(Ord. No. 813, pt. 1, 12-9-2008)

Sec. 5.82. Determination of capacity.

5.82.A. Within 30 days after the School District staff receives a completed public school impact form for amendments to the Comprehensive Plan future land use map, rezonings, developments of regional impact, and master site plans which include residential units, the School District staff shall provide the County with a general capacity analysis which indicates the generalized capacity for all applicable school facilities. This analysis shall be used in the evaluation of the development proposals pursuant to section 5.32.C., but shall not provide a guarantee of availability of services or facilities.

(Ord. No. 813, pt. 1, 12-9-2008)

Sec. 5.83. Final concurrency review.

5.83.A. Upon receipt of a completed public school impact form for final site plans which include residential units, the School District staff shall provide the County with a School Concurrency Review Report that states whether adequate school capacity exists for a proposed development as follows. The School Concurrency Review Report shall be based on the level of service standards as set forth in section 17.7.A.1.a., Comprehensive Growth Management Plan, Martin County Code.

1. Calculate the aggregate permanent capacity and temporary capacity for each type of school facility within the CSA within which the project is proposed to be located, and the CSAs which are adjacent thereto. For purposes of this calculation, permanent and temporary capacities shall include the capacities of both existing school facilities, as well as those which are planned to be operational by no later than the conclusion of the third year of the School Board's Five-Year Capital Improvement Plan. For purposes of this calculation, CSAs which are separated by rivers or other bodies of water shall only be deemed "adjacent" if connected by a publicly owned bridge accommodating vehicular traffic.

2. Calculate available school capacity, by type of school and relevant CSA, by subtracting from the sums determined above:

   a. Current student enrollment (determined by the District's October count) for each type of school facility within the CSA within which the project is proposed to be located, and the CSAs which are adjacent thereto;

b. Reserved capacity for student enrollment projected to be developed within three years from projects previously determined to have met school concurrency, and having met the requirements for a reservation of capacity for each type of school facility within the CSA, within which the project is proposed to be located, and the CSAs which are adjacent thereto;

c. The demand on school facilities created by the proposed development shall be projected at the County-wide student generation rates specified in the School District's latest educational impact fee report, as the same may be amended from time to time upon request of the School Board; provided that projects granted educational impact fee waivers pursuant to County ordinance shall be deemed to generate no students.

(Ord. No. 813, pt. 1, 12-9-2008)

Sec. 5.84. Public school facilities determination.

5.84.A. The County shall approve final site plans, which include residential units, only after the receipt of a School Concurrency Review Report from the School District staff determining that adequate school capacity exists for the proposed development pursuant to the requirements of the Comprehensive Plan.

(Ord. No. 813, pt. 1, 12-9-2008)

Sec. 5.85. Mitigation.

In the event that the School Board reports that mitigation may be accepted in order to offset the impacts of a proposed development, where the level of service standards otherwise would be exceeded, the following procedure shall be used.

5.85.A. The applicant shall initiate in writing a mitigation negotiation period with the School Board in order to establish an acceptable form of mitigation, pursuant to F.S. § 163.3180(c), the school concurrency ordinances of the County and the Interlocal Agreement for School Facilities Planning and Siting.

5.85.B. Acceptable forms of mitigation may include:

1. The donation of funding for the construction and/or acquisition of school facilities sufficient to offset the demand for public school facilities to be created by the proposed development;

2. The creation of mitigation banking based on the funding of the construction of a public school facility in exchange for the right to sell excess capacity credits;

3. Charter schools may also be accepted by the School Board as mitigation under the provisions of this agreement provided they meet the following operational and design standards:

   a. The school has a charter approved by the School Board.

   b. The charter school's facilities to be accepted as mitigation shall be built according to the SREF standards set forth in Florida Administrative Code.

   c. The charter school's facilities to be accepted as mitigation adhere to the building policies and practices of the School Board, including but not limited to architecture, building materials, and structural hardening.

d. The core facilities for all charter schools, including but not limited to cafeteria, media center, administrative offices, and land area available for recreational uses, parking areas, and stormwater retention, shall be sized to accommodate the standard educational facility sizes established by policy of the School Board as follows:

Elementary School: 750 student stations.

Middle School: 1,200 student stations.

High School: 1,800 student stations.

e. All charter schools shall be located along publicly owned roadways and accessible to any member of the general public.

4. Other mitigation as permitted by state law, including the donation of land and payment for land acquisition.

5. Any mitigation funds provided as a result of the school concurrency system shall be directed by the School Board toward a school capacity improvement identified in a financially feasible five-year district work plan and which satisfies the demands created by that development in accordance with a binding developer's agreement.

5.85.C. The following standards apply to any mitigation accepted by the School Board:

1. Proposed mitigation must be directed toward a permanent school capacity improvement which satisfies the demands created by the proposed development.

2. Relocatable classrooms will not be accepted as mitigation.

5.85.D. In accordance with F.S. § 163.3180(13)(e), the applicant's total proportionate-share mitigation obligation to resolve a capacity deficiency shall be based on the following formula, for each school level: multiply the number of new student stations required to serve the new development by the average cost per student station. The average cost per student station shall include both school site and central facility costs, and be as reported in the School District's latest educational impact fee report, as the same may be amended from time to time upon request of the School Board; except that if the latest educational impact fee report is more than 12 months old then the reported average cost per student shall be increased or decreased annually in the same proportion as any annual percentage increases or decreases in the state-wide cost for new student station established pursuant to F.S. § 1013.64. Pursuant to F.S. § 163.3180(13)(e)(2), the applicant's proportionate-share mitigation obligation will be credited toward any other impact fee or exaction imposed by article 2, division 6, Land Development Regulations.

5.85.E. If the applicant and the School Board are able to agree to an acceptable form of mitigation, a legally binding mitigation agreement shall be executed, 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 provisions of section 5.85. The mitigation agreement shall specify the amount and timing of any impact fee credits or reimbursements that will be provided by the County as required by State law.

5.85.F. If the applicant and the School Board are unable to agree to an acceptable form of mitigation, the School Board will report an impasse to the County in writing and the School District staff will not issue a school concurrency review report confirming that the project is in compliance with the terms of the school concurrency ordinance.

(Ord. No. 813, pt. 1, 12-9-2008)

Article 6 IMPACT FEES [1]

DIVISION 1. - GENERALLY

DIVISION 2. - SCHOOL IMPACT FEES

FOOTNOTE(S):

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Cross reference— Potable water, § 4.181 et seq.; wastewater disposal systems, § 4.261 et seq.; stormwater management and flood control, § 4.381 et seq.; subdivisions, § 4.911 et seq.; adequate public facility standards, art. 5. (Back)

DIVISION 1. GENERALLY [2]

Sec. 6.1. Intent and purpose.

Article 6 is intended to implement and be consistent with the Martin County Comprehensive Growth Management Plan. The purpose of article 6 is to regulate the use and development of land to ensure that new development bears the full cost of capital expenditures necessary to provide public capital facilities

for that new development in Martin County as contemplated by the Martin County Comprehensive Growth Management Plan.

(Ord. No. 562, pt. 1, § 6.1, 12-7-1999)

Sec. 6.2. Authority.

The provisions of article 6 are authorized by article VIII, section 1(f) of the Constitution of the State of Florida, F.S. ch. 125, and F.S. §§ 163.3201, 163.3202(3), and 380.06(16).

(Ord. No. 562, pt. 1, § 6.2, 12-7-1999)

Sec. 6.3. Applicability.

This division shall apply to the unincorporated area of Martin County, and to the incorporated areas of Martin County to the extent permitted by article VIII, section 1(f), of the Constitution of the State of Florida.

(Ord. No. 562, pt. 1, § 6.3, 12-7-1999)

Sec. 6.4. Glossary.

In addition to any other applicable definitions of the Land Development Regulations, for purposes of this division, the following terms shall have the meanings as set forth below:

Affordable housing shall have the same meaning as set forth in the Comprehensive Growth Management Plan.

Building permit means a permit issued pursuant to Chapter 21, Article 1, General Ordinances, Martin County Code. For purposes of this section (Article 6) this term shall also include a final development order for those improvements to land not requiring building permits, or any renewal or extension of any such permit or final development order.

Dwelling unit. See Article 3, Section 3.3, Glossary of terms.

Encumbered impact fee revenue means the commitment by Martin County of impact fees for the purpose of expenditures on the planning or design of, land acquisition for, or construction of capital improvements that provide a benefit to new growth and development. For the purpose of this division, impact fee revenues shall be considered encumbered when any impact fee supported facility benefiting the district in which the development is located is included in the County's annual budget or adopted capital improvements plan, or deemed encumbered by resolution of the Board of County Commissioners.

Feepayer means a person commencing a land development activity who is requesting the issuance of a building permit or a certificate of public facilities reservation.

Level of service shall have the same meaning as set forth in the Comprehensive Growth Management Plan.

Permit-ready industrial development means a development on land with a future land use designation of Industrial, which through a planned unit development zoning agreement approved by the Board of County Commissioners has been designed exclusively for industrial uses and has satisfied all requirements that allow each individual lot to be developed without the need for site plan review.

Public capital equipment means equipment with an expected use life of three years or more.

Public capital facility means county parks and recreation facilities, ocean beaches and beach facilities; public library buildings and library materials including books and other media; transportation facilities including roads, pedestrian and bicycle pathways; corrections, police and law enforcement buildings, motor vehicles, communications equipment, and any other capital equipment related to correctional and law enforcement facilities; fire protection, emergency medical services; other public buildings and capital equipment for judicial facilities, County administration and operations, offices for constitutional officers and their staffs; acquisition of sites of public capital facilities; and building design and facility need studies which are listed in the adopted capital improvements plan.

Public capital improvement means planning, preliminary engineering, design studies, legal work, land surveys, right-of-way acquisition, engineering, land acquisitions, site improvements including exotic plant removal, buildings, capital equipment, permitting and construction of all necessary features for any project contained in the adopted capital improvement plan, but excludes operations and maintenance.

Recoupment means impact fee revenue that is received for facilities that are presently in place benefitting new development.

Roads shall have the same meaning set forth in F.S. § 334.03(22).

Site-related improvements are capital improvements and right-of-way dedications for direct access improvements to the development in question. Direct access improvements include but are not limited to the following:

1. Site driveways and roads within the development, access roads leading to and from the development, [and] the paving and/or improvement of a thoroughfare plan roadway segment where such improvement is necessary to provide paved access to and from the project, if the roadway segment is not scheduled to be improved within five years from the time of the credit agreement, as shown on the adopted capital improvements program;
2. Right and left turn lanes leading to those roads and driveways, acceleration and deceleration lanes;
3. Traffic control measures and devices (including signs, marking, channelization and signals) for those roads and driveways within the development;
4. Internal roads; and
5. Rights-of-way.

Sustainability project means a project that is designed to enhance and maintain the character of Martin County including the implementation of selected best development practices and the provision of streetscape improvements and bicycle and pedestrian facilities.

(Ord. No. 562, pt. 1, § 6.4, 12-7-1999; Ord. No. 728, pt. 2, 11-28-2006; Ord. No. 927, 3-19-2013; Ord. No. 970, pt. 1, 4-7-2015; Ord. No. 995, pt. 1, 3-22-2016)

Cross reference— Rules of interpretation, § 1.5.

Sec. 6.5. Imposition of impact fees.

6.5.A. Except when deferral or exemption is permitted pursuant to section 6.11, any person who develops land located in Martin County shall be required to pay impact fees in the manner and amount set forth in this division. Payment of such fees shall not relieve the feepayer from an obligation to comply with the level of service standards established in the Comprehensive Growth Management Plan. No building permit or certificate of public facilities reservation or renewal or extension thereof shall be issued until the required impact fees have been paid. When a renewal or extension of a building permit or certificate of public facilities reservation is granted, then the

feepayer shall be credited with the amount paid for the issuance of the original building permit or certificate of public facilities reservation and be required to pay current impact fees.

6.5.B. Any existing land use that is changed, redeveloped, replaced, modified or expanded, except as noted in section 6.11.A, shall be required to pay impact fees based on the net increase in impact for the new use as compared to the previous use.

(Ord. No. 562, pt. 1, § 6.5, 12-7-1999)

Sec. 6.6. Computation of the amount of impact fee.

6.6.A. *Fee schedule.*

1. Except as provided in section 6.6.B, the amount of an impact fee shall be determined by the fee schedule shown on figure 6.1 [3]. The fees shown on the fee schedule include an administrative charge to offset the cost of collection.
2. If a building permit or a certificate of public facilities reservation is requested for mixed uses, then the impact fees shall be determined based on available traffic generation data specific to mixed use developments. Otherwise, it will be determined according to the fee schedule by apportioning the space committed to uses specified on the fee schedule.
3. If the type of development activity is not specified on the fee schedule, the County Administrator shall use the fee applicable to the most nearly comparable type of land use shown on the fee schedule.

6.6.B. *Independent fee calculation study.* A feepayer may, at his own expense, prepare and submit to the County Administrator an independent fee calculation study for the development activity for which a building permit or certificate of public facilities reservation is sought. The independent fee calculation study shall follow generally accepted calculation methodologies and formats which are acceptable to the County Administrator. The burden shall be upon the feepayer to provide all relevant data, analysis, and reports necessary for the County Administrator to make a determination. Within 15 working days after receiving a complete independent fee calculation study, as determined by the County Administrator, the County Administrator shall issue a written decision to the feepayer adjusting or refusing to adjust the applicable impact fees.

6.6.C. *Application of fees to municipality.* Any municipality may submit evidence to the County Administrator indicating that one or more of the established impact fees are not appropriate for that municipality. Based upon evidence that the municipality is providing all or a portion of the types of facilities for which impact fees are imposed, the County and that municipality may, by interlocal agreement, eliminate or adjust the fee for that municipality.

(Ord. No. 562, pt. 1, § 6.6, 12-7-1999; Ord. No. 673, pt. 1, 8-2-2005)

Sec. 6.7. Payment of fee.

Except when deferral or exemption is permitted pursuant to section 6.11, the feepayer shall pay the required impact fees to the County Administrator or his designee prior to the issuance of any building permit or certificate of public facilities reservation or renewal or extension thereof. No building permit or certificate of public facilities reservation shall be issued by Martin County or any municipality within Martin County until such fees have been paid.

(Ord. No. 562, pt. 1, § 6.7, 12-7-1999)

Sec. 6.8. Special revenue funds and benefit districts established.

6.8.A. *Public capital facility special revenue funds established.* The following special revenue funds are hereby established: (1) library impact fee fund, (2) public buildings impact fee fund, (3) corrections and law enforcement impact fee fund, (4) emergency services impact fee fund, (5) countywide park impact fee fund, and (6) transportation impact fee fund.

6.8.B. *Library impact fee special revenue fund accounts established.* A library impact fee account is hereby established.

6.8.C. *Corrections and law enforcement impact fee special revenue fund accounts established.* A corrections impact fee account is hereby established.

6.8.D. *Emergency services impact fee special revenue fund accounts established.* There is hereby established an emergency services impact fee account for a fire/rescue impact fee.

6.8.E. *Public recreation impact fee special revenue fund accounts.* There is hereby established an (1) active parkland impact fee account and (2) ocean beaches and beach facilities impact fee account.

6.8.F. *Transportation benefit districts and impact fee special revenue fund accounts established.*

1. Two transportation impact fee benefit districts are established as shown on figure 6.3.
2. Separate transportation impact fee accounts are established for each benefit district and for pedestrian/bicycle pathways.

6.8.G. *Conservation/open space impact fee special revenue fund account.* There is hereby established an impact fee account for a conservation/open space impact fee.

6.8.H. All impact fees collected shall be deposited in the appropriate special revenue fund and accounts.

(Ord. No. 562, pt. 1, § 6.8, 12-7-1999; Ord. No. 927, 3-19-2013; Ord. No. 995, pt. 1, 3-22-2016)

Sec. 6.9. Use and collection of funds.

6.9.A. Impact fees collected shall be used within Martin County for the purpose of public capital facilities, public capital improvements, sustainability projects, and activities related to preserving existing public buildings for their intended use. Such improvements shall be of the type made necessary by the County's growth and development and consistent with the Capital Improvements Element of the Comprehensive Growth Management Plan.

6.9.B. Funds shall be expended in the order in which they are collected.

6.9.C. Each fiscal period the County Administrator, after consultation with the affected constitutional officers and the municipalities pursuant to interlocal agreements, shall present to the Board of County Commissioners a proposed capital improvement plan, consistent with the requirements of the Comprehensive Plan, assigning funds, including any accrued interest, from the special revenue funds to the recommended projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the funds until the next fiscal period except as provided by the refund provisions of this division.

6.9.D. Fees deposited in the library impact fee special revenue fund may only be used for projects that expand library capacity.

6.9.E. Fees deposited in the public buildings impact fee special revenue fund shall only be used for public buildings purposes.

6.9.F. Fees deposited in the corrections and law enforcement impact fee special revenue fund and the corrections impact fee account shall only be used for corrections purposes. Fees deposited in the corrections and law enforcement impact fee special revenue fund and the law enforcement impact fee account shall be used only for law enforcement purposes.

6.9.G. Fees deposited in the emergency services impact fee special revenue fund and the fire protection/EMS combined impact fee account shall only be used for fire protection and emergency medical services purposes. Fees deposited in the emergency services impact fee special revenue fund and the fire prevention impact fee account shall be used only for fire prevention purposes. Fees deposited in the emergency services impact fee special revenue fund and the animal control impact fee account shall be used only for animal control purposes. Fees deposited in the emergency services impact fee special revenue fund and the emergency shelters impact fee account shall be used only for emergency shelters purposes.

6.9.H. Fees deposited in the transportation impact fee special revenue fund and the rural transportation impact fee account shall only be used for transportation purposes. Fees deposited in the transportation impact fee special revenue fund and the urban transportation impact fee account shall only be used for transportation purposes. Fees deposited in the transportation impact fee special revenue fund and the pedestrian/bicycle pathways impact fee account shall only be used for pedestrian and bicycle pathways purposes.

6.9.I. Fees deposited in the countywide park impact fee special revenue fund and beach facilities impact fee accounts shall only be used only for park and beach facilities purposes.

6.9.J. Fees deposited in the conservation/open space impact fee special revenue fund account shall only be used for conservation/open space purposes.

6.9.K. Funds shall only be used as specified in section 6.9.D through section 6.9.J, unless it is established that the impact fees so collected are recoupment based impact fees. In that case, consideration may be given to using funds for public capital facility provision related to new development apart from the purpose for which they were originally assessed. Fees shall be used first for debt repayment on public facilities. All improvements shall be of the type made necessary by the County's growth and development as listed in the adopted capital improvements plan.

6.9.L. No impact fee funds shall be used for periodic or routine maintenance as defined in F.S. § 334.03(23), except where the resurfacing provides for increased capacity.

6.9.M. In the event that bonds or similar debt instruments are issued for provision of public capital facilities for which public capital facilities impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments.

6.9.N. Except as noted in section 6.8.F, all funds and accounts have County-wide service areas.

6.9.O. All impact fees on deposit in the special revenue funds shall be invested in interest-bearing sources and income derived shall be applied to the special revenue funds.

6.9.P. The collecting agent shall be the County unless a municipality is so designated through an interlocal agreement. The collecting governmental unit shall be entitled to the administrative charge shown in the schedule to compensate it for the administrative expense of collecting and administering this division.

(Ord. No. 562, pt. 1, § 6.9, 12-7-1999; Ord. No. 673, pt. 1, 8-2-2005; Ord. No. 927, 3-19-2013; Ord. No. 995, pt. 1, 3-22-2016)

Sec. 6.10. Refund of fees paid.

6.10.A. If a building permit expires, is cancelled or revoked, the structure has not been completed, and no certificate of occupancy has been issued or no construction has been commenced and the impact fee revenues have not been expended or encumbered, then the feepayer shall be entitled to a refund, without interest, of the impact fees paid less the administrative fee to offset the costs of collection and refund. The feepayer must submit an application for such a refund to the County Administrator within 30 days of the expiration of the building permit. The application for a refund must contain a dated receipt issued for payment of the impact fee, the building permit or other permit for which the impact fees were paid, evidence that the applicant is the feepayer or a successor in interest to the feepayer, if relevant, proof from the municipality that the permit has been cancelled, and a copy of the permit issued by the municipality, and if relevant, the date on which the municipality forwarded the funds to Martin County. If the impact fee revenues have been expended or encumbered, upon application and at the option of the feepayer:

1. The feepayer shall receive a full monetary credit in the amount of the prepaid fee which shall remain valid and run with the land for a period of ten years from the date of receipt of the credit; or
2. The feepayer and Martin County shall enter into a cost reimbursement agreement in which the feepayer shall be repaid up to the full amount of the fee paid by the feepayer less the established administrative charge to offset the cost of collection and refund, based upon the County's receipt of other applicable fees over the next five years from the benefit district in which the property subject to the refund is located and provided that the timely and efficient provision of programmed facilities in the benefit district are not adversely impacted.

6.10.B. Any funds not expended, or encumbered, or programmed in the capital improvements plan by the end of the calendar quarter immediately following six years from the date the impact fee was paid shall, upon application of the feepayer within 180 days of that date, be returned to the feepayer with interest. Any impact fees prepaid pursuant to article 5, Adequate Public Facilities, shall be refunded pursuant to the provisions of that article.

(Ord. No. 562, pt. 1, § 6.10, 12-7-1999; Ord. No. 673, pt. 1, 8-2-2005)

Sec. 6.11. Exemptions, credits, and deferrals.

6.11.A. *Exemptions.* The following shall be exempted from payment of impact fees:

1. Alteration, expansion or replacement of an existing residential building where no additional dwelling units are created, where the use is not changed, and no additional vehicular trips will be produced over and above that produced by the existing use.
2. Alteration, remodeling or replacement of an existing nonresidential building or structure where the use is not changed and the square footage and/or parking is not increased.
3. The construction of accessory buildings or structures that do not create an additional impact on public capital facilities or produce additional vehicular trips over and above that produced by the principal building or use of the land.

An exemption must be claimed by the feepayer prior to the issuance of a building permit. Any exemption not so claimed shall be deemed waived by the feepayer.

6.11.B. *Credits.*

1. All credits must be approved by the Board of County Commissioners.

2. Except in the case of a transportation impact fee credit established in a Proportionate Fair-Share Agreement pursuant to article 5, Land Development Regulations, impact fee credits shall satisfy the criteria set forth in paragraphs 3 through 6.

3. The value of any donation or dedication of public capital facilities required of the feepayer under a County or municipal development order shall be credited against the impact fees otherwise due provided the subject facilities are listed in the adopted capital improvements plan. Credits shall be calculated consistent with F.S. § 380.06(16).

4. The feepayer will provide the following information to the County Administrator for a determination of the value of any donation or dedication:

   a. An independent property appraisal report prepared by an individual who is both a member of the Appraisal Institute (MAI) and a State-certified general appraiser acceptable to the County Administrator, containing the following:

      (1) Purpose of the appraisal.

      (2) Legal description of property, including a minimum of five years delineation of title.

      (3) Present use and zoning.

      (4) Utilities.

      (5) Type and condition of improvements and special features that may add to or detract from the value of the property.

      (6) Highest and best use of the property on which the appraisal is based before the acquisition of rights and interests to be acquired and the highest and best use of the remainder after the acquisition when a partial taking is involved. In either instance, if the existing use is not the premise on which the valuation is based, the appraisal will contain an explanation justifying the determination that the property is available and adaptable for a different highest and best use and there is a demand for that use in the market.

      (7) Before and after valuation as interpreted by Florida law will be used in partial donations or special benefits to the residue land or improvements.

      (8) Approaches to value including all applicable approaches to value. If an approach is not considered applicable, the appraiser must state why. All pertinent calculations used in developing the approaches will be shown.

         (a) In the market approach, the appraisal report will contain a direct comparison of pertinent comparable sales to the property being appraised. The appraiser must include a statement setting forth his analysis and reasoning for each item of adjustment to comparable sales.

         (b) Where the income (capitalization) approach is used, there must be documentation to support the income, expenses, interest rate, capitalization rate, discount rate, or any other factors used in the analysis. Where it is determined that the market rental income is different from the existing or contract income, the increase or decrease must be explained and supported by a market information.

         (c) Where the cost approach is utilized, the appraisal report must contain the specific source of cost data, remaining economic life, and an explanation of each type of accrued depreciation.

      (9) Appraisal after value must be supported to the same extent as the appraisal of the before value. This support should include one of more of the following:

         (a) Sales comparable to the remainder properties.

(b) Sales of comparable properties from which there have been similar donations or acquisitions for like usages.

(c) Development of the income approach on properties which show economic loss or gain as a result of similar acquisition or taking for like usages.

(d) Public sales of comparable lands by the State or other public agencies.

(e) In the event the data described in (a) through (d) above are not available the appraisal will so state and give the appraiser's reasoning for his value estimate.

b. The difference between the before and after appraisal will represent the value of property to be acquired including the damages to the remainder property. The appraiser will separately analyze and tabulate the difference showing a reasonable allocation of site improvements and damages.

c. Where two or more of the approaches of value are used, the appraisal will show the correlation of the separate indications of value derived by each approach along with a reasonable explanation for the final conclusion of value. This correlation will be included for both before and after appraisals.

d. All appraisal reports should include identified photographs of the subject property including all principal aboveground improvements or unusual features affecting the value of the property to be taken or damaged.

e. Appraisal reports will contain a survey and sketch or plat of the property showing boundary dimensions, location of improvements and other significant features of the property.

f. Each appraisal report will contain or make reference to the comparable sales which were used in arriving at the fair market value. Comparable sales data must state the date of sale, names of parties to the transaction, consideration paid, financing, conditions of sale and with whom these were verified, the location, total area, type of improvements, appraiser's estimate of highest and best use at the date of sale, zoning, and any other data pertinent to the analysis and evaluation thereof. If the appraiser is unable to verify the financing and conditions of sale from the usual sources such as buyer, seller, broker, title or escrow company, etc., he will so state. Pertinent comparable sales data should include identified photographs of all principal aboveground improvements or unusual features affecting the value of the comparable [sales].

g. All properties appraised and the comparable sales which were relied upon in arriving at the fair market value estimate will be personally inspected in the field by the appraiser and all dates of inspection will be shown in the appraisal report.

h. The effective date to which the valuation applies.

i. A statement of appropriate continent [content] and limiting conditions, if any.

j. The certification, signature, and date of signature of the appraiser.

5. Credits must be claimed by the feepayer prior to the issuance of a building permit. Any credit not so claimed shall be deemed waived by the feepayer.

6. No credit shall be given for site-related improvements.

6.11.C. *Deferral of impact fee payments for affordable housing.*

1. Prior to the application for a building permit, builders of affordable housing for very low, low, and moderate income households may request that payment of impact fees be deferred until the issuance of the certificate of occupancy or one year after the issuance of the building permit, whichever is earlier. This deferral is available only when the affordable housing occurs in development that has been issued a valid certificate of public facilities exemption under the article 5, Adequate Public Facilities.

2. Deferrals will be made to applicants who meet the criteria and shall be determined on a case-by-case basis by the County Administrator.

3. Prior to the application for a building permit, buyers of very low and low income housing may apply for a loan from the County for 100 percent of the impact fees assessed on very low and low income housing as that term is defined in the Martin County Comprehensive Plan. Repayment is due upon sale or transfer of the affected property, or at the end of 15 years, whichever occurs first, unless the County chooses to allow refinancing of the loan if the affected housing continues to meet the County's definition of very low or low income housing.

4. Prior to the application for a building permit, buyers of moderate income housing may apply for a loan from the County for 50 percent of the impact fees assessed on moderate income housing as that term is defined in the Martin County Comprehensive Plan. The interest on the loan shall be equivalent to the County's longterm borrowing rate at the time of the loan. Repayment of the loan plus interest is due upon sale or transfer of the affected property, or at the end of ten years, whichever occurs first, unless the County chooses to allow refinancing of the loan if the affected housing continues to meet the County's definition of moderate income housing.

5. In order to receive a deferral of impact fees the sales prices of the homes cannot exceed 90 percent of median area purchase price as established by the United States Department of the Treasury in accordance with section 3(b)2 of the United States Housing Act of 1937. In addition, house size is correlated to household size, so that the home to be constructed does not exceed HUD income guidelines.

6.11.D. *Deferral of impact fee payments for permit-ready industrial development.* For a permit-ready industrial development, impact fees shall be paid no later than at the time of building permit issuance for construction on each of the individual lots approved as part of the development. The impact fee due for each of the approved individual lots shall be based on the size and intensity of the actual development proposed for each lot and shall be determined according to the impact fee schedule in effect at the time of the payment.

(Ord. No. 562, pt. 1, § 6.11, 12-7-1999; Ord. No. 728, pt. 2, 11-28-2006; Ord. No. 731, pt. 3, 12-5-2006; Ord. No. 970, pt. 1, 4-7-2015)

Sec. 6.12. Review of fee schedule.

The fee schedule contained in figure 6.1 and the existing interlocal agreements shall be reviewed by the Board of County Commissioners at least once each fiscal biennium.

(Ord. No. 562, pt. 1, § 6.12, 12-7-1999)

Sec. 6.13. Appeals.

Any determination made by the County Administrator in reference to this division may be appealed to the Board of County Commissioners by filing an appeal with the County Administrator within 30 days of such decision. The County Administrator shall schedule the appeal for consideration by the Board of County Commissioners at the next available regular meeting of the Board. The Board of County Commissioners shall render a decision within 60 calendar days of the date of the regular meeting at which the appeal was considered unless good cause is shown and made part of the record, or provided that the appellant has not requested a postponement of the matter.

(Ord. No. 562, pt. 1, § 6.13, 12-7-1999)

Secs. 6.14—6.40. Reserved.

FOOTNOTE(S):

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Editor's note— Figures 6.2 and 6.3 referred to in this division are not printed herein, but are available for public inspection at the office of the Growth Management Department. (Back)

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Figure 6.1 is located at the end of this Art. 6. (Back)

DIVISION 2. SCHOOL IMPACT FEES

Sec. 6.41. Short title, authority, and applicability.

6.41.A. This division shall be known and may be cited as the "School Impact Fee Ordinance."

6.41.B. The Board of County Commissioners of Martin County has the authority to adopt this division pursuant to article VIII of the Constitution of the State of Florida and to F.S. ch. 125 and F.S. §§ 163.3201, 163.3202(3), and 380.06(16).

6.41.C. This division shall apply to the unincorporated and incorporated areas of Martin County.

6.41.D. This division shall apply to residential development that is subject to a development order.

(Code 1974, § 23-252; Ord. No. 474, § I, 7-25-1995)

Sec. 6.42. Intents and purposes.

6.42.A. This division is intended to implement and be consistent with the Martin County Comprehensive Growth Management Plan.

6.42.B. The purpose of this division is to regulate the use and development of land so as to ensure that new development bears the full cost of capital expenditures necessary to provide public schools for that new development in Martin County as contemplated by the Martin County Comprehensive Growth Management Plan.

(Code 1974, § 23-253; Ord. No. 474, § II, 7-25-1995)

Sec. 6.43. Rules of construction.

6.43.A. The provisions of this division shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety, and welfare.

6.43.B. For the purposes of administration and enforcement of this division, unless otherwise stated in this division, the following rules of construction shall apply to the text of this division:

1. In case of any difference of meaning or implication between the text of this division and any caption, illustration, summary table, or illustrative table, the text shall control.
2. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
4. The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."
5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
6. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either…or," the conjunction shall be interpreted as follows:
    a. "And" indicates that [all] the connected terms, conditions, provisions or events shall apply.
    b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
    c. "Either…or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
7. The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

8. "County Administrator" means the County Administrator or whoever he/she may designate to carry out the administration of this division, or the chief executive officer of any municipality or whoever he/she may designate to carry out the administration of this division.

(Code 1974, § 23-254; Ord. No. 474, § III, 7-25-1995)

Cross reference— Rules of interpretation, § 1.5.

Sec. 6.44. Definitions.

Building permit means a permit issued pursuant to Chapter 21, Article 1, General Ordinances, Martin County Code. For purposes of this section (Article 6) this term shall also include a final development order for those improvements to land not requiring building permits, or any renewal or extension of any such permit or final development order.

Capital costs of educational facilities are expenditures for the acquisition of fixed assets or additions to fixed assets and expenditures for site acquisition, construction, design, site development, necessary off-site improvements, and capital equipment pertaining to educational facilities.

Capital equipment is equipment with an expected use life of three years or more.

Capital improvement includes school planning and design, land acquisition, site improvements, buildings, and capital equipment, but excludes maintenance and operations.

Dwelling unit. See Article 3, Section 3.3, Glossary of terms. For the purpose of Article 6, Division 2, a guesthouse does not constitute a separate dwelling unit.

Encumbered fee revenue means the commitment by the School Board of an impact fee for the purpose of expenditures on the planning or design of, land acquisition for, or construction of capital improvements or purchase of capital equipment that provide a benefit to new growth and development. For the purpose of this division, encumbrance is accomplished where any impact fee supported facility is adopted in the School Board's annual budget, or in the first year of the adopted Capital Improvements Element of the Martin County Comprehensive Growth Management Plan.

Feepayer is a person applying for the issuance of a building permit for a type of land development activity specified in section 6.45 of this division.

School Board means the elected representatives that, in accordance with the provisions of section 4(b) of article IX of the State Constitution, shall operate, control, and supervise all free public schools in their respective districts and may exercise any power except as expressly prohibited by the State Constitution or general law.

Superintendent means the elected official responsible for the administration and management of the schools and for the supervision of instruction in the district who operates as the secretary and executive officer of the School Board, as provided by law.

(Code 1974, § 23-255; Ord. No. 474, § IV, 7-25-1995; Ord. No. 970, pt. 1, 4-7-2015)

Cross reference— Rules of interpretation, § 1.5.

Sec. 6.45. Imposition of school impact fees.

6.45.A. Except when deferral is permitted pursuant to section 6.51, any person who, after the effective date of this division, seeks to develop land by applying for the issuance of a building permit, or

renewal or extension thereof, shall be required to pay a school impact fee in the manner and amount set forth in this division.

6.45.B. Except when deferral is permitted pursuant to section 6.51, no building permit, or renewal or extension of that permit, shall be issued unless and until the school impact fee hereby required has been paid. When a renewal or extension of such permit is granted pursuant to applicable laws, then the feepayer shall be credited with that amount paid for the issuance of the original permit or certificate.

(Code 1974, § 23-256; Ord. No. 474, § V, 7-25-1995)

Sec. 6.46. Computation of the amount of school impact fee.

6.46.A. Except as provided in subsection B of this section, the amount of the fee shall be determined by the fee schedule shown on section 6.54 of this division.

6.46.B. The feepayer may, at his/her expense, submit evidence to the School Board indicating that the fees set out in subsection A above are not appropriate for this particular development. Claims of inappropriateness may not be based on temporary or short-term residences. Based upon convincing and competent evidence, the School Board may adjust the fee to that appropriate for the particular development. The burden shall be upon the feepayer to provide all relevant data, analysis, and reports which would assist the School Board in making a determination. The adjustment may include a credit for school facilities, provided such facilities are consistent with section 6.47.B of this division. The School Board's action in adjusting or refusing to adjust the impact fee pursuant to an independent calculation shall be in writing and must be transmitted by certified mail to the feepayer, with a copy to the County Administrator.

(Code 1974, § 23-257; Ord. No. 474, § VI, 7-25-1995)

Sec. 6.47. Payment of fee.

6.47.A. Except when deferral is permitted pursuant to section 6.51, the feepayer shall pay the fee to the County Administrator at any time prior to the issuance of any building permit which may be required for development listed in the schedule in section 6.54 of this division or any renewal or extension thereof. No building permit may be issued for any development listed in section 6.54 of this division by Martin County or any municipality within Martin County until such fee has been paid.

6.47.B. School land and capital improvements may be offered by the feepayer as total or partial payment of the required impact fee provided that such offer is consistent with the standards and criteria set forth in F.S. ch. 235, is accepted by the School Board, and is consistent with the adopted Capital Improvements Element of the Martin County Comprehensive Growth Management Plan. The offer shall not constitute payment of the impact fee until it is accepted by the School Board and the feepayer has dedicated such land and/or made such improvements or posted security for the construction of any and all capital improvements pursuant to the offer as accepted.

6.47.C. Credit shall be given for land at such time as marketable title in fee simple absolute is conveyed to the School Board, free of encumbrances with such documentation and requirements set by the School Board for the acceptance of real property.

6.47.D. Credit for contributions of or for school facilities may be given only upon petition to the School Board. Approval of the School Board must be obtained prior to effecting the contribution for all contributions made on or after the effective date of this division.

(Code 1974, § 23-258; Ord. No. 474, § VII, 7-25-1995)

Sec. 6.48. School impact fee trust fund established.

A County school impact fee trust fund is hereby established. Funds withdrawn from these accounts must be used in accordance with section 6.49 of this division.

(Code 1974, § 23-259; Ord. No. 474, § VIII, 7-25-1995)

Sec. 6.49. Use of funds and establishment of school impact fee trust fund.

6.49.A. The collecting governmental unit shall be entitled to up to but not more than three percent of the funds collected to compensate it for the administrative expense of collecting and administering the School Impact Fee Ordinance. All remaining funds collected from school impact fees shall be used solely for the purpose of capital costs of educational facilities under the jurisdiction of the Martin County School Board, including repayment of indebtedness for such facilities. School facilities shall be of the type made necessary by the County's growth and development and consistent with the Capital Improvements Element of the Comprehensive Growth Management Plan.

6.49.B. The County and School Board by interlocal agreement shall provide for the following: Each fiscal period the School Board shall, after consultation with the superintendent and County Administrator, prepare a capital improvement program for adoption for school facilities, assigning funds, including any accrued interest, from the school impact fee trust fund to specific school improvements projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the school impact fee trust fund until the next fiscal period except as provided by the refund provisions of this division. Funds shall be expended in the order in which they are collected.

6.49.C. In the event that bonds or similar debt instruments are issued for advanced provision of school facilities for which school impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in subsection A above and that the restrictions on use of funds imposed by subsection B above are complied with. In the event that impact fees are pledged to issued bonds or similar debt instruments, then said impact fees are presumed to be expended.

(Code 1974, § 23-260; Ord. No. 474, § IX, 7-25-1995)

Sec. 6.50. Refund of fees paid.

6.50.A. If a building permit expires or is cancelled or is revoked, the structure has not been completed, and no certificate of occupancy has been issued or no construction has been commenced and the impact fee revenues have not been expended or encumbered, then the feepayer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance except that the School Board shall retain three percent of the funds as an administrative fee to offset the costs of collection and refund. The feepayer must submit an application for such a refund to the superintendent within 30 days of the expiration of the permit. The application for refund must contain a dated receipt issued for payment of the impact fee; the building permit or other permit for which the impact fees were paid; evidence that the applicant is the feepayer or a successor in interest to the feepayer; proof from the County or municipality that the permit has been cancelled; and, if relevant, the date on which the municipality forwarded the funds to Martin County or the School Board. If the impact fee revenues have been expended or encumbered, upon application and at the option of the feepayer:

1. The feepayer shall receive a full monetary credit in the amount of the prepaid fee which shall remain valid and run with the land for a period of ten years from the date of receipt of the credit; or

2. The feepayer and the School Board shall enter into a cost reimbursement agreement, in which the feepayer shall be repaid up to the full amount of the fee paid by the feepayer (less an administrative charge of three percent to account for the cost of collection and refund), based upon the School Board's receipt of other applicable fees over the next five years.

6.50.B. Any funds not expended or encumbered by the end of the fiscal year immediately following six years from the date the school impact fee was paid shall, upon application of the feepayer to the School Board within 180 days of that date, be returned to the feepayer.

(Code 1974, § 23-261; Ord. No. 474, § X, 7-25-1995)

Sec. 6.51. Exemption, credits, and deferrals.

6.51.A. *Exemption.* Alteration, expansion or replacement of an existing residential building where no additional dwelling units are created and where the use is not changed shall be exempted from payment of the school impact fee. An exemption must be claimed by the feepayer at the time of the issuance of a building permit. Any exemption not so claimed shall be deemed waived by the feepayer.

6.51.B. *Credits.* The value of any donation or dedication of school land or school-related capital facilities required of the feepayer under a County or city development order shall be credited against the impact fee or fees otherwise due provided the subject land and/or facilities are contained in the School Board's section of the adopted Capital Improvements Element of the Comprehensive Growth Management Plan. Credits must be claimed by the feepayer at the time of the issuance of a building permit. Any credit not so claimed shall be deemed waived by the feepayer. The feepayer will provide the following information to the School Board for a determination of the value of any donation or dedication:

1. An independent property appraisal report prepared by an individual who is both a member of the Appraisal Institute (MAI) and a State-certified general appraiser acceptable to the Superintendent of Schools containing the following:

   a. Purpose of the appraisal.

   b. Legal description of property, including a minimum of five years delineation of title.

   c. Present use and zoning.

   d. Utilities.

   e. Type and condition of improvements and special features that may add to or detract from the value of the property.

   f. Highest and best use of the property on which the appraisal is based before the acquisition of rights and interests to be acquired and that highest and best use of the remainder after the acquisition when a partial taking is involved. In either instance, if the existing use is not the premise on which the valuation is based, the appraisal will contain an explanation justifying the determination that the property is available and adaptable for a different highest and best use and there is a demand for that use in the market.

   g. Before and after valuation as interpreted by Florida law will be used in partial donations or special benefits to the residue land or improvements.

   h. A valuation including all applicable approaches to value. If an approach is not considered applicable, the appraiser must state why. All pertinent calculations used in developing the approaches will be shown.

      (1) In the market approach, the appraisal report will contain a direct comparison of pertinent comparable sales to the property being appraised. The appraiser must

include a statement setting forth his analysis and reasoning for each item of adjustment to comparable sales.

(2) Where the income (capitalization) approach is used, there must be documentation to support the income, expenses, interest rate, capitalization rate, discount rate, or any other factors used in the analysis. Where it is determined that the market rental income is different from the existing or contract income, the increase or decrease must be explained and supported by market information.

(3) Where the cost approach is utilized, the appraisal report must contain the specific source of cost data, remaining economic life, and an explanation of each type of accrued depreciation.

i. Appraisal after value must be supported to the same extent as the appraisal of the before value. This support should include one or more of the following:

(1) Sales comparable to the remainder properties.

(2) Sales of comparable properties from which there have been similar donations, or acquisitions for like usages.

(3) Development of the income approach on properties which show economic loss or gain as a result of similar acquisition or taking for like usages.

(4) Public sales of comparable lands by the State or other public agencies.

(5) In the event the data described in (1) through (4) above are not available, the appraisal will so state and give the appraiser's reasoning for his value estimate.

j. Where two or more of the approaches of value are used, the appraisal will show the correlation of the separate indications of value derived by each approach along with a reasonable explanation for the final conclusion of value. This correlation will be included for both before and after appraisals.

k. All appraisal reports should include identified photographs of the subject property including all principal aboveground improvements or unusual features affecting the value of the property to be taken or damaged.

l. Appraisal reports will contain a survey and sketch or plat of the property showing boundary dimensions, location of improvements and other significant features of the property.

m. Each appraisal report will contain or make reference to the comparable sales which were used in arriving at the fair market value. Comparable sales data must state the date of sale, names of parties to the transaction, consideration paid, financing, conditions of sale and with whom these were verified, the location, total area, type of improvements, appraiser's estimate of highest and best use at the date of sale, zoning, and any other data pertinent to the analysis and evaluation thereof. If the appraiser is unable to verify the financing and conditions of sale from the usual sources such as buyer, seller, broker, title or escrow company, etc., he will so state. Pertinent comparable sales data should include identified photographs of all principal aboveground improvements or unusual features affecting the value of the comparable [sales].

n. All properties appraised and the comparable sales which were relied upon in arriving at the fair market value estimate will be personally inspected in the field by the appraiser and all dates of inspection will be shown in the appraisal report.

o. The effective date to which the valuation applies.

p. A statement of appropriate contingent and limiting conditions, if any.

q. The certification, signature, and date of signature of the appraiser.

The School Board shall certify the amount of any such credit to the County, which credit against school impact fees shall be accepted by the County as a final determination of the credited amount. Any feepayer who requests the issuance of a building permit (or renewal or extension thereof) for development for which school land has been dedicated or a fee paid in lieu of, prior to the effective date of this division, shall receive a credit therefor against the applicable school impact fee, provided that the feepayer provides documentation satisfactory to the Superintendent of Schools that the feepayer's impact has been addressed.

6.51.C. *Deferral of impact fee payments for affordable housing.*

1. Builders of affordable housing for low and very low income households may request prior to the application for building permit that payment of impact fees be deferred until the issuance of the certificate of occupancy or one year after the issuance of the building permit, whichever is earlier.
2. Definitions.

   Affordable housing is defined in the Martin County Comprehensive Growth Management Plan as housing that requires 30 percent or less of a household's gross annual income for monthly housing costs.

   Low income households are determined as households whose income is 51 percent to 80 percent of the median income limits established by the U.S. Department of Housing and Urban Development (HUD), adjusted for family size and as distributed yearly by the Florida Housing Finance Agency.

   Very low income households are defined as households whose income is 50 percent or less of median income as determined by the income limits established by the U.S. Department of Housing and Urban Development (HUD), adjusted for family size and as distributed yearly by the Florida Housing Finance Agency.
3. Deferrals will be made to applicants who meet the criteria and will be determined on a case-by-case basis by the superintendent or his/her designee.
4. In order to receive a deferral of impact fees, the sales prices of the homes cannot exceed 90 percent of median area purchase price as established by the United States Department of the Treasury in accordance with section 3(b)2 of the United States Housing Act of 1937. In addition, house size is correlated to household size, so that the home to be constructed does not exceed HUD income guidelines.
5. *Appeals.* Any determination made by the Superintendent of Schools may be appealed to the School Board by filing notice of said appeal to the Superintendent of Schools within 30 days of such decision.

(Code 1974, § 23-262; Ord. No. 474, § XI, 7-25-1995)

Cross reference— See § 71.45 et seq. of the Martin County Code regarding the discretionary Economic Development Impact Fee Mitigation Program for Qualified Target Businesses.

Sec. 6.52. Review of fee structures.

The fee schedule contained in section 6.54 hereof shall be reviewed by the School Board at least once each fiscal biennium.

(Code 1974, § 23-263; Ord. No. 474, § XII, 7-25-1995)

Sec. 6.53. Penalty and enforcement provision.

A violation of this division shall be a misdemeanor punishable according to law; however, in addition to or in lieu of any criminal prosecution, Martin County or any feepayer shall have the power to sue for relief in civil court to enforce the provisions of this division. Knowingly furnishing false information to the Superintendent of Schools or the County Administrator on any matter relating to the administration of this division shall constitute a violation thereof.

(Code 1974, § 23-264; Ord. No. 474, § XIII, 7-25-1995)

Sec. 6.54. School impact fee schedule.

[The school impact fee schedule is as follows:]

SCHOOL IMPACT FEE SCHEDULE

Dwelling Unit Size* (square feet)	Cost Per Unit	Cost Per Unit Martin Downs**
800 and under	$3,609.37	$448.18
801—1,100	5,355.08	665.16
1,101—2,300	5,567.39	689.63
2,301 and over	5,756.12	712.62

*Size is based on "living area." Detached living area will be included in total living area unless it constitutes a separate dwelling unit. Guesthouses do not constitute a separate dwelling unit.

**Fees reduced to offset land dedication. Supplementary Agreement recorded at O.R. Book 584, Page 1368.

(Code 1974, § 23-265; Ord. No. 474, 7-25-1995; Ord. No. 641, pt. 1, 4-20-2004; Ord. No. 703, pt. 1, 6-20-2006; Ord. No. 786, pt. 1, 2-5-2008)

Figure 6.1
Martin County Impact Fees
Effective June 20, 2016

Land Use	Roads	Public Bldgs.	Law	Fire Rescue	Parks	Conservation/ Open	Libraries	Subtotal	Admin. Fee (1.5%	Total Impact Fees

						Space			)	
Residential:										
800 FT ^{2} and Under	$2,268.00	$410.11	$264.00	$208.00	$1,196.55	$540.00	$439.00	$5,325.66	$79.88	$5,405.54
801 to 1,100	$2,293.00	$469.31	$363.00	$286.00	$1,377.09	$579.00	$471.00	$5,838.40	$87.58	$5,925.98
1,101 to 2,300	$2,815.00	$645.97	$760.00	$599.00	$1,971.91	$661.00	$537.00	$7,989.88	$119.85	$8,109.73
2,301 and Over	$4,063.00	$809.84	$991.00	$780.00	$2,699.40	$755.00	$614.00	$10,712.24	$160.68	$10,872.92
Nonresidential:										
Hotel/Motel	$2,159.31	$394.06	$341.36	$119.00	$1,058.46	$654.00	-	$4,726.19	$70.89	$4,797.08
RV Park	$1,110.28	$273.16	$231.31	$89.00	$753.40	$491.00	-	$2,948.15	$44.22	$2,992.37
Nursing Home	$725.39	$228.05	$197.10	$166.16	-	-	$266.00	$1,582.70	$23.74	$1,606.44
ACLF	$282.57	$119.55	$103.85	$86.94	-	-	$266.00	$858.91	$12.88	$871.79
Medical Office	$5,281.41	$238.26	$310.21	$351.01	-	-	-	$6,180.90	$92.71	$6,273.61
Bank Walk-In	$6,241.42	$693.36	$601.61	$80.00	-	-	-	$7,616.39	$114.25	$7,730.64
Bank w/ Drive-In	$6,841.38	$554.09	$480.82	$80.00	-	-	-	$7,956.29	$119.34	$8,075.64

Office Under 100,000 FT ^{2}	$2,198.39	$316.04	$274.36	$80.00	-	-	-	$2,868.79	$43.03	$2,911.83
Office 100,000 to 199,999 FT ^{2}	$2,276.55	$314.33	$272.72	$80.00	-	-	-	$2,943.60	$44.15	$2,987.75
Office 200,000 to 399,999 FT ^{2}	$2,311.60	$305.52	$265.17	$80.00	-	-	-	$2,962.30	$44.43	$3,006.73
Office 400,000 to 599,999 FT ^{2}	$2,510.30	$286.30	$248.51	$80.00	-	-	-	$3,125.11	$46.88	$3,171.98
Office 600,000 to 799,999 FT ^{2}	$2,437.05	$302.93	$262.96	$80.00	-	-	-	$3,082.94	$46.24	$3,129.19
Office 800,000 to 999,999 FT ^{2}	$2,325.26	$348.46	$302.52	$80.00	-	-	-	$3,056.25	$45.84	$3,102.09
Office 1,000,000 FT ^{2} or Larger	$2,171.03	$409.87	$355.86	$80.00	-	-	-	$3,016.75	$45.25	$3,062.00
Manufacturing	$1,044.57	$154.97	$134.86	$12.00	-	-	-	$1,346.40	$20.20	$1,366.60
Warehouse	$1,314.16	$98.36	$85.78	$12.00	-	-	-	$1,510.30	$22.65	$1,532.95
Mini-Warehouse	$827.48	$9.93	$173.60	$12.00	-	-	-	$1,023.00	$15.35	$1,038.35
Gen.	$1,856.	$182.1	$157.7	$12.00	-	-	-	$2,208.	$33.1	$2,241.

Industrial	96	0	4					80	3	93
Retail Under 50,000 FT ^{2}	$4,224.00	$424.60	$368.50	$309.10	-	-	-	$5,326.20	$79.89	$5,406.09
Retail 50,000 to 99,999 FT ^{2}	$4,919.37	$616.18	$534.25	$319.00	-	-	-	$6,388.80	$95.83	$6,484.63
Retail 100,000 to 199,999 FT ^{2}	$5,182.79	$550.98	$741.94	$319.00	-	-	-	$6,794.71	$101.92	$6,896.63
Retail 200,000 to 399,999 FT ^{2}	$5,907.05	$496.38	$678.36	$319.00	-	-	-	$7,400.79	$111.01	$7,511.81
Retail 400,000 to 599,999 FT ^{2}	$6,249.63	$496.38	$642.69	$319.00	-	-	-	$7,707.71	$115.62	$7,823.32
Retail 600,000 to 799,999 FT ^{2}	$6,864.73	$451.71	$811.88	$319.00	-	-	-	$8,447.32	$126.71	$8,574.03
Retail 800,000 to 999,999 FT ^{2}	$7,575.80	$451.71	$785.68	$319.00	-	-	-	$9,132.19	$136.98	$9,269.17
Retail 1,000,000 FT ^{2} or Larger	$7,183.78	$414.48	$671.93	$319.00	-	-	-	$8,589.20	$128.84	$8,718.04
Gasoline/Service Station	$3,266.08	$76.94	$571.75	$480.82	-	-	-	$4,395.59	$65.93	$4,461.53
Auto Sales and Repair	$7,071.06	$550.98	$749.36	$92.00	-	-	-	$8,463.40	$126.95	$8,590.35

Restaurant	$10,570.79	$550.98	$2,352.43	$575.00	-	-	-	$14,049.20	$210.74	$14,259.94
Fast Food Restaurant	$15,692.54	$2,481.90	$2,756.66	$575.00	-	-	-	$21,506.10	$322.59	$21,828.69
Car Wash	$9,570.22	$992.76	$1,064.42	$92.00	-	-	-	$11,719.40	$175.79	$11,895.19
Convenience Store w/o Gas	$13,556.27	$496.38	$1,549.80	$1,302.35	-	-	-	$16,904.80	$253.57	$17,158.37
Convenience Store w/ Gas	$15,328.27	$744.57	$1,691.71	$1,421.64	-	-	-	$19,186.20	$287.79	$19,473.99
Pharmacy w/ Drive-Thru	$1,763.30	$326.70	$283.80	$237.60	-	-	-	$2,611.40	$39.17	$2,650.57
Golf Course	$8,219.00	$431.85	$1,351.41	$218.00	-	-	-	$10,220.26	$153.30	$10,373.57
Racquet Club	$3,151.93	$310.24	$444.68	$373.25	-	-	-	$4,280.10	$64.20	$4,344.30
Parks	$527.24	$66.05	$58.21	$36.00	-	-	-	$687.50	$10.31	$697.81
Tennis Court	$7,138.00	$124.10	$99.00	$444.00	-	-	-	$7,805.10	$117.08	$7,922.18
Marina	$715.00	$7.45	$186.46	$18.00	-	-	-	$926.91	$13.90	$940.81
Boat Storage	$150.65	$7.45	$47.80	$18.00	-	-	-	$223.91	$3.36	$227.26

Post Office	$4,404.40	$411.40	$356.40	$299.20	-	-	-	$5,471.40	$82.07	$5,553.47
Library	$4,674.96	$362.36	$676.90	$568.97	-	-	-	$6,283.20	$94.25	$6,377.45
Day Care Center	$2,686.20	$394.90	$343.20	$288.20	-	-	-	$3,712.50	$55.69	$3,768.19
Hospital	$2,132.90	$496.10	$430.10	$361.90	-	-	-	$3,421.00	$51.32	$3,472.32
House of Worship	$1,347.26	$124.10	$188.50	$158.43	-	-	-	$1,818.30	$27.27	$1,845.57
Movie Theatre	$10,140.74	$49.64	$4,778.42	$319.00	-	-	-	$15,287.80	$229.32	$15,517.12
Elem School	$1,769.64	$243.23	$440.31	$370.53	-	-	-	$2,823.71	$42.36	$2,866.06
Middle School	$1,695.04	$208.48	$419.82	$351.87	-	-	-	$2,675.20	$40.13	$2,715.33
High School	$1,758.06	$161.32	$418.88	$352.35	-	-	-	$2,690.61	$40.36	$2,730.96
Fitness Center	$4,609.76	$310.24	$1,709.00	$444.00	-	-	-	$7,073.01	$106.10	$7,179.10

(Ord. No. 634, pt. 1, 10-7-2003; Ord. No. 673, pt. 1, 8-2-2005; Ord. No. 819, pt. 1, 3-31-2009; Ord. No. 858, pt. 1, 3-16-2010; Ord. No. 927, 3-19-2013; Ord. No. 995, pt. 1, 3-22-2016)

Article 7 DEVELOPMENT AGREEMENTS [1]

Sec. 7.1. Short title, authority, and application.

7.1.A. *Short title.* This article shall be known as the "Martin County Development Agreement Ordinance."

7.1.B. *Authority.* The Board of County Commissioners of Martin County has the authority to adopt this article pursuant to article VIII, section 1, Florida Constitution, F.S. § 125.01 et seq., F.S. § 163.3161 et seq., and F.S. § 163.3220 et seq.

7.1.C. *Application.* This article shall apply to all development in the total unincorporated area of Martin County.

(Code 1974, § 23-201; Ord. No. 394, § 1, 4-9-1991)

Sec. 7.2. Statement of intent and purpose.

7.2.A. *Implementation of Comprehensive Growth Management Plan.* This article is intended to implement and be consistent with the Martin County Comprehensive Growth Management Plan.

7.2.B. *Development agreement to ensure compliance with Comprehensive Growth Management Plan.* The objective of this article is accomplished by authorizing development and agreements to be entered into between a developer and Martin County pursuant to the terms of this article to ensure

the adequacy of public facilities and sound capital improvement planning, while providing certainty in the process of obtaining development approval and reducing the economic costs of development by providing greater regulatory certainty.

7.2.C. *Minimum requirements.* The provisions of this article, in their interpretation and application, are declared to be the minimum requirements necessary to accomplish the stated intent, purposes, and objectives of this article. Nothing in this article shall be interpreted as characterizing a development agreement as anything other than a discretionary, bilateral contract between the County and the owner with consideration given by both parties to the contract.

(Code 1974, § 23-202; Ord. No. 394, § 2, 4-9-1991; Ord. No. 432, pt. 1, 10-26-1993)

Sec. 7.3. Definitions.

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

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

CIE facility commitment development agreement means a development agreement approved pursuant to the provisions of this article which reserves capacity for category A and C public facilities and is required pursuant to the APFO reservation standards of either section 5.32.D.3.a(1)(e), a(3)(e), a(5)(b), b(1)(e), b(3)(e), c(1)(e), d(1)(e), e(1)(e) and/or f(1)(e). The agreement incorporates the standard certificate of public facilities reservation, and contains a contractual commitment by Martin County, subject to conditions noted therein, to timely fund and construct a CIE improvement consistent with section 5.32.D.6 of the Martin County Adequate Public Facilities Ordinance.

CIE ordinance update development agreement means a development agreement approved pursuant to the provisions of this article which reserves capacity for all category A and C public facilities and is required pursuant to the APFO reservation standards of either section 5.32.D.3.a(1)(f), a(3)(f), b(1)(f), b(3)(f), d(1)(f), e(1)(f) and/or f(1)(f). The agreement incorporates the standard certificate of public facilities reservation and provides financial security for one or more category A or C public facilities to be provided by the applicant. The facilities secured by a CIE ordinance update development agreement are currently included in the CIE but are being modified as to facility timing, cost, or funding source. Such an agreement shall be processed concurrent with an ordinance amending the CIE and shall not be effective until an ordinance amending the CIE is adopted which modifies the facility, cost, and timing and shows the facility as developer funded. A development agreement is not required when a developer is providing an operation improvement.

CIE plan amendment development agreement means a development agreement approved pursuant to the provisions of this article which reserves capacity for all category A and C public facilities and is required pursuant to the APFO reservation standards of either section 5.32.D.3.a(1)(f), a(3)(f), b(1)(f), b(3)(f), d(1)(f), e(1)(f) and/or f(1)(f). The agreement incorporates the standard certificate of public facilities reservation and provides financial security for one or more category A or C public facilities to be provided by the applicant. The facilities secured by a CIE plan amendment development agreement are not currently in the CIE, and the agreement must be accompanied by a concurrent plan amendment. The agreement shall not be effective until the plan amendment which shows the facility as developer funded is effective. A development agreement is not required when a developer is providing an operational improvement.

Comprehensive Growth Management Plan means the Martin County Comprehensive Growth Management Plan, as amended, when referenced in this article.

Developer means any person, including a governmental agency undertaking any development.

Development has the meaning given it in F.S. § 380.04.

Development agreement means an agreement entered into between Martin County and a person associated with the development of land pursuant to the terms to this article.

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

Development permit includes any rezoning, planned unit development, conditional use, site plan, subdivision plat, building permit, variance, or any other official action of Martin County having the effect of permitting the development of land.

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

Land Development Regulations means ordinances enacted by Martin County for the regulation of any aspect of development and includes any zoning, rezoning, subdivision, environmental, building construction, or sign regulations controlling the development of land.

Leap-frog developments are developments located beyond the fringe of the urban development where the planned provision of urban services cannot be assured in a cost-effective manner and where community planning goals would be adversely affected.

Local Planning Agency means the Martin County Planning and Zoning Commission.

Operational improvement means a capital cost that does not create additional mandatory public facility capacity or maintain existing capacity of mandatory public facilities. An operational improvement is an improvement that would not be considered a capital improvement under definition of capital improvement in the Martin County Comprehensive Growth Management Plan.

Party means Martin County or a developer who has entered into a development agreement with Martin County.

Public facilities means stormwater management facilities, publicly owned park and recreation facilities, publicly and privately owned potable water facilities, road facilities, sanitary sewer facilities, solid waste facilities, and mass transit facilities that provide services to the public.

Urban sprawl is continuous, uncoordinated development that does not provide or properly plan for concentration of more intense uses and the efficient and economical provision of public services.

(Code 1974, § 23-203; Ord. No. 394, § 3, 4-9-1991; Ord. No. 432, pt. 2, 10-26-1993)

Cross reference— Rules of interpretation, § 1.5.

Sec. 7.4. Rules of construction.

In the construction of this article, the rules set out in this section shall be observed unless such construction is inconsistent with the manifest intent of the Board of County Commissioners of Martin County as expressed in the Comprehensive Growth Management Plan. The rules of construction and definitions set forth herein shall not be applied to any provisions which expressly exclude such construction, or where the subject matter, content or context of such provision would make such construction internally inconsistent or inconsistent with other provisions of this article.

7.4.A. *Generally.* All provisions, terms, phrases and expressions contained in this article shall be liberally construed in order that the true intent and meaning of Martin County may be fully carried out. Terms used in this article, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of this State for the same terms. In the interpretation and application of any provision of this article 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 this article imposes greater restrictions upon the subject matter than a general provision imposed by the Martin County Comprehensive Growth Management Plan or another provision of this article, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

7.4.B. *Text.* In case of any difference of meaning or implication between the text of this article and any figure, the text shall control.

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

7.4.D. *Delegation of authority.* Whenever a provision appears requiring the head of a department or some other County officer or employee to do some act or perform some duty, it is to be construed to authorize the head of the department or some other County officer or employee 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.

7.4.E. *Gender.* Words importing the masculine gender shall be construed to include the feminine and neuter.

7.4.F. *Month.* The word "month" shall mean a calendar month.

7.4.G. *Nontechnical and technical words.* Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

7.4.H. *Number.* A word importing the singular number only, may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number shall be deemed to include any single person or thing.

7.4.I. *Shall, may.* The word "shall" is mandatory; "may" is permissive.

7.4.J. *Tense.* Words used in the past or present tense include the future as well as the past or present.

7.4.K. *Week.* The word "week" shall mean seven calendar days.

7.4.L. *Year.* The word "year" shall mean a calendar year, unless a fiscal year is indicated or 365 calendar days is indicated.

(Code 1974, § 23-204; Ord. No. 394, § 4, 4-9-1991; Ord. No. 432, pt. 3, 10-26-1993)

Cross reference— Rules of interpretation, § 1.5.

Sec. 7.5. Procedure for review of development agreement.

7.5.A. *Application initiation.* Unless otherwise specified, an application for a development agreement and proposed development agreement pursuant to this article may be filed by the owner of the property or other person or entity having a contractual interest in subject property or an agent of the

owner or person having a contractual interest, when specifically authorized by the owner or person having a contractual interest, when specifically authorized by the owner to file such an application.

7.5.B. *Submission, timing, and review of application.*

1. An application pursuant to this article will not be processed unless the application relates to (1) a previously approved development order, (2) the application is concurrent with a request for a development order or (3) an application for amendment to the Comprehensive Growth Management Plan. All applications pursuant to this article shall be filed with the Director of the Growth Management Department.
2. An application for a CIE ordinance update development agreement or CIE facility commitment development agreement pursuant to this article will be received for processing on any working day. An application for a CIE plan amendment development agreement shall be submitted concurrent with a private Comprehensive Plan amendment application for a change to the CIE pursuant to section 1.11 of the Comprehensive Growth Management Plan and article 10 of the Land Development Regulations and shall be processed concurrent with said amendment in accordance with the timeframes and procedures for plan amendments or the provisions of this article whichever provides for a longer review period.
3. Where a development agreement is sought in conjunction with a development order or the amendment to the Comprehensive Growth Management Plan, and this article provides for longer review times, then the development order or the amendment to the Comprehensive Growth Management Plan shall be processed concurrent with the development agreement such that the longer review period shall be used for both applications.

7.5.C. *Contents of application and fees.*

1. Unless otherwise specified, an application and development agreement shall be submitted in a form adopted by resolution of the Board of County Commissioners and made available to the public.
2. Applications shall be accompanied by certifications from the attorney or other professionals who prepared the application, that the application, agreement or contract is in the standard form, or that any changes, additions or deletions from the standard form are indicated in the proposed draft document(s).
3. Each application shall be accompanied by a nonrefundable fee established by resolution of the Board of County Commissioners to defray the actual cost of processing the application.

7.5.D. *Completeness determination.*

1. Within seven calendar days after the receipt of an application, the Growth Management Director shall determine if the application is complete. No application shall be processed until the director has determined that the application is complete and sufficient for processing. The form and content requirements of the board-approved application shall be the basis for the director's determination of application completeness. The director may consider an application complete for processing without submitting all of the information otherwise required if the director determines that the information is not material or relevant to a decision on the application. In addition to the provisions of this article, in order for an application for a CIE plan amendment development agreement to be reviewed that year, the application must be submitted by October 8 and determined complete by October 15.
2. When the application is determined complete, the Growth Management Director shall notify the applicant, in writing, of the application's completeness and that the application is ready for review pursuant to the procedures and standards of this section. A determination of completeness shall not be interpreted as a determination of compliance with the requirements of this article.

3. If the Growth Management Director determines the application is not complete for processing, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied or the applicant prevails on an appeal of the determination. If the deficiencies have not been remedied within 30 days of receipt of notice of deficiencies, or the applicant has not filed an appeal pursuant to paragraph 4 below, within ten days of notice, the application is automatically voided; and the director shall return the application and fee, less an administrative charge, to the applicant.

4. *Appeal.* An applicant may appeal any completeness determination of the Growth Management Director by filing a petition to the County Administrator within ten days of receipt of notice of deficiencies pursuant to paragraph 3 above. The County Administrator shall consider the appeal within 20 days of receipt of the petition and render a written order upholding or overturning the decision of the Growth Management Director with reasons clearly stated. An appeal of a completeness determination shall be based upon the form and content requirements of the board-approved application, the provisions and requirements of this article, and whether the information is material or relevant to the application.

7.5.E. *Application distribution.* Unless otherwise specified, the Director of the Growth Management Department shall forward copies of applications to the members of the Development Review Committee for their review.

7.5.F. *Review and analysis by County departments.*

1. Within 30 calendar days after the application and proposed development agreement is determined complete or concurrent with the original departmental analysis when the application is accompanied by a development order or Comprehensive Plan amendment, whichever timeframe is greater, the Development Review Committee members shall review the application and forward their comments and analysis to the Growth Management Department Director.

2. The Development Review Committee members' comments shall identify the applicable law, and present specific findings with reference to the supporting documentation as to whether the request is consistent with the standards applicable to the type of application. If the application is inconsistent with the requirements or fails to demonstrate consistency, the report shall indicate this failure with particularity and recommend denial. If the application is consistent with all applicable requirements, the report shall indicate such consistency. Nothing herein shall be interpreted as limiting the DRC members' discretion to recommend denial of an application for reasons clearly stated. All development agreements include the exercise of legislative discretion.

7.5.G. *Report and recommendation of the Growth Management Director.*

1. Within 45 calendar days after the application is determined complete, or concurrent with the initial Growth Management staff report when the application is accompanied by a development order whichever timeframe is greater, the Growth Management Director shall review the application, the reports and analysis received from the County departments, prepare a report, recommend approval or denial and schedule the agreement for the DRC for review and recommendation. The Growth Management Director shall mail a copy of the report to the applicant.

2. When the application is accompanied by a request for a development order, the Growth Management Director's report on the agreement shall be incorporated into the staff analysis; and any decision on the development order shall be conditioned on approval of the development agreement.

3. The Growth Management Department staff report shall be in a form consistent with subsection F.2 above and shall also consolidate and incorporate the reports and recommendations of the DRC members.

7.5.H. *Decision by Board of County Commissioners.*

1. *Two public hearings.* After the Growth Management Director has made a recommendation on the application and proposed development agreement, the application and proposed development agreement shall be considered at two public hearings.

   a. If the proposed development agreement is being considered in conjunction with an application for development permit which requires review by the Planning and Zoning Commission, the first public hearing shall be held before the Planning and Zoning Commission, who shall review the application, proposed development agreement and recommendation by the Growth Management Director and recommend its approval, approval with conditions, or denial. The second public hearing shall be before the Board of County Commissioners, who, after review and consideration of the application, the proposed development agreement, the recommendations of the Growth Management Director and the Planning and Zoning Commission, and public testimony, shall approve, approve with conditions, or disapprove the development agreement. The second public hearing shall be a minimum of seven days after the first public hearing. The day, time, and place of the second public hearing shall be announced at the first public hearing.

   b. In all other instances, both public hearings may be held by the Board of County Commissioners. The second public hearing shall be a minimum of seven days after the first public hearing. The day, time, and place of the second public hearing shall be announced at the first public hearing. At the conclusion of the second public hearing, the Board of County Commissioners shall, after review and consideration of the application, the proposed development agreement, the recommendations of the Growth Management Director and the Planning and Zoning Commission, and public testimony, approve, approve with conditions, or disapprove the development agreement.

2. *Notice.*

   a. *General requirement.* Notice of intent to consider the application and proposed development agreement shall be advertised by the County publishing an advertisement approximately seven days from each public hearing on the application in a newspaper of general circulation and readership in Martin County. Notice of intent to consider the application and proposed development agreement shall also be mailed by the applicant at least 15 days prior to the first public hearing on the application by certified mail, return receipt requested, to all owners of property, as reflected on the current year's tax roll, lying within 300 feet of the property directly affected by the application and proposed development agreement. An application for a development agreement in an area designated for rural density or agricultural ranchette development by the future land use map of the Comprehensive Growth Management Plan shall require certified mail notice to all owners of property, as reflected on the current year's tax rolls, lying within 600 feet of the property directly affected by the application. The applicant shall provide proof of advertisement and the return receipts from the mailing to the Growth Management Director a minimum of five working days before the first public hearing.

   b. *Form.* The form of the notices of intention to consider adoption of a development agreement shall specify:

      (1) *Time and place.* The time and place of each hearing on the application;

      (2) *Location.* The location of the land subject to the proposed development agreement;

      (3) *Uses and intensities.* The development uses proposed on the property, including the property size, total units and square footage, gross and net residential density and height;

(4) *Where copy can be obtained.* Instructions for obtaining further information regarding the application and proposed development agreement, including where a copy of the proposed development agreement can be obtained.

3. *Decision.* At the conclusion of the second public hearing, and based upon consideration of the application and the proposed development agreement, the recommendation of the Growth Management Director, and public testimony received during the public hearing, the Board of County Commissioners shall approve, approve with conditions, or deny the proposed development agreement based upon whether it complies with the standards in section 7.6.

(Code 1974, § 23-205; Ord. No. 394, § 5, 4-9-1991; Ord. No. 432, pt. 4, 10-26-1993; Ord. No. 867, pt. 1, 6-22-2010)

Sec. 7.6. Standards.

A development agreement shall, at a minimum, include the following provisions:

7.6.A. *Legal description and owner.* A legal description of the land subject to the development agreement and the names of the legal and equitable owners.

7.6.B. *Duration and development timing.* The duration of the development agreement shall not exceed ten years; provided, however, that no development agreement may reserve capacity for category A and C public facilities for more than five years at a time. The timetable of development for the duration of the agreement, including dates for final development plan approval, construction plan approval, building permit issuance, project construction commencement, and project build-out, must also be included. In the event the project has not complied with the construction commencement date, the development agreement shall cease to be effective and the development shall cease to be authorized. In the event an extension of the commencement date or the termination date of the development agreement is sought, the amendment can be approved only if there is demonstrated compliance with all current laws and regulations.

7.6.C. *Uses, densities, intensities and height.* The development uses permitted on the land, including property size, total units and/or square footage, gross residential density and height. When the proposed development agreement is approved concurrent with or following the approval of a preliminary development order, or concurrent with a final development order, a reduced copy of the preliminary or final development plan shall be attached as an exhibit to the development agreement.

7.6.D. *Land use designation.* The land use designation of the property under the Future Land Use Element of the Comprehensive Growth Management Plan.

7.6.E. *Zoning district designation.* The current zoning district designation of the land subject to the development agreement.

7.6.F. *Public facility adequacy.* A description of public facilities that will service the development, including who shall provide such facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impact of the development. Any public facilities to be designed and/or constructed by the developer shall be in compliance with all applicable federal, State and County standards to ensure the quality of the public facilities. The standards shall include, but not be limited to, guarantees of performance and quality, and project controls (including scheduling, quality controls, and quality assurances). It is the purpose of this subsection to ensure that no development order is issued unless there are adequate public facilities available to serve the development concurrent with the impact of development on the public facilities, and that future development will pay the full cost of the new public facilities needed to address the impact of that development.

7.6.G. *Public facility capacity reservation or deferral.*

1. A finding that the proposed development subject to the development agreement complies with the Martin County Adequate Public Facilities Ordinance [article 5 of the Land Development Regulations], and has reserved public facility capacity needed to accommodate the development proposed in the development agreement.

2. If relevant and appropriate, a finding that the proposed preliminary development order subject to the development agreement has not reserved capacity for discrete phases beyond the initial reserving phases pursuant to the Martin County Adequate Public Facilities Ordinance [article 5 of the Land Development Regulations] and has passed a concurrency evaluation and deferred public facility capacity reservation. If the development agreement accompanied by a preliminary development order does not reserve capacity for a phase or phases, the agreement shall contain a timetable for the submission of final development orders and contain the affidavit language as prescribed by section 14.4.A.3.d(2) of the Growth Management Plan and section 5.32.C of the Adequate Public Facilities Ordinance.

7.6.H. *Reservation or dedication of land.* A description of any reservation or dedications of land for public purposes.

7.6.I. *Local development permits.* A description of all local development permits approved or needed to be approved for development of the land, specifically, to include at least the following:

1. Any required amendments to the Comprehensive Growth Management Plan.

2. Any required amendments to the County Land Development Regulations.

3. Any required other amendments to the official zoning atlas.

4. Any other development permits under the County's Land Development Regulations.

5. Any other required permissions from regional, State or federal governments.

7.6.J. *Local development permits obtained by applicant/property owner.* The development agreement shall specifically provide that all local development permits identified in this section shall be obtained at the sole cost of the applicant/property owner and, that in the event that any such local development permits are not received, no further development of the property shall be allowed until such time as the Board of County Commissioners has reviewed the matter and determined whether or not to terminate the development agreement, or to modify it in a manner consistent with the public interest and the Comprehensive Growth Management Plan.

7.6.K. *Consistency with Comprehensive Growth Management Plan.* A finding that the development permitted or proposed in the development agreement is consistent with the Comprehensive Growth Management Plan.

7.6.L. *Consistency with Land Development Code.* A finding that the development permitted or proposed in the development agreement is consistent with County's Land Development Regulations.

7.6.M. *Compliance with laws not identified in development agreement.* A statement indicating that failure of the development agreement to address a particular permit, condition, term or restriction shall not relieve the applicant of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions, and that any matter or thing required to be done under existing ordinances of Martin County shall not be otherwise amended, modified or waived unless such modification, amendment or waiver is expressly provided for in the development agreement with specific reference to the provisions so waived, modified or amended. In no event shall delay in obtaining permits from other agencies be deemed as automatically requiring an extension of time to obtain Martin County development

orders or a development agreement with Martin County, nor shall such delay be interpreted as requiring an extension of time to any existing development order or development agreement.

7.6.N. *Financial assurance and refund.* If relevant and appropriate, the necessary bonds and sureties for the construction of public facilities, impact fees or other contributions to ensure any public facilities are provided pursuant to the terms of the development agreement and the Adequate Public Facilities Ordinance [article 5 of the Land Development Regulations]. Additionally, if relevant and appropriate, any provision governing the refund of financial assurances consistent with if the development agreement is modified or revoked.

7.6.O. *Breach.* The terms and conditions that govern a breach of the development agreement. All costs incurred by the County for breach proceedings shall be paid by the property owner. If such costs are not paid, the County is empowered to place a lien against the property in the amount of the unpaid costs. A development agreement approved pursuant to this article shall include a breach section in substantially the following form:

> Upon the owner's material breach of the terms and conditions of this agreement, the County may serve written notice on the owner of the date and place of a public meeting to allow the owner an opportunity to explain the reasons for the breach and to propose a method of fulfilling the agreement's terms and conditions. The County may, in its sole discretion, allow the owner an opportunity to negotiate an amendment to this agreement to cure the breach. After notice as set forth above, all further development approvals shall be withheld for the project until such time as the obligations of this agreement are fulfilled or until such time as the County has pursued to completion all remedies available to it in the event of a breach.
>
> The following events are considered a material breach of this agreement: A failure to complete all development specified in the agreement by the termination date; a failure to strictly comply with all conditions of this agreement; failure to provide or maintain financial assurances required under this agreement; failure to make required dedications; proceeding with development under the guise of single-family lot sale development status when the project or phase of the project is in fact proceeding as a builder-type development; or any other material violation of any of the terms and conditions contained in, incorporated in, or referenced in this agreement.
>
> If at the public meeting described above the County finds, based on substantial competent evidence, that the owner is in material breach of this agreement and an amendment to this agreement to cure the breach is not authorized by the Board of County Commissioners, the owner's capacity reservation shall immediately be forfeited and this agreement shall be revoked in accordance with section 7.13.E. In the event of a revocation prior to the first final development order for the project, the project shall lose all capacity reservation and, if a valid preliminary remains, be subject to the disclaimer in section 14.4.A.3.d(2), Martin County Comprehensive Growth Management Plan, and section VII.D of the Martin County Adequate Public Facilities Ordinance [sic]. In the event such revocation occurs after a final development order has been issued for any phase of the project, the project shall lose all capacity reservation for those phases which have not received a final development order, and at the public hearing the Board of County Commissioners shall determine whether there has been a material breach of the development order, in accordance with applicable law. The "breach" hearing on the development order shall be held concurrent with the development agreement revocation hearings. Refund of financial assurances shall be as described in the Martin County Adequate Public Facilities Ordinance. In lieu of revoking this agreement, and forfeiting owner's capacity reservation, the County may agree, in its sole discretion, to modify this agreement upon a finding that such modification is in the best interests of the County.

It is further agreed by the owner and the County that all costs incurred by the County for the breach proceedings shall be paid by the property owner. If such costs are not paid, the County is empowered pursuant to section 7.6.O of the Martin County Land Development Regulations to place a lien against the property in the amount of the unpaid costs.

Except as provided in section 7.16, this provision shall not be interpreted to provide an exclusive remedy, and either party may pursue any appropriate remedy at law or equity in the event the other party or its successors in interest fail to abide by the provisions of this agreement.

7.6.P. *Conditions necessary to ensure compliance with Code and plan.* Such conditions, terms, restrictions or other requirements determined to be necessary by the Board of County Commissioners to ensure compliance with the County's Land Development Regulations and consistency with the Comprehensive Growth Management Plan.

(Code 1974, § 23-206; Ord. No. 394, § 6, 4-9-1991; Ord. No. 432, pt. 5, 10-26-1993)

Sec. 7.7. CIE plan amendment and CIE ordinance update and CIE facility commitment development agreements.

7.7.A. *Description.* A decision to enter into a CIE plan amendment development agreement or a CIE ordinance update development agreement is a decision to amend the County's CIE and show one or more category A or C public facilities as developer funded. A decision to enter into a CIE facility commitment development agreement is a decision to make a contractual commitment with a developer to fund an improvement shown in the CIE and not to remove or delay the facility except in specified situations. Because a decision to amend the CIE or to contractually commit to a CIE improvement is a broad decision about when and where the County is directing its resources to address the orderly and cost-effective development of the urban service districts and concurrency on a County-wide basis, the focus of the decision to enter into a development agreement is broader than simply whether the agreement provides a means for a specific project to address concurrency. Accordingly, when deciding whether to enter into a CIE facility commitment development agreement, CIE plan amendment development agreement or CIE ordinance update development agreement, the following CIE concerns shall be addressed.

7.7.B. *Principles for approval or disapproval of a CIE facility commitment, CIE plan amendment development agreement or CIE ordinance update development agreement.* In addition to satisfying the requirements for the issuance of a certificate of public facilities reservation in section 5.32.D, a development agreement approved by the Board of County Commissioners or a resolution denying a proposed development agreement shall at a minimum address the following areas with specific findings included in the staff report prepared by the Growth Management Department.

1. An analysis of all mandatory public facilities, including whether the agreement relies on a facility or facilities planned in the CIE to pass the reservation tests in section 5.32.D.3.

2. An analysis of the improvement to be added into the CIE or expedited in the CIE and secured by the development agreement or contractual commitment to an improvement in the CIE, in relation to the CIE priority listed in section 14.4.A.1.j, Martin County Comprehensive Growth Management Plan. The priority list reads as follows:

   Policy: Capital improvements within a type of public facility are to be evaluated on the following criteria and considered in the order of priority listed below. Any revenue source that cannot be used for a high priority facility will be used beginning with the highest priority for which the revenue can legally be expended.

(1) Repair, remodeling, renovation, or replacement of obsolete or worn-out facilities that contribute to achieving or maintaining standards for levels of service adopted in this Comprehensive Growth Management Plan.

(2) New or expanded facilities that reduce or eliminate deficiencies in levels of service for existing demand.

(3) New public facilities, and improvements to existing public facilities, that eliminate public hazards not otherwise eliminated by improvements prioritized according to subsections (1) through (3) above.

(4) New or expanded facilities that provide the adopted levels of service for new development and redevelopment during the next five fiscal years, as updated by the annual review of this Capital Improvements Element. The County may acquire land or right-of-way in advance of the need to develop a facility for new development. The location of facilities constructed pursuant to this subsection shall conform to the Future Land Use Element, and specific project locations shall serve projected growth areas within the allowable land use categories. In the event that the planned capacity of public facilities is insufficient to serve all applicants for development orders, the capital improvements will be scheduled in the following priority order to serve:

(a) Previously approved orders permitting redevelopment;

(b) Previously approved orders permitting new development;

(c) New orders permitting redevelopment; and

(d) New orders permitting new development.

(5) Improvements to existing facilities, and new facilities that significantly reduce the operating cost of providing a service or facility, or otherwise mitigate impacts of public facilities on future operating budgets.

(6) New facilities that exceed the adopted levels of service for new growth during the next five fiscal years by either:

(a) Providing excess public facility capacity that is needed by future growth beyond the next five fiscal years; or

(b) Providing higher quality public facilities than are contemplated in the County's normal design criteria for such facilities.

(7) Facilities not described in subsections (1) through (6) above, but which the County is obligated to complete, provided that such obligation is evidenced by a written agreement the County executed prior to November 1, 1989.

(8) All facilities scheduled for construction or improvement in accordance with this policy shall be evaluated to identify any plans of State agencies or the South Florida Water Management District that affect, or will be affected by, the proposed County capital improvement.

(9) Project evaluation may also involve additional criteria that are unique to each type of public facility, as described in other elements of this Comprehensive Growth Management Plan.

3. An analysis of the improvement to be added into the CIE or expedited in the CIE and secured by the development agreement or contractual commitment to an improvement in the CIE, relative to whether it serves other properties and projects, in addition to the development order which accompanies the agreement, in the general area of the improvement.

4. An analysis of all mandatory public facilities (category A and C public facilities) necessary to accommodate increased growth in the general area of the facility to be added into the CIE or

expedited in the CIE, or contractual commitment to an improvement in the CIE, relative to whether the facilities are available, programmed or planned in the CIE. The examination is not whether the impacts of the proposed development order accompanying the development agreement are addressed, but rather whether the growth impacts on the area surrounding the facility to be added into the CIE, or expedited in the CIE and secured by the development agreement have been considered such that the full complement of mandatory public facilities are available, programmed or planned to accommodate the growth caused by the secured improvement.

5. No improvement shall be added to the CIE or expedited in the CIE or committed to in the CIE if the effect of the facility will be to cause prohibited urban sprawl or leap-frog development.

6. No improvement shall be added to the CIE or expedited in the CIE or committed to in the CIE if the effect will be to cause an inefficient provision of public facilities.

7.7.C. *Additional minimum requirements.* A CIE plan amendment development agreement and CIE ordinance update development agreement shall, at a minimum, include the following provisions:

1. A development agreement is required by the APFO reservation standards of sections 5.32.D.3.a(1)(e), (f), a(3)(e), (f), a(5)(b), b(1)(e), (f), b(3)(e), (f), c(1)(e), d(1)(e), (f), e(1)(e), (f), and f(1)(e), (f). Therefore, a CIE plan amendment, CIE ordinance update development agreement does not simply secure a public facility to be provided by the applicant, it reserves capacity for all category A and C public facilities with appropriate financial assurances for all facilities in accordance with the APFO. A development agreement cannot not [sic] be used solely for the purpose of passing the concurrency evaluation test of section 5.32.C.

2. A contract for construction of required concurrency improvements shall be an exhibit to the agreement. The contract shall address the technical and engineering standards to which the required category A and C public facility shall be built.

3. The financial security for the improvement to be provided by the applicant must meet the following standards:

   a. Security must be submitted in the standard form approved by resolution of the Board of County Commissioners pursuant to this article.

   b. The issuing financial institution must be an approved depository as listed by the State of Florida.

   c. Security must represent no less than 110 percent of a certified engineer's cost estimate for each of the required category A or C improvement(s).

   d. For each year beyond the first year the improvement is secured an additional ten percent security shall be provided.

   e. The expiration date for the security shall be no less than three months beyond the date the facility is to be completed.

   f. If provided for security, letters of credit must be clean, standby, and irrevocable.

   g. Separate security must be provided for each facility to be provided by the applicant.

   h. Security shall be callable if the project fails to meet the timetable for the construction of the improvement or in the event a timetable of the development is extended and the County or others have relied on the improvement being constructed as set forth in the original approval.

   i. Credits or cost reimbursement shall be governed by the appropriate impact fee ordinance, utility agreements, and APFO in effect at the time the credit is requested.

j. An administrative fee, based on the cost of County contract and security administration, shall be paid by all applicants using this option. The Board of County Commissioners may establish this fee by resolution.

4. If the development agreement reserves capacity for more than one phase, or less than the entire project has reserved capacity, the phases of the project must be geographically discrete and independent such that each phase can stand on its own and does not require the approval of a subsequent phase.

7.7.D. *Additional minimum requirements, CIE facility commitment development agreement.*

1. A CIE facility commitment development agreement shall reserve capacity for all category A and C public facilities with appropriate financial assurances for all facilities in accordance with the APFO.

2. If the development agreement reserves capacity for more than one phase, or less than the entire project has reserved capacity, the phases of the project must be geographically discrete and independent such that each phase can stand on its own and does not require the approval of a subsequent phase.

(Code 1974, § 23-207; Ord. No. 432, pt. 6, 10-26-1993)

Sec. 7.8. Adoption of standard development agreement forms by resolution and certification of attorney.

7.8.A. The Board of County Commissioners is hereby authorized to adopt by resolution standard forms for development agreements and security referenced in this article.

7.8.B. Development agreements submitted to the County for review shall be in the approved standard form and shall be accompanied by a certification from an attorney that the agreement is in the standard form, or that any changes, additions or deletions from the standard form are shaded or redlined in the proposed draft agreement. Additions shall be underlined; deletions shall be cross-hatched or struck-through.

(Code 1974, § 23-208; Ord. No. 432, pt. 6, 10-26-1993)

Sec. 7.9. Execution.

A development agreement shall be executed by all persons having legal or equitable title in the land subject to the development agreement, including the fee simple owner and any mortgagees. The CIE facility commitment development agreement, with all appropriate assurances, shall be executed by the developer and provided to the County Administrator within 60 calendar days of the Board of County Commissioners approval of the development agreement at a public hearing. Upon a determination by the County Attorney that the executed agreement and all required financial assurances are acceptable in form and amount, the development agreement shall be scheduled for execution by the Board of County Commissioners at the next available Board of County Commissioners meeting. The second public hearing approving a CIE plan amendment development agreement shall be concurrent with the transmittal hearing for the plan amendment adding the facility to the CIE, and the execution of or "entering into" the development agreement shall occur concurrent with the adoption hearing for said plan amendment. Execution of and "entering into" a CIE ordinance update development agreement shall occur concurrent with the adoption of an ordinance amending the County's CIE to expedite the improvement and show the facility as developer funded. The development agreement shall be considered "entered into" by Martin County and the developer upon the final execution by the Board of County Commissioners pursuant to this section. Financial assurances for CIE plan amendment and CIE ordinance update

development agreements must be submitted and approved by the County prior to the County "entering into" the development agreements (i.e., prior to plan amendment adoption and prior to ordinance adoption).

(Code 1974, § 23-209; Ord. No. 394, § 7, 4-9-1991; Ord. No. 432, pts. 6, 7, 10-26-1993)

Sec. 7.10. Legislative act.

A development agreement is determined to be a legislative act of Martin County in the furtherance of its powers to plan and regulate agreement and, as such, shall be superior to the rights of existing mortgagees, lienholders or other persons with a legal or equitable interest in the land subject to the development agreement, and the obligations and responsibilities arising thereunder on the property owner shall be superior to the rights of such mortgagees or lienholders and shall not be subject to foreclosure under the terms of mortgages or liens entered into or recorded prior to the execution and recordation of the development agreement.

(Code 1974, § 23-210; Ord. No. 394, § 8, 4-9-1991; Ord. No. 432, pts. 6, 8, 10-26-1993)

Sec. 7.11. Recordation and effectiveness.

7.11.A. Within 14 calendar days after the County enters into a development agreement pursuant to section 7.9, the Clerk to the Board of County Commissioners shall record the executed development agreement in the public records of Martin County. A copy of the recorded and executed development agreement shall be submitted to the Department of Community Affairs (DCA) within 14 calendar days after the development agreement is recorded. If the development agreement is amended, canceled, modified, extended, or revoked, the clerk shall have notice of such action recorded in the public records; and such recorded notice shall be submitted to DCA.

7.11.B. A development agreement shall not be effective until it is properly recorded in the public records of the County and until 30 days after having been received by the DCA pursuant to this section. In addition, no development agreement shall be effective or implemented by Martin County unless the Comprehensive Growth Management Plan amendment implementing or relating to the agreement is found in compliance by the DCA in accordance with F.S. § 163.3184, 163.3187, or 163.3189, as amended.

(Code 1974, § 23-211; Ord. No. 394, § 7, 4-9-1991; Ord. No. 432, pts. 6, 7, 10-26-1993)

Sec. 7.12. Local laws and policies governing development agreement.

7.12.A. Martin County's laws and policies set down in the development agreement as governing the development of the land at the time of the execution of the development agreement shall govern the development of the land for the duration of the development agreement, except that Martin County may apply subsequently adopted laws and policies to a development that is subject to a development agreement if the Board of County Commissioners holds a public hearing pursuant to the requirements of this article and determines any one of the following:

1. The laws and policies are not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities or densities in the development agreement;
2. The laws and policies are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement;

3. The laws and policies are specifically anticipated and provided for in the development agreement;

4. Martin County demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement; or

5. It is demonstrated that the development agreement is based on substantially inaccurate information supplied by the developer.

7.12.B. Any impact fee or capital facility charge refund requested by a party to a development agreement shall be governed by the refund provisions of the adopted Martin County Adequate Public Facilities Ordinance [article 5 of the Land Development Regulations].

(Code 1974, § 23-212; Ord. No. 394, § 10, 4-9-1991; Ord. No. 432, pt. 6, 10-26-1993)

Sec. 7.13. Periodic review.

7.13.A. *Annual review.* The Board of County Commissioners shall review the development subject to the development agreement every 12 months, commencing 12 months after the Board of County Commissioners' approval date of the development agreement.

7.13.B. *Annual review years six through ten.* Each annual review conducted during years six through ten of a development agreement shall be evidenced in a written report concerning good-faith compliance with the terms of the development agreement. The report must follow Department of Community Affairs minimum standards for such reports and must be transmitted to the parties to the agreement and the Department of Community Affairs.

7.13.C. *Initiation.* The annual review shall be initiated by the developer subject to the development agreement submitting an annual report to the Growth Management Director. The initial annual report shall be submitted by the developer 11 months after the effective date of the development agreement, and every 12 months thereafter.

7.13.D. *Compliance.* If the Growth Management Director finds and determines that the developer has complied in good faith with the terms and conditions of the development agreement during the period under review, the review for that period is concluded.

7.13.E. *Failure to comply.* If the Growth Management Director makes a preliminary finding that there has been a failure to comply with the terms of the development agreement, the development agreement shall be referenced to the Board of County Commissioners, who shall conduct two public hearings pursuant to the requirements of section 7.5.H, at which the developer may demonstrate good-faith compliance with the terms of the development agreement. If the Board of County Commissioners finds and determines during the public hearings, on the basis of substantial competent evidence, that the developer has not complied in good faith with the terms and conditions of the development agreement during the period under review, the Board of County Commissioners may modify or revoke the development agreement.

(Code 1974, § 23-213; Ord. No. 394, § 6, 4-9-1991; Ord. No. 432, pt. 9, 10-26-1993)

Sec. 7.14. Amendment or cancellation of development agreement by mutual consent.

A development agreement may be amended or canceled by mutual consent of the parties to the development agreement, or by their successors in interest. Prior to amending a development agreement, the Board of County Commissioners shall hold two public hearings on the proposed amendment, consistent with the requirements of section 7.5.H.

(Code 1974, § 23-214; Ord. No. 394, § 12, 4-9-1991; Ord. No. 432, pt. 6, 10-26-1993)

Sec. 7.15. Effect of contrary State or federal laws.

In the event that State and federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties compliance with the terms of the development agreement, such development agreement shall be modified or revoked as is necessary to comply with the relevant State or federal laws. Such modification or revocation shall occur only after the notice and public hearing pursuant to section 7.5.H.

(Code 1974, § 23-215; Ord. No. 394, § 13, 4-9-1991; Ord. No. 432, pt. 6, 10-26-1993)

Sec. 7.16. Enforcement.

7.16.A. Any party or any aggrieved or adversely affected person may file an action for injunctive relief in the Circuit Court for Martin County to enforce the terms of a development agreement or to challenge compliance of the development agreement with the provisions of this article and the Florida Local Government Development Agreement Act (F.S. § 163.3220 et seq.).

7.16.B. In addition, any person who violates this article shall be subject to the enforcement provisions set out in chapter 1, article 4, and chapter 67, article 2, of the Martin County Code of Ordinances as amended from time to time, and the penalties set forth therein.

7.16.C. Nothing herein shall constitute an exclusive remedy, and the County reserves the right to pursue any and all legal and equitable remedies in order to abate a violation of this article.

(Code 1974, § 23-216; Ord. No. 394, § 6, 4-9-1991; Ord. No. 432, pt. 10, 10-26-1993)

FOOTNOTE(S):

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Cross reference— Adequate public facility standards, art. 5; development review procedures, art. 10. (Back)

Article 8 NONCONFORMITIES [1]

Sec. 8.1. In general.

8.1.A. *Purpose and intent.* The intent of this article is to eliminate or reduce situations in which land use or components of land use are inconsistent with the Comprehensive Plan and Land Development Regulations. This article shall also address lots and structures that may be or have been made nonconforming by an eminent domain action. Nonconformities may be allowed to continue in some circumstances but only subject to the conditions set forth in this article.

8.1.B. *Applicability.* The provisions of this article shall apply to all land within the unincorporated areas of Martin County.

8.1.C. *Glossary.* In addition to any other definitions of these Land Development Regulations that might apply, for the purposes of this article, the following terms shall have the meanings as set forth below.

Acquiring authority means the governmental entity proposing to acquire private property for public transportation or other purpose, pursuant to eminent domain action. Acquiring authorities include, but are not limited to, Martin County ("County"), and the Florida Department of Transportation ("FDOT").

Change of use means a change from a category of land use identified in article 3, Zoning Districts, or any zoning ordinance of Martin County, to any other category of land use or any primary activity that substantially differs from the previous primary activity of a building or land affecting the demand for parking, the drainage characteristics of the lot, internal or external traffic patterns, landscaping requirements, or nuisance factors, such as, but not limited to, increased traffic and noise.

Cure plan means a site plan submitted by an acquiring authority or a private property owner for a site subject to an eminent domain action. The plan shall show proposed changes to structures or other physical features of the remainder parcel necessary to make the remainder parcel as compliant with the applicable Land Development Regulations as feasible.

Eminent domain action means a series of actions taken by an acquiring authority to obtain title to all or some part of privately held real property for a public use. This term shall include voluntary and involuntary conveyance under the threat of condemnation, taking or expropriation.

Eminent domain waiver means authorization from Martin County for the continued use and enjoyment of a remainder parcel subsequent to an eminent domain action. An eminent domain waiver shall not be issued where the remainder parcel and existing structures conform with the applicable zoning district.

Nonconforming lot means a legally created lot which conformed to the zoning requirements at the time of the lot's creation but which does not comply with applicable district regulations of these Land Development Regulations for width and/or area.

Nonconforming structure means a lawfully constructed building or structure, the size, dimensions, or placement of which does not conform to the current Land Development Regulations.

Nonconforming use means any land use which, at its commencement, was lawful but which fails to meet the requirements of the current Land Development Regulations.

Parent tract means the parcel of land that existed prior to an acquiring authority obtaining some portion of the parcel through eminent domain action.

Remainder parcel means that portion of the parent tract remaining in private ownership following eminent domain action. The remainder parcel may be vacant, or improved, just as the parent tract may be vacant or improved.

Substantial improvement means any repair, reconstruction, extension or other improvement to a building or structure, including such work conducted over a period of time, the cost of which equals or exceeds 50 percent of the assessed value of such building or structure either before the improvement is commenced or, if the property has been damaged and is being restored, before the damage occurred. For purposes of this definition, "assessed value" shall mean the assessed value of a structure for the current year as determined by the Martin County Property Appraiser.

8.1.D. *Illegal uses.* Nothing in this article shall be interpreted as an authorization to establish, continue, or reestablish any illegal utilization of land. An illegal utilization of land is one which was in violation of any ordinance of Martin County in effect at the time that such utilization was commenced or which subsequently violates a Martin County ordinance.

8.1.E. *Burden of proof.* In order to be eligible to continue a nonconforming use or nonconforming structure pursuant to this article, the burden of proof shall be on the property owner to provide evidence that the nonconforming use or nonconforming structure was lawfully established and for proving the actual nature and extent of the use or structure as it existed prior to becoming nonconforming. Proof typically shall include such documentation which independently verifies that such use or structure was lawfully established prior to the adoption of the Comprehensive Plan, the plan provision or date specified in the plan provision, or the land development regulation in question. The casual, intermittent or temporary use of land shall not be sufficient to allow the continuation of a nonconforming use.

(Ord. No. 566, pt. 1, § 8.01, 1-11-2000; Ord. No. 818, pt. 1, 3-17-2009)

Cross reference— Rules of interpretation, § 1.5.

Sec. 8.2. Authority to continue nonconforming uses.

Unless otherwise provided for elsewhere in the CGMP or in these Land Development Regulations, nonconforming uses shall continue only as follows:

8.2.A. *Ordinary repair and maintenance.* Ordinary repair and maintenance may be performed on the principal and accessory structures associated with a nonconforming use provided that such work does not constitute a substantial improvement.

8.2.B. *Extensions.* The principal and accessory structures associated with a nonconforming use shall not be enlarged either vertically or horizontally nor shall a nonconforming use be extended into adjoining lots, structures or lands on the same lot which were not lawfully developed and approved for such use.

8.2.C. *Intensification of use.* A nonconforming use shall not be materially increased in intensity. Actions which materially increase the intensity of use include, but are not limited to:

1. Converting an accessory of a nonconforming use to a primary use;

2. Adding or enlarging storage facilities, such as fuel tanks, portable storage containers, or modular office units;

3. Converting an attic or crawl space to habitable floor area;

4. Adding roof decks;

5. Adding outdoor uses, such as restaurant seating or retail sales;

6. Creating additional parking areas, whether paved or unpaved.

8.2.D. *Relocation.* A principal or accessory structure associated with a nonconforming use shall not be moved unless the such structure is converted to a conforming use.

8.2.E. *Change of use.* A nonconforming use shall not undergo a change of use unless the new use is a conforming use.

8.2.F. *Substantial improvement.* No building permit or other development order shall be granted for repairs or reconstruction which would result in the substantial improvement of any principal structure associated with a nonconforming use.

8.2.G. *Abandonment.* Any discontinuation of a nonconforming use for a period of 180 consecutive days, or a total of 180 days in any 12-month period, shall be deemed to be an abandonment of the right to continue a nonconforming use. Where the discontinuation of use is the result of government action, such periods shall not be counted. Evidence of abandonment of a use may be, but is not limited to, discontinuance of the use, failure to maintain required occupational or other licenses required by any government entity, the discontinuation of utility services, or removal of machinery or equipment associated with the use.

8.2.H. *Occupation of additional lands.* A nonconforming use shall not be extended through the occupation of additional lands. A nonconforming use shall not be extended into adjoining lots, or into previously unused areas of the same lot, even if such activity or expansion does not normally require development approval. This provision shall prohibit, for example, the use of adjoining lots or previously unused portions of a lot for accessory parking, storage, or display of merchandise or equipment associated with a nonconforming use.

8.2.I. *Nonconforming uses on parcels with more than one principal use.* When a parcel of land contains more than one principal use, such as a multiple-unit commercial center or industrial park, and the parcel has both conforming and nonconforming uses, the entire parcel of land shall be considered to have a nonconforming use; however, this subsection I shall not apply where the individual units of a development are organized as a condominium pursuant to F.S. ch. 718 or as a cooperative, pursuant to F.S. ch. 719.

(Ord. No. 566, pt. 1, § 8.02, 1-11-2000; Ord. No. 818, pt. 2, 3-17-2009)

Sec. 8.3. Nonconforming structures.

Unless otherwise provided for elsewhere in the CGMP or in these Land Development Regulations, nonconforming structures which are used in a manner conforming to the provisions of these Land Development Regulations may be enlarged vertically or horizontally, reconstructed or redeveloped provided that:

8.3.A. Nonconforming structures which are nonconforming only as to the wetland buffer requirements of article 4, division 1 or 2, may be enlarged vertically or horizontally, reconstructed or redeveloped, provided that such enlargement, reconstruction or redevelopment shall not result in further encroachment into the buffer or buffer protection area required by article 4, division 1 or 2.

8.3.B. Portions of nonconforming structures which infringe upon locational criteria other than the wetland buffer requirements of article 4, division 1 or 2, such as but not limited to zoning setbacks, shall be governed as follows:

1. Nonconforming accessory structures may be reconstructed or redeveloped only within their existing horizontal footprint but shall not be enlarged vertically.

2. Nonconforming primary structures established prior to March 29, 2002 (the effective date of the ordinance adopting article 3, Zoning Districts) may be reconstructed or redeveloped within their existing horizontal footprint. Nonconforming primary structures established prior to March 29, 2002, may also be vertically enlarged, notwithstanding any building setback criteria to the contrary contained in the current zoning regulations.

(Ord. No. 566, pt. 1, § 8.03, 1-11-2000; Ord. No. 578, pt. 1, 5-26-2000; Ord. No. 633, pt. 2, 9-2-2003; Ord. No. 818, pt. 3, 3-17-2009)

Sec. 8.4. Exceptions.

8.4.A. *Mobile homes.* Replacement of existing mobile homes in existing mobile home plats and sites of record, as of February 20, 1990, shall be permitted and shall not be deemed inconsistent with the CGMP.

8.4.B. *Mining operations.* Even if such use is not allowed as a permitted or conditional use within the current zoning district, otherwise lawfully established mining operations shall be allowed to continue such operations as necessary to complete the extraction of resources as contemplated under previously approved development orders, provided that such operations are conducted in conformance with all other requirements of the CGMP and the Land Development Regulations, including article 4, division 8 and any special conditions for mining provided in article 3.

Cross reference— Excavation, mining and filling, § 4.341 et seq.

8.4.C. *Nonconforming lots.*

1. Notwithstanding the list of permitted and/or conditional uses set forth for a particular zoning district, the use of a nonconforming lot located in a district in which residential dwellings are permitted shall be restricted to single-family use together with customary accessory uses. This provision is not intended to waive or modify any building setback or other requirements of the Land Development Regulations.

2. A nonconforming lot located in a district in which residential dwellings are not permitted may be developed despite the failure to meet the width and area requirements set forth in the zoning district; however, no use shall be established where the development standards for that particular use require a larger lot than is required for other uses in the zoning district. This provision is not intended to waive or modify any building setback or other requirements of the Land Development Regulations.

3. When two or more contiguous unimproved, vacant, nonconforming lots are in single ownership as of the date upon which such lots became nonconforming due to changes in the zoning regulations, such lots must be combined to make them conforming whenever possible.

4. When a remainder parcel has resulted or will result from an eminent domain action for a public purpose, then section 3.15.C.2., Land Development Regulations, may be applicable to the remainder parcel having a zoning district listed in section 3.10., Land Development Regulations.

8.4.D. *Limited Commercial future land use designation.* Notwithstanding anything to the contrary in article 3, Zoning Districts, any residential dwelling unit which was lawfully established prior to

February 20, 1990, and which lies within an area designated Limited Commercial on the Future Land Use Map shall be considered a permitted use.

8.4.E. *Commercial Office/Residential future land use designation.* Notwithstanding anything to the contrary in article 3, Zoning Districts, on any parcel designated Commercial Office/Residential on the Future Land Use Map of the Comprehensive Growth Management Plan, any commercial and business use which was lawfully established prior to March 29, 2002, and which is among the commercial and business uses that are shown as permitted within the LC zoning district as set forth in section 3.11, shall be considered a permitted use. For example, a general restaurant use which was lawfully established in 1978 shall be considered a conforming use on any parcel designated Commercial Office/Residential on the Future Land Use Map, despite the fact that general restaurant is not among the permitted uses within the COR-1 or COR-2 districts or where such restaurant use is not among the permitted uses set forth in the parcel's current zoning district.

(Ord. No. 566, pt. 1, § 8.04, 1-11-2000; Ord. No. 578, pt. 1, 5-26-2000; Ord. No. 623, pt. 2, 11-5-2002; Ord. No. 818, pt. 4, 3-17-2009)

Sec. 8.5. Eminent domain waiver.

An eminent domain waiver is intended to provide property owners a viable and fair alternative to the adverse impact on their property, as a result of the acquisition process. It allows the continued use of the remainder parcel in a manner similar to its pre-acquisition condition. Waivers provided herein can be obtained for nonconforming lots and structures. Waivers cannot be granted for nonconforming uses. Sections 8.5 and 8.6 shall be applicable only after the Board of County Commissioners adopts a resolution approving the use of eminent domain waivers for specific public projects.

8.5.A. Applicability.

1. *[Vacant parcels.]* Vacant parcels, whether conforming or nonconforming lots, shall be eligible for an eminent domain waiver from minimum lot size requirements, pursuant to section 8.5., Land Development Regulations.

2. *Developed parcels.* Where an eminent domain action reduces the lot size and creates a nonconforming remainder parcel but does not require the relocation of site features, said parcel shall be eligible for an eminent domain waiver from Land Development Regulations such as but not limited to minimum lot size, and building coverage requirements, pursuant to section 8.5., Land Development Regulations.

3. *Developed parcels.* Where an eminent domain action requires the relocation of site features such as, but not limited to, buildings, parking spaces, landscaping, stormwater facilities, dumpsters, light poles and signs, such a parcel shall be eligible for an eminent domain waiver, pursuant to section 8.5., Land Development Regulations.

8.5.B. The acquiring authority and/or the property owner are each hereby granted the authority to apply for a waiver from the Land Development Regulations on a remainder parcel that has resulted or will result from an eminent domain action. The application may be made prior to or after the acquiring authority obtaining title to some part of the parent tract.

8.5.C. Procedure to apply for an eminent domain waiver.

1. Either the acquiring authority or the property owner shall file an eminent domain waiver application with the County Administrator or designee. The applicable fee, established by resolution, shall be submitted with the application in addition to the following documents:

   a. An as-built drawing of the parent tract and a legal description of the portion to be acquired and the remainder parcel shall be submitted for those circumstances described in section 8.5.A. 1, 2, and 3 above. The as-built drawing must show the

parent tract and the remainder parcel including, but not limited to, buildings, parking, landscaping, stormwater facilities, topographic data and adjacent right-of-way.

b. A site plan (a cure plan as defined herein) showing the parent tract and the remainder parcel with the proposed changes to the site including, but not limited to, buildings, parking, landscaping, stormwater facilities, topographic data and adjacent right-of-way. A cure plan shall be required only for those parcels described in section 8.5.A. 3 above.

2. If an application for a waiver is submitted by an acquiring authority, the property owner shall be notified via certified mail (return receipt requested) by the County Administrator or designee within 10 days of the application submittal date. Likewise if the property owner applies for a waiver the acquiring authority shall be notified via certified mail (return receipt requested) by the County Administrator or designee within 10 days of the application submittal date.

3. The Board of Zoning Adjustment (BOZA) shall consider the request for an eminent domain waiver at a public hearing advertised pursuant to the requirements of section 10.6., Notice Requirements, Land Development Regulations. The public hearing may be continued by the BOZA to a fixed date, time and place. After the conclusion of the public hearing, the BOZA shall approve, approve with modifications or deny the request for an eminent domain waiver by resolution which shall constitute the final action of the BOZA. The property owner shall not be required to implement the waiver or cure plan approved by BOZA.

8.5.D. Standards for issuance of eminent domain waivers.

1. If an existing lot, parcel or structure becomes nonconforming (or an existing nonconformity becomes less conforming) as a result of a governmental acquisition, a waiver may be granted provided a determination is made that:

a. The requested waiver will not adversely affect safety, aesthetic or environmental conditions of neighboring properties; and

b. The requested waiver shall not adversely affect the safety of pedestrians or operations of motor vehicles; and

c. The requested waiver will not encourage or promote the continuation of existing uses of the property which have been or will be rendered unfeasible or impractical due to the impacts of the taking and/or construction of the roadway or other facility including, but not limited to, aesthetic, visual noise, dust, vibration safety, land use compatibility, environmental or other impacts.

d. The remainder parcel shown on the as-built drawing and the cure plan shall be the site on which compliance with the Land Development Regulations and the Comprehensive Growth Management Plan must be shown. All calculations shall be based upon the acreage of the remainder parcel.

2. No eminent domain waiver shall be issued for a remainder parcel that cannot comply with the minimum requirements of the Comprehensive Growth Management Plan.

(Ord. No. 818, pt. 5, 3-17-2009)

Sec. 8.6. Status of parcels during or after acquisition by eminent domain action.

8.6.A. Where a waiver is issued pursuant to section 8.5., Land Development Regulations, the waiver shall become effective and the remainder parcel shall be considered compliant to the degree feasible after an acquiring authority takes possession of real property subject to an eminent domain action.

8.6.B. Where a property owner accepts a waiver on a vacant parcel or where no cure plan was necessary, the waiver shall remain valid and applicable to the remainder parcel indefinitely. However, future site plan and building permit approvals shall comply with all provisions in the Land Development Regulations except those listed in the waiver.

8.6.C. Where a private property owner accepts a waiver based upon a cure plan, the physical changes to the remainder parcel, specified in the cure plan, shall occur within 365 days from the date the acquiring authority takes title to some part of the parent tract. Future site plan and building permit approvals shall comply with all provisions in the Land Development Regulations except, those listed in the waiver. Within the 365-day time period, described above, the property owner may apply to the County Administrator for a one-time extension of up to 365 additional days. Further extensions may be granted by the County Administrator in the event that compensation from the condemning authority has not been resolved within the first two 365-day periods.

8.6.D. The provisions of section 8.5., Land Development Regulations shall not be interpreted to allow for the continued existence of building or safety code violations that are determined to be a threat to the public health, safety or welfare.

8.6.E. The County shall continue to enforce all applicable building and safety codes even though the subject property is part of a pending governmental acquisition.

(Ord. No. 818, pt. 6, 3-17-2009)

FOOTNOTE(S):

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Cross reference— Nonconforming parking areas, § 4.627; nonconforming signs, § 4.705; nonconforming wireless telecommunications facilities, § 4.808. (Back)

Article 9 DECISION-MAKING AND ADMINISTRATIVE BODIES

Sec. 9.1. Board of County Commissioners.

The powers and duties of the Board of County Commissioners (BCC) under the Land Development Regulations (LDR) include, but are not limited to, the following:

9.1.A. To initiate development applications, such as, but not limited to, amendments to the Official Zoning Map.

9.1.B. To review and approve, approve with modifications or deny certain development applications pursuant to article 10, Development Review Procedures.

9.1.C. To initiate revisions to the LDR.

9.1.D. To review and approve, approve with modifications or reject revisions to the LDR pursuant to article 10, Development Review Procedures.

9.1.E. To review and approve, approve with modifications or deny vested rights claims pursuant to article 10, Development Review Procedures.

9.1.F. To establish by resolution a schedule of fees for County services required by the LDR.

9.1.G. To hear appeals of decisions of the County Administrator pursuant to article 10, Development Review Procedures.

(Ord. No. 612, pt. I, 5-14-2002)

Sec. 9.2. County Administrator.

The powers and duties of the County Administrator under the LDR include, but are not limited to, the following:

9.2.A. To review and approve, approve with modifications or deny certain development applications pursuant to article 10, Development Review Procedures.

9.2.B. To hear appeals of decisions of administrative officials pursuant to article 10, Development Review Procedures.

(Ord. No. 612, pt. I, 5-14-2002)

Sec. 9.3. Local planning agency.

9.3.A. *Powers and duties.* The Planning and Zoning Commission and Local Planning Agency established pursuant to Chapter 23, Code of Laws and Ordinances of Martin County, Florida, and in existence prior to the effective date of article 9, LDR, shall become the Local Planning Agency (LPA) pursuant to the provisions of this article. Nothing contained herein shall affect the validity of any previous action of either the Planning and Zoning Commission or Local Planning Agency under Chapter 23. The powers and duties of the LPA under the LDR include, but are not limited to, the following:

1. To review and recommend to the Board of County Commissioners for approval, approval with modifications or denial certain development applications pursuant to article 10, Development Review Procedures.
2. Upon authorization by the Board of County Commissioners, to make its special knowledge and expertise available to any official, department, board or agency.
3. To review and recommend for approval, approval with modifications or denial revisions to the LDR pursuant to article 10, Development Review Procedures.
4. To adopt rules of procedure not inconsistent with the provisions of the LDR.

9.3.B. *Membership: appointment, qualifications, terms, and removal.*

1. The LPA shall be composed of five members appointed by the Board of County Commissioners. Members shall serve without compensation, but may receive actual and necessary expenses incurred in the performance of their official duties.
2. One member of the LPA shall be appointed from each county commission district. Prior to the appointment, the member shall have been a registered voter in the district for at least one year.
3. The term of office of the LPA member shall coincide with the term of office of the County Commissioner representing the district from which the member was appointed. The member's term of office shall terminate earlier if the member ceases to be a registered voter in the district from which the member was appointed. In addition, a member may be removed from office at the pleasure of the Board of County Commissioners.

9.3.C. *Officers.*

1. At the regular meeting in January each year, the LPA shall elect a Chairman and Vice Chairman from among its members to serve a term of one year. The officers shall be eligible for reelection.
2. The Chairman shall preside at all meetings and hearings of the LPA.
3. In the absence of the Chairman, the Vice Chairman shall preside at any meetings and hearings of the LPA.
4. In the absence of the Chairman and Vice Chairman, the LPA shall select one of its members to preside over any scheduled meeting or hearing.
5. The County shall provide a Secretary to record the meetings and prepare the minutes of the LPA.

9.3.D. *Role of the County Attorney and the Growth Management Department.*

1. The County Attorney or designee shall serve as legal advisor to the LPA.
2. The Growth Management Department shall serve as the staff to the LPA.

9.3.E. *Quorum and necessary vote.* No business shall be transacted by the LPA without a quorum consisting of three members. All actions of the LPA require the affirmative vote of a majority of the members present.

9.3.F. *Meetings and hearings.*

1. The LPA shall meet at least once a month and at such other times as it may deem necessary.
2. Special meetings of the LPA may be called by the Chairman. Development applications may be considered by the LPA during a special meeting consistent with the notice requirements of section 10.6 of article 10, Development Review Procedures.
3. The LPA may continue a meeting if all business cannot be completed on that day. The date, time and location of the meeting's resumption shall be stated by the Chairman at the time of the continuance.
4. The LPA may continue a public hearing on a development application consistent with the requirements of section 10.7 of article 10, Development Review Procedures.
5. In the event that less than a quorum is present at the beginning of a scheduled meeting or hearing, the proceeding shall be rescheduled. consistent with the notice requirements of section 10.6 of article 10, Development Review Procedures.

9.3.G. *Ex parte communications.* Members of the LPA shall comply with the provisions of section 1.11 of the Code of Laws and Ordinances regarding ex parte communications when a development application is considered during a quasi-judicial proceeding.

9.3.H. *Voting conflicts.* Members of the LPA shall comply with the provisions of F.S. § 112.3143, regarding voting conflicts.

9.3.I. *Financial disclosure.* Members of the LPA shall comply with the provisions of F.S. § 112.3145, regarding financial disclosure.

(Ord. No. 612, pt. I, 5-14-2002)

Sec. 9.4. Reserved.

Editor's note— Part 1 of Ord. No. 752, adopted June 5, 2007, deleted § 9.4, which pertained to the development review committee, and derived from Ord. No. 612, adopted May 14, 2002.

Sec. 9.5. Board of Zoning Adjustment.

9.5.A. *Powers and duties.* The Board of Zoning Adjustment (BOZA) established pursuant to chapter 23, Code of Laws and Ordinances of Martin County, Florida, and in existence prior to the effective date of article 9, LDR, shall become the BOZA pursuant to the provisions of this article. Nothing contained herein shall affect the validity of any previous action of the BOZA under chapter 23. The powers and duties of the BOZA include, but are not limited to, the following:

1. To grant variances from the dimensional requirements of the following provisions:
   a. Article 3, Zoning Districts, Table 3.12.1 Development Standards as to minimum lot area, minimum lot width and maximum height; provided however that pursuant to section 4.5.A.2.c. of the Comprehensive Plan, no variance shall be granted authorizing a height in excess of four stories or 40 feet.
   b. Article 3, Zoning Districts, Table 3.12.2 Structure Setbacks.

c. Article 3, Zoning Districts, division 5, Planned Unit Developments, section 3.242., only as to the encroachment of an existing structure into a required setback.

d. Article 3, Zoning Districts, division 7, Category "C" Zoning District Standards as to building site area regulations; front, rear and side yard requirements; required lot area and width; and minimum floor area.

e. Article 4, division 1, Wetlands and Shoreline Protection, section 4.3.A.9., and section 4.5.B.4. as to compliance with structure setbacks to protect existing view corridors on adjacent waterfront properties.

f. Article 4, division 1, Barrier Island and Sea Turtle Protection, section 4.106.D., setback requirements.

2. To adopt rules of procedure not inconsistent with the provisions of the LDR.

3. To approve eminent domain waivers pursuant to sections 8.5. and 8.6., LDR.

4. To approve variances from the provision of chapter 67, article 10, Noise, General Ordinances, Martin County pursuant to section 67.308, General Ordinances, Martin County Code.

9.5.B. *Membership: appointment, qualifications, terms, and removal.*

1. The BOZA shall be composed of seven members appointed by the Board of County Commissioners. Members shall serve without compensation, but may receive actual and necessary expenses incurred in the performance of their official duties.

2. One member of the BOZA shall be appointed from each county commission district. Prior to the appointment, the member shall have been a registered voter in the district for at least one year. The term of office of the member shall coincide with the term of office of the County Commissioner representing the district from which the member was appointed. The member's term of office shall terminate earlier if the member ceases to be a registered voter in the district from which the member was appointed. In addition, the member may be removed from office at the pleasure of the Board of County Commissioners.

3. Two at-large members of the BOZA shall be appointed on a countywide basis. Prior to their appointment, the members shall have been a registered voter in Martin County for at least one year. One at large member shall be appointed for a term of one year beginning December 1, 2004. The second at-large member shall be appointed for a term of three years beginning December 1, 2004. Thereafter, all at-large appointments shall be for a term of four years terminating on November 30. The member's term of office shall terminate earlier if the member ceases to be a registered voter in Martin County. In addition, the member may be removed from office at the pleasure of the Board of County Commissioners.

9.5.C. *Officers.*

1. The BOZA shall elect a Chairman and Vice Chairman from among its members at the first regular meeting in December each year to serve a term of one year. The officers shall be eligible for reelection.

2. The Chairman shall preside at all meetings and hearings of the BOZA.

3. In the absence of the Chairman, the Vice Chairman shall preside at the meetings and hearings of the BOZA.

4. In the absence of the Chairman and Vice Chairman, the BOZA shall select one of its members to preside over any scheduled meeting or hearing.

5. The County shall provide a Secretary to record the meetings and prepare the minutes of the BOZA.

9.5.D. *Role of the Growth Management Department.* The Growth Management Department shall serve as the staff to the BOZA.

9.5.E. *Attorney.*

1. The Board of County Commissioners shall designate either: 1) the County Attorney or his designee; or 2) a private attorney who is a member of the Florida Bar to serve as the legal advisor to the BOZA.
2. The private attorney shall be entitled to reasonable compensation as determined by the Board of County Commissioners as well as to reimbursement for actual and necessary expenses incurred in the performance of duties. The private attorney shall serve at the pleasure of the Board of County Commissioners.

9.5.F. *Quorum and necessary vote.*

1. No business shall be transacted by the BOZA without a quorum consisting of four members.
2. All actions of the BOZA require the affirmative vote of a majority of the members present.

9.5.G. *Meetings and hearings.*

1. The BOZA shall meet at least once a month unless there are no variance applications pending. The BOZA may meet at such other times as it deems necessary.
2. Special meetings of the BOZA may be called by the Chairman consistent with the notice requirements of section 9.5.K.6.
3. The BOZA may continue a meeting if all business cannot be completed on that day. The date, time and location of the meeting's resumption shall be stated by the Chair at the time of the continuance.
4. In the event that less than a quorum is present at the beginning of a scheduled meeting, the proceeding shall be rescheduled consistent with the notice requirements of section 9.5.K.6.

9.5.H. *Ex parte communications.* Members of the BOZA shall comply with the provisions of section 1.11 of the Code of Laws and Ordinances regarding ex parte communications when a variance is considered during a quasi-judicial proceeding.

9.5.I. *Voting conflicts.* Members of the BOZA shall comply with the provisions of F.S. § 112.3143, regarding voting conflicts.

9.5.J. *Financial disclosure.* Members of the BOZA shall comply with the provisions of F.S. § 112.3145, regarding financial disclosure.

9.5.K. *Variance procedure.*

1. A variance application shall be filed with the Growth Management Director by the owner of the subject property or other person having a power of attorney from the owner to file the application and to act on behalf of the owner in reference to the variance application.
2. A variance application will be received for processing on any working day.
3. The applicant shall provide a copy of the recorded deed for the subject property, and shall certify any subsequent transfers of interest in the property.
4. The variance application shall be submitted in a form approved by the Growth Management Director and made available to the public. At a minimum, the variance application shall include information which demonstrates that:
   a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

b. Literal interpretation of the provisions of article 3 or article 4 would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.

c. The special conditions and circumstances do not result from the actions or inactions of the applicant.

d. Granting the variance requested will not confer on the applicant any special privilege that is denied to owners of other lands, structures, or buildings in the same district.

[5. Reserved.]

6. The BOZA shall consider the request for a variance at a public hearing advertised pursuant to the requirements of section 10.6.D. and E., Development Review Procedures, except that the distance requirement for notification by the applicant shall be to all owners of real property located within a distance of 300 feet of the boundaries of the affected property. For parcels which lie outside of or border the primary urban service district, the notification distance shall be increased to 600 feet.

The public hearing may be continued by the BOZA to a fixed date, time and place. After the conclusion of the public hearing, the BOZA shall approve, approve with modifications or deny the request for a variance by resolution which shall constitute the final action of the BOZA.

7. A variance shall not be granted unless the BOZA determines that:

a. The requirements of subsection 9.5.K.4 have been met by the applicant for the variance.

b. The variance is the minimum variance that will make possible the reasonable use of land, building or structure.

c. The granting of the variance will be in harmony with the general purpose and intent of the LDR and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

8. In granting any variance, the BOZA may prescribe appropriate conditions. Violation of such conditions shall result in the variance being deemed null and void.

9.5.L. *Administrative variance procedure.*

1. Administrative variances may be granted for the following types of situations:

a. The encroachment of an existing structure into a required setback, provided:

1. The requested variance is less than 12 inches or five percent, whichever is less.

2. The encroachment relates to an existing structure.

3. The circumstances do not result from the actions or inactions of the applicant.

4. Granting the variance requested will not confer on the applicant any special privilege that is denied to owners of other lands, structures, or buildings in the same district.

b. Improvements to existing sites, provided:

1. The requested variance is for an improvement that is more than ten years old and a building permit was properly obtained and approved, or the improvement is more than 20 years old but no building permit was obtained, and

2. The encroachment does not violate wetlands, wetland buffers, shoreline protection zones, upland preserve setbacks, or easements of any kind.

3. The encroachment does not exceed five feet.

4. The circumstances do not result from the actions or inactions of the applicant.

5. Granting the variance requested will not confer on the applicant any special privilege that is denied to owners of other lands, structures, or buildings in the same district.

2. A request for an administrative variance shall be filed with the Growth Management Director by the owner of the subject property or other person having a power of attorney from the owner to file the application and to act on behalf of the owner in reference to the administrative variance request. A request for an administrative variance will be received for processing on any working day.

3. The applicant shall provide a copy of the recorded deed for the subject property, and shall certify any subsequent transfers of interest in the property.

4. The request for an administrative variance shall be submitted in a form approved by the Growth Management Director and made available to the public. At a minimum, the request for an administrative variance shall include information which demonstrates that the requested variance meets the conditions listed in Section 9.5.L.1.

5. The County Administrator shall consider the request for an administrative variance and upon completion of the review, issue a written determination approving, approving with modifications or denying the request which shall constitute final action of the County Administrator. An applicant aggrieved by a decision of the County Administrator may file a variance application for consideration by the BOZA pursuant to subsection 9.5.K.

6. An administrative variance shall not be granted unless the County Administrator determines that:

   a. The requirements of section 9.5.K.4 above have been met by the applicant for the variance.

   b. The variance is the minimum variance that will make possible the reasonable use of land, building or structure.

   c. The granting of the variance will be in harmony with the general purpose and intent of the LDR and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

7. In granting an administrative variance, the County Administrator may prescribe appropriate conditions. Violation of such conditions shall result in the administrative variance being deemed null and void.

(Ord. No. 612, pt. I, 5-14-2002; Ord. No. 644, pt. 1, 8-10-2004; Ord. No. 818, pt. 7, 3-17-2009; Ord. No. 821, pt. 3, 4-7-2009; Ord. No. 859, pt. 1, 3-16-2010; Ord. No. 904, pt. 1, 1-10-2012; Ord. No. 991, pt. 1, 1-26-2016; Ord. No. 1038, pt. 1, 11-14-2017)

Sec. 9.6. Code Enforcement Board.

The Code Enforcement Board, as established in chapter 1, article IV of the Code of Laws and Ordinances, shall have the power and duty to enforce the provisions of the LDR as provided in Chapter 1, article IV.

(Ord. No. 612, pt. I, 5-14-2002)

Sec. 9.7. Other regulations.

This article is intended only to identify those decision making and administrative bodies which have powers and duties established by the Martin County Land Development Regulations. The powers and

duties of decision making and administrative bodies established by the Martin County Comprehensive Growth Management Plan and related to the use and/or development of land within the unincorporated area of Martin County are not set forth in this article.

(Ord. No. 612, pt. I, 5-14-2002)

Article 10 DEVELOPMENT REVIEW PROCEDURES [1]

Sec. 10.1. General.

10.1.A. *Purpose and intent.* Martin County shall manage growth and development in a fiscally efficient manner which is consistent with the Land Development Regulations and Comprehensive Growth Management Plan. This article shall provide development review procedures which implement the goals, objectives and policies contained in the Martin County Comprehensive Growth Management Plan.

10.1.B. *Glossary.* For purposes of this article, the following words, terms and phrases shall have the meanings set forth below:

1. *Active developments* means projects with current development orders issued pursuant to F.S. ch. 380 (Developments of Regional Impacts), projects vested under section 1.2 of this Plan, and projects granted a local development order where the development process has commenced and is continuing in good faith.

2. *Active residential development* means a residential development that has final site plan approval and is meeting all requirements of the development order, including the timetable.

3. *Change of use* means any change:

a. From one permitted use category, as set forth in article 3, Zoning Districts, to another permitted use category, as set forth in article 3, Zoning Districts; or

b. That increases the demand for parking; or

c. That creates additional impervious area; or

d. That generates more than 105 percent of the number of daily traffic trips or more than 15 peak hour traffic trips.

4. *Code* means the General Ordinances of Martin County, Florida.

5. *County Administrator* means the County Administrator of Martin County, or his/her designee.

6. *County Attorney* means the County Attorney of Martin County, or his/her designee.

7. *Decision-maker* means entity having final approval of a development order as specified in section 10.1.D.

8. *Development* means the carrying out of any building activity, mining operation, the making of any material change in the redevelopment or modification of an existing use or appearance of any structure or land, which creates additional impacts or the dividing of land into three or more lots, tracts or parcels, including planned unit developments and acknowledging all exceptions to subdivisions.

9. *Development application* means a request for development approval submitted to the Growth Management Director pursuant to this article. An application to amend the official zoning map shall also be considered a development application. A development application within a CRA area means a request for development approval for land within one of the designated Community Redevelopment Agency areas within unincorporated Martin County.

10. *Green development* means a development that applies sustainable building construction and maintenance techniques and site standards to improve energy savings, water efficiency, reduce CO_2 emissions, improve environmental quality, and encourage sustainable stewardship of resources as defined by organizations dedicated to defining green development standards, such as but not limited to the Florida Green Building Coalition, Inc. (FGBC); the United States Green Building Council (USGBC); or other recognized programs.

11. *Growth Management Director* means the director of the Martin County Growth Management Department or his/her designee.

12. *LDR* means the Martin County Land Development Regulations.

13. *Minor change* as used in section 10.14.C.4. means that the change does not require an adjustment to other aspects of the site plan, such as landscape buffers, preserve areas, building footprints, stormwater areas; or warrants a change in any federal, state or local permit.

14. *Plan* means the Martin County Comprehensive Growth Management Plan.

15. *Planned unit development* means a unified development that is planned, approved and controlled according to provisions of a binding written document negotiated between the developer and the County as a special PUD zoning district and approved at public hearing.

16. *Public access to environmentally sensitive land* means the ability to enter and make use of the site.

17. Special exception means a use that was approved on a specific site by the Board of County Commissioners between July 17, 1973, and December 31, 1995 at an advertised public hearing in accordance with section 33-30, or section 35-5.8, Martin County Code.

18. Targeted businesses means those uses as described on the State of Florida Targeted Industries List as produced and as updated by Enterprise Florida, Inc., and/or other State of Florida designated entity for economic development. Targeted businesses typically include:

manufacturing facilities, finance and insurance services, wholesale trades, information industries, professional, scientific and technical services, management services, and administrative and support services.

19. Termination of an application means the application has been deemed null and void. No further processing of the application shall occur.

10.1.C. *Development order, building permit and certificate of occupancy required.*

1. *Development orders.* No development shall occur except pursuant to a development order issued in compliance with this article. A development order is the granting, with or without conditions, of a permit to carry out development. A development order is determined to be an act of Martin County in the furtherance of its power to plan and regulate the physical development of the county consistent with the goals, objectives and policies of the Comprehensive Plan. Where a proposed development is exempt from the development review procedures of this article pursuant to section 10.1.E.2, the applicant shall be required to demonstrate compliance with the Comprehensive Plan, the Code and the LDR prior to issuance of a building permit or other applicable Martin County permit.

2. *Building permits.* In addition to the requirements set forth in chapter 21 of the Code with respect to the issuance of building permits, the Building Official may refuse to issue building permits involving development if the Growth Management Director, County Engineer, Utilities and Solid Waste Director, Fire Prevention Chief (Fire Marshal), or the Director of the Environmental Division of the Martin County Public Health Unit has determined that the application for such development fails to demonstrate compliance with the Comprehensive Plan, the LDR or the General Code, including any associated conditions of approval in a development order.

3. *Certificates of occupancy.*

a. *Requirements for issuance.* In addition to the requirements set forth in chapter 21 of the Code with respect to the issuance of certificates of occupancy, the Building Official shall not issue a certificate of occupancy if the Growth Management Director, County Engineer, Utilities and Solid Waste Director, Fire Prevention Chief (Fire Marshal), or the Director of the Environmental Division of the Martin County Public Health Unit has determined that the such development fails to demonstrate compliance with the Comprehensive Plan, the LDR or the General Code, including any associated conditions of approval in a development order.

b. *Temporary certificate of occupancy.*

1) In lieu of completing all required site improvements, such as, but not limited to, sidewalks, landscaping, and nonessential utilities, the developer may apply to the Board of County Commissioners for a temporary certificate of occupancy by providing an agreement for the completion of the required improvements. The agreement shall be accompanied by a cash, surety or collateral bond. The form and substance of the agreement shall be as approved by the County Attorney and the amount of the bond shall be 110 percent of the cost of completing the required improvements as certified by an engineer licensed in the State of Florida and approved by the County Engineer.

2) A temporary certificate of occupancy shall be provided only if all required improvements will be completed within 90 days of the date of the agreement.

3) The temporary occupancy may not be granted for completion of any structural, electrical, plumbing or mechanical components in buildings nor for the provision of potable water, wastewater treatment, fire prevention or extinguishment facilities or drainage facilities.

10.1.D. *General description of the development review process.* The following table indicates the formal decision-making process required for each type of application governed by this article. Where any

difference may exist between the information provided in the table and the text of these regulations, the text shall prevail.

TYPE OF DEVELOPMENT APPLICATION	County Administrator	LPA	BCC
Administrative Amendment	R AND F		
Minor Development, master site plan	R AND F		
Minor Development, final site plan	R AND F		
Major Development, master site plan	R	R	F
Major Development, final site plan	R		F
Major Development, final site plan for applications which have not received master site plan approval as per section 10.4.A.	R	R	F
PUD Zoning Agreement	R	R	F
Development Agreement	R	R	F
Plat or Vacation of Plat	R		F
LDR Amendment	R	R	F
Zoning Map Change	R	R	F
Vested Rights Determination	R	R	F
Development of Regional Impact	R	R	F

R = Review and recommendation

F = Final action

10.1.E. *Applicability.*

1. The provisions of this article shall apply to all development except as specified in paragraph 2., below.
2. The following shall be exempt from sections 10.2 through 10.7, 10.9, and 10.11 through 10.14 of this article:
   a. The construction of one single-family residential dwelling, including any accessory structures, on a vacant, lawfully established lot.
   b. The construction of one duplex dwelling, including any accessory structures, on a vacant, lawfully established lot.
   c. Development associated with a bona fide agricultural use. For purposes of this section, bona fide agricultural use shall be as set forth in article 4, section 4.8, Excavation, Filling and Mining.
   d. Public works projects constructed within public rights-of-way.
   e. Public stormwater management projects approved or funded by the Board of County Commissioners and projects associated with the Indian River Lagoon South Project.
   f. Development activity on existing, previously approved developments for the sole purpose of complying with F.S. ch. 553, pt. II, Accessibility by Handicapped Persons.
   g. The addition of landscaping on previously approved development sites which is not required by the existing development order.
   h. The construction of signs.
   i. Construction activity associated with the connection of approved development to public utilities.
   j. The relocation of a historic resource within a Community Redevelopment Area. For purposes of this paragraph, "historic resource" shall be as defined in article 4, division 13 of the Land Development Regulations.
   k. Changes of use of within a lawfully established building, except when a biofuel facility is proposed.
   l. Construction associated with the installation of emergency electric power generators on previously approved development.
   m. The construction of uninhabitable accessory structures less than 300 square feet in size (i.e., dumper enclosures, sheds, etc.) on previously approved development sites.
   n. Changes to approved site plans and lawfully established uses provided such changes shall:
      1) Meet the requirements for a Certificate of Public Facilities Exemption pursuant to subsection 5.32.B.3.f., Land Development Regulations, Martin County Code;
      2) Not eliminate a development order condition of approval that is in force and effect at the time a change is proposed;
      3) Not necessitate the issuance of new state or federal permits or approvals; and
      4) Not involve a biofuel facility; and

5) Not reduce or eliminate any requirements of the Comprehensive Plan, the Land Development Regulations, or the Code.

o. Elective infrastructure improvements such as pervious paving, drainage, pedestrian access, pervious parking to an existing use at an existing intensity where the proposed improvements have been determined by the County Administrator to have minimal impact to surrounding properties and uses and comply with the requirements of the Comprehensive Plan, the Land Development Regulations, or the Code.

p. Vehicular or pedestrian interconnectivity between existing developments not to exceed 200 feet in length.

q. An addition to an existing building owned and operated by a not for profit homeowners or property owners association located within an existing residential community provided that the building addition is used exclusively for storage and does not exceed ten percent of the square footage of the existing building.

3. The provisions of section 10.1.E.2. shall be read in conjunction with section 10.14.C. If the proposed change would be ineligible for administrative approval pursuant to section 10.14.C.4. development shall not be exempt from compliance with sections 10.2 through 10.7, 10.9, and 10.11 through 10.14 of this article.

4. The provisions of section 10.1.E.2. shall not waive any requirement of the Comprehensive Plan, the Land Development Regulations, or the Code other than the procedures for development review set forth in sections 10.2 through 10.7, 10.9, and 10.11 through 10.14. Compliance with all applicable requirements shall be demonstrated prior to the issuance of any development order, building permit, clearing permit or excavation and fill permit.

10.1.F. *Consistency required.* No development, including clearing, excavation of soil, or alteration of vegetation, shall be commenced or undertaken in Martin County that is inconsistent with the Comprehensive Plan, the LDR and the Code. It shall at all times be the applicant's responsibility to demonstrate consistency with the goals, objectives and policies of the Comprehensive Plan, the LDR and the Code.

10.1.G. *Expiration of a development order.* If a development order has been issued without a timetable of development, that development order shall be deemed to have expired one year after the effective date of the development order. Exempted from this requirement are all public projects included in an adopted Capital Improvements Plan (CIP).

10.1.H. *Effect of a development order.* The effect of the issuance of a development order is limited to the specific terms and conditions of the order. Nothing herein shall be interpreted as granting or implying any rights to any uses or development beyond the specific terms, conditions and limitations of the order.

(Ord. No. 510, pt. 4, § 10.1, 11-5-1996; Ord. No. 544, pt. 1, § 10.1, 3-2-1999; Ord. No. 568, pt. 3, 5-16-2000; Ord. No. 579, pt. 1, 9-26-2000; Ord. No. 587, pt. 1, § 10.1, 5-15-2001; Ord. No. 612, pt. II, 5-14-2002; Ord. No. 616, pt. 2, 6-24-2002; Ord. No. 696, pt. 3, 2-14-2006; Ord. No. 702, pt. 1, 6-13-2006; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 799, pt. 1, 7-1-2008; Ord. No. 817, pt. 1, 2-24-2009; Ord. No. 835, pt. 4, 11-17-2009; Ord. No. 859, pt. 2, 3-16-2010; Ord. No. 904, pt. 2, 1-10-2012; Ord. No. 939, pt. 1, 8-20-2013; Ord. No. 991, pt. 2, 1-26-2016; Ord. No. 1014, pt. 6, 12-6-2016; Ord. No. 1038, pt. 1, 11-14-2017)

Sec. 10.2. Application procedures.

10.2.A. *Preapplication meeting.*

1. *In general.* A preapplication meeting is recommended for all applications for new development.
2. A preapplication meeting shall be mandatory where the site proposed for development has one or more of the following conditions:
   a. Wetlands, either presently existing on site or which existed on the site in 1982 or at any time thereafter.
   b. Native upland vegetation, either presently existing on site or which was removed without permitting since February 1990.
   c. Any evidence of adverse impacts to wetlands or uplands on the subject property.
   d. Well fields on site or within a well field protection zone.
   e. Contamination from regulated substances previously stored on the site.
   f. Proposed storage of regulated substances.
   g. Proposed excavation for a water body on site.
   h. Location of the site within the coastal high hazard area.
   i. Location of the site within a designated environmentally sensitive habitat area.
   j. Presence of habitat for rare, endangered and threatened species and species of special concern.
   k. Location of the site within a designated special flood hazard area, as shown on the Martin County Flood Insurance Rate Maps.
   l. Location of the site within 250 feet of the drainage basin of the St. Lucie Estuary, the Indian River Lagoon and the Loxahatchee River.
3. A preapplication meeting shall also be mandatory where the proposed use involves any of the following:
   a. Sanitary landfill.
   b. Solid waste transfer station.
   c. Recycling facility.
   d. Composting facility.
   e. Chipping and mulching facility.
   f. Wastewater or water treatment facility.
   g. Public bathing place, including public swimming pools.
   h. Salvage or junk yard.
   i. Incinerator.
   j. Biohazardous waste processing.
   k. Electric power generating facility.
   l. Septic tank.
   m. Private water supply well.
   n. Storage facility for regulated hazardous substances.
   o. Any use that is applying for expedited review in accordance with section 10.12.
   p. Any truck stop/travel center.

q. Any fuel manufacturing facility, including biofuels.

r. A biofuel facility.

4. *Applications.* Applications for all preapplication meetings shall be made on forms provided by the County Administrator.

5. *Fee.* Payment of a fee established by resolution of the BCC shall be required.

6. *Scheduling.* The County Administrator shall schedule a preapplication meeting with the applicant and County staff that may be involved in the review of the application. The applicant shall be notified reasonably in advance of the meeting of the time, date and place by the County Administrator.

7. *Discussion of the issues.* At the preapplication meeting, the participants shall discuss issues that relate to the proposed development. Those issues may include, but shall not be limited to, the following:

   a. The application requirements and appropriate development review procedures for the proposal, and a tentative schedule of staff review;

   b. The probable consistency of the request with the Comprehensive Plan, the LDR and the Code, and the future land use and zoning designations on the property;

   c. The relationship and compatibility between the proposed development and surrounding land uses;

   d. The physical characteristics of the site proposed for a development, including, but not limited to, environmentally sensitive areas, wetlands, uplands, floodplain, and existing roads, utilities, historical resources, and stormwater management facilities;

   e. Wildlife protection, including protection for rare, endangered and threatened species and species of special concern;

   f. The characteristics of the site of the development, including internal circulation, utilities, other public and private facilities such as recreation areas, and common open areas;

   g. The connections to existing facilities, i.e., roadways, water and sewer lines, and the status of capacity of public facilities to serve the anticipated population growth or impacts of future or proposed development, including water, sewer, solid waste, stormwater facilities, roads, parks, public safety, and mass transit; and

   h. The applicability of F.S. § 380.06 regulating developments of regional impact, to the proposed development.

   i. The applicability of County monitoring requirements of residential development to the proposed project.

8. *Conclusions.* The preapplication meetings are intended to provide the applicant with the opportunity to confer with appropriate County staff prior to submitting a formal application. Failure to identify any requirement or procedure at a preapplication meeting shall neither relieve the applicant of complying with the requirement or procedure nor constitute a waiver of the requirement or procedure. The information provided at the preapplication meeting is intended to guide the applicant and in no event is to be considered binding on staff, the BCC, or the applicant.

10.2.B. *Application submittal for development approval.* Applications for development approval shall comply with the following described procedures:

1. *Initiation.* A development application shall be filed with the County Administrator by the owner or other person having a power of attorney from the owner to make the application.

2. *Acceptance of the application.* A development application will be received for processing on any working day.

3. *Verification of property ownership.* The documents required below are required prior to an application being determined complete. After the application is determined to be complete, the applicant has a continuing obligation to provide revised documents to reflect any changes to the information provided that may occur before and as of the date of the final public hearing or final action on the application.

   a. Proof of ownership must be provided for any application for any type of development order. The applicant shall provide a copy of the recorded deed for the subject property, and shall certify any subsequent transfers of interests in the property. If the applicant is not the owner of record, the applicant is required to report its interest in the subject property.

   b. The applicant must disclose the names and addresses of each and every person or entity with any legal or equitable interest in the property of the proposed development, including partners, members, trustees, and stockholders and every person or entity having more than a five percent interest in the property or proposed development.

   c. The requirement found in section 10.2.b.3.b. does not apply to:

      (i) Interests held under a publicly traded company; or

      (ii) Individual members of a homeowners or property owners association, when association property is the subject of the proposed amendment; or

      (iii) Minors, defined as any person who has not attained the age of 18; or

      (iv) Mortgagees.

   d. The applicant must list all other applications for which they have an interest as defined in subsections b. and c. above that is currently pending before Martin County. The list shall include any development applications, waiver applications, road opening applications, and lien reduction requests.

   e. Any development order, including applications for planned unit developments which was found to be complete based on false or incomplete disclosure will be subject to the cessation of processing of the application.

4. *Evidence of agent's authority to act.* An agent shall provide an executed and recordable power of attorney to act on behalf of the owner in making the application.

5. *Other application contents.* Unless otherwise specified in the LDR, an application shall be submitted in a form approved by the County Administrator and made available to the public. At a minimum, it shall include sufficiently detailed and documented information for staff to make the required findings of compatibility with adjacent land uses and consistency with the Comprehensive Plan, the LDR, and the Code.

6. *Fees.* Each application shall be accompanied by an application fee and a completeness determination fee as established by resolution of the BCC.

7. *Digital submissions.* Electronic submission of applications is strongly encouraged. Each application that is not submitted electronically shall be accompanied by an application scanning fee as established by resolution of the BCC.

10.2.C. *Application completeness determination.*

1. *Completeness timeframe.* Within seven working days of the validated receipt of an application, the County Administrator shall determine if the application is complete.

2. *Incomplete application.* If the County Administrator determines the application is not complete for processing, the applicant shall be provided with a written record of the application

deficiencies. Appeal of this determination shall be to the Board of County Commissioners as provided in section 10.10. Incomplete applications, along with the application fee shall be returned to the applicant thereby terminating that particular application. The completeness review fee shall be retained. If the applicant elects to submit another application, the application shall be accompanied by an application fee and completeness determination fee pursuant to section 10.2.B.6.

3. *Complete application.* A determination of completeness shall not be interpreted as a determination of compliance with the requirements of the Comprehensive Plan, the LDR or the Code. When the application is determined to be complete, the County Administrator shall notify the applicant in writing that the application is complete and is being reviewed pursuant to the procedures and standards of this article.

4. *Withdrawal of the application.* An applicant, or the duly authorized agent, may withdraw an application at any time by providing a written request to the County Administrator. Such a withdrawal shall terminate that particular application.

10.2.D. *Review and analysis.*

1. The County Administrator shall complete a review of applications determined to be complete and prepare a report within the time periods provided in the following table:

MAXIMUM REVIEW TIME FOR TYPE OF APPLICATION

Application Type	County Administrator Review and Report
DRI development application (pursuant to F.S. § 380.06, as amended)	F.S. ch. 380
Major development, master or final site plan	60 days
Minor development, master or final site plan	45 days
Plat/replat	45 days
Affordable/workforce housing application	15 working days
Development application within CRA areas	15 working days
Application for a green development	15 working days
Small scale industrial development application	15 working days
Targeted businesses	15 working days
Public access to environmentally sensitive land	15 working days

Amendment of the official zoning map	30 days
Administrative amendment	15 working days
Development agreement	60 days
Vested rights determination	60 days
Text amendment to the LDR	60 days
Revocation of a development order	30 days

Note: Except for affordable/workforce, small scale industrial and targeted business applications, the time periods set forth above shall be as set forth in section 1.5.B., Land Development Regulations, Martin County Code. In the event of multiple applications being expedited, applications that meet the definition of targeted businesses will be prioritized first.

2. The County Administrator may impose fees for the review of applications by consultants or experts who conduct code compliance review to assist staff in the review of an application. The costs of that review shall be borne by the applicant and shall be limited to specifically identified reasonable expenses incurred in the review.

3. The County Administrator shall prepare a staff report which addresses all requirements of the Comprehensive Plan, the LDR and the Code within the time period set forth in section 10.2.D.1., unless an extension is mutually agreed to by the applicant and the County Administrator. The County Administrator shall expedite the review of affordable/workforce housing applications, development applications within CRA areas, green developments, small-scale industrial applications targeted business applications, and public access applications to the fullest extent permitted by law and shall direct other reviewing departments/agencies that the application is required to receive expedited staff review. Expedited applications are to be reviewed prior to other applications filed on the same date or in the same application period, except for other expedited applications, in accordance with the timeframes established in section 10.2.D.

4. Planned Unit Developments and Developments of Regional Impact shall be allowed three resubmittals without payment of a resubmittal fee. All other development applications noted in section 10.1.D. are allowed a single resubmittal of application materials, without payment of additional review fees. Up to two additional submittals (hereinafter referred to as "elective submittals") shall be allowed with payment of a resubmittal fee. The resubmittal fee for elective submittals shall be established by resolution, taking into consideration the nonsubstantial or substantial nature of the elective resubmittal and the magnitude of the review required of any revised portion of the application. The applicant shall have 90 days from the issuance date of the report to resubmit. The County Administrator may grant one extension not to exceed 60 days upon a showing of good cause.

   If the applicant fails to meet the resubmittal deadline including any approved extension period, the application shall be terminated, unless the applicant gives notice that an elective resubmittal

will be made. The elective resubmittal shall be made within 90 days from the date the prior resubmittal was due, and shall include the resubmittal fee established by resolution. All traffic studies, surveys and other documents that have expired must be updated by the applicant.

The applicant's resubmittal may include a request that disputed items be transmitted to the final decision maker for resolution.

5. The County Administrator shall review the resubmittal and issue a report within the time period set forth in section 10.2.D.1.

   a. If the report does not identify any unresolved or outstanding issues, the application shall continue through the review process.

   b. If the report identifies unresolved or outstanding issues, the application shall be terminated unless the unresolved or outstanding issues have been identified for the first time in this report, the unresolved or outstanding issues are solely related to the need for an applicable local, state or federal permit, the applicant requests that unresolved issues be transmitted to the final decision maker for resolution, or applicant chooses to make an elective resubmittal with a resubmittal fee.

   c. In addition to the foregoing, if the report indicates that the application is substantially complete with only minor outstanding technical issues or issues identified for the first time in the report, the applicant may correct the application which may then be scheduled for a joint workshop meeting, public meeting or public hearing as required. One resubmittal of the documents to correct such issues may be accepted without payment of additional review fees. Examples of minor technical issues include, but are not limited to: minor corrections on the site plan or plat; correction of the digital disc; or submission of corrected documents required by one of the reviewing departments. The County Administrator shall determine whether an item is a minor technical issue. Resubmittal of the corrected documents is required within 90 days. The County Administrator may grant a one-time extension not to exceed 60 days.

   d. If the report identifies other processes that must be completed prior to the issuance of the development order, the required period for response by the applicant shall be automatically extended until the other processes are completed, not to extend beyond one year from the date of the report. Examples of other processes include, but are not limited to: issuance of permits from another reviewing agency; processing of land use or rezoning applications; completion of an environmental waiver process, variance application pending Board of Zoning Adjustment action; completion of a water/wastewater agreement; completion of an alternative compliance request; completion of the land donation process and judicial proceedings.

   e. If an application is permitted an extension under section 10.2.D.5.b., c., or d., then the applicant shall, if applicable, be required to update documents that have time frames established by other sections of the Land Development Regulations prior to approval of the project.

   f. At any time, the applicant may request that the County Administrator forward the application to the decision-maker for review and final action. Upon such a request by the applicant, the applicant shall not be entitled to any postponements or continuances, unless the applicant can show extraordinary circumstances as provided by law for the granting of a postponement or continuance.

   g. If the report is not issued within the time period set forth in section 10.2.D.3. and the applicant does not agree to an extension of the review time, the development application, staff review documents and report at its current stage of completion, with an explanation of the reason(s) for the delay, shall be forwarded to the decision-maker for review and final action pursuant to all requirements of this article. This provision shall not be construed to

allow any application to be approved which is not in compliance with the Comprehensive Plan, the LDR or the Code.

5. *Misrepresentation.* If evidence of misrepresentation, fraud, deceit, a deliberate error, or omission is discovered during the application review, the review of the application shall be terminated and the application shall be remanded for a determination of completeness.

6. If an applicant does not respond to the report, or request an extension of time within the time periods specified elsewhere in the article, the application shall be deemed null and void.

7. When reviewing an application for a development permit that is certified by a professional listed in F.S. § 403.0877, the County shall not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the County, at the applicant's request, shall proceed to process the application for approval or denial.

8. The County Administrator shall establish written policies and procedures to implement the provisions of section 10.2.

(Ord. No. 510, pt. 4, § 10.2, 11-5-1996; Ord. No. 544, pt. 1, § 10.2, 3-2-1999; Ord. No. 587, pt. 1, § 10.2, 5-15-2001; Ord. No. 616, pt. 2, 6-24-2002; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 798, pt. 1, 6-10-2008; Ord. No. 799, pts. 2, 3, 7-1-2008; Ord. No. 817, pt. 2, 2-24-2009; Ord. No. 859, pt. 3, 3-16-2010; Ord. No. 904, pt. 2, 1-10-2012; Ord. No. 939, pt. 1, 8-20-2013; Ord. No. 991, pt. 2, 1-26-2016; Ord. No. 1014, pt. 6, 12-6-2016; Ord. No. 1039, pt. 1, 11-14-2017)

Sec. 10.3. County Administrator functions.

10.3.A. *Review and action by the County Administrator.*

1. The County Administrator shall review all applications, as specified in section 10.2.D.1. and provide recommendations to the Board of County Commissioners on those items forwarded to the Local Planning Agency and the Board of County Commissioners as provided in section 10.1.D.

2. The County Administrator shall take final action on minor development applications:

   a. Upon completion of the review of minor developments, the County Administrator shall issue a written development order approving or approving with modifications, the application, which shall constitute final action of the County Administrator. Applications which are not consistent with the Comprehensive Plan, the LDR and the Code shall not be approved by the County Administrator.

   b. Within five working days of issuing the development order, the County Administrator shall cause to be published a notice of issuance of development order in the legal advertisement section of a newspaper of general circulation in Martin County, as defined in F.S. ch. 50.

   c. Appeals of the County Administrator's final action shall be to the BCC as provided in section 10.10.

(Ord. No. 510, pt. 4, § 10.3, 11-5-1996; Ord. No. 544, pt. 1, § 10.3, 3-2-1999; Ord. No. 587, pt. 1, § 10.3, 5-15-2001; Ord. No. 616, pt. 2, 6-24-2002; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 991, pt. 2, 1-26-2016)

Sec. 10.4. Functions of the Local Planning Agency (LPA).

10.4.A. *Review and action by the LPA.*

1. The following applications shall be reviewed by the LPA at a public hearing for compliance with the Comprehensive Plan, the LDR and the Code: major development master site plans, major development final site plans for projects which have not received master site plan approval; PUD zoning agreements, amendments to the official zoning map, vested rights determinations and developments of regional impact. Applications which are not consistent with the Comprehensive Plan, the LDR and the Code shall not be recommended for approval by the LPA.
2. Following a review of an application, the application may be scheduled at the next available meeting of the LPA consistent with the notice requirements of section 10.6. The LPA shall hold a public hearing and consider the application, the staff report, any applicant response and any public comment.
3. After the conclusion of the public hearing, the LPA shall recommend the application to the BCC for approval, for approval with modifications or for denial.
4. The LPA shall review proposed revisions to the LDR for consistency with the Comprehensive Plan at a public hearing. The LPA shall consider the proposed LDR revision, the staff report and any public comments. After the conclusion of the public hearing, the LPA shall recommend the proposed revision to the BCC for approval, for approval with modifications, or for denial.

(Ord. No. 510, pt. 4, § 10.4, 11-5-1996; Ord. No. 544, pt. 1, § 10.4, 3-2-1999; Ord. No. 587, pt. 1, § 10.4, 5-15-2001; Ord. No. 612, pt. II, 5-14-2002; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 821, pt. 4, 4-7-2009; Ord. No. 991, pt. 2, 1-26-2016)

Sec. 10.5. Final action by the Board of County Commissioners.

10.5.A. *Final action on development applications.*

1. The BCC shall consider the following matters at a public hearing: major development master site plans, major development final site plans for projects which have not received master site plan approval; PUD zoning agreements, development agreements, amendments to the official zoning map, vested rights determinations and developments of regional impact. At the conclusion of the public hearing, the BCC shall approve, approve with modifications or deny the development application, which shall constitute the final action of the BCC. Applications which are not consistent with the Comprehensive Plan, the LDR and the Code shall not be approved.
2. The BCC shall consider the following matters at a public meeting: major development master site plan amendments, major development master site plan extensions to the development timetable, major development final site plans, major development final site plan amendments, major development final site plan extensions to development timetable, PUD zoning agreement amendments, development agreement amendments, plats, re-plats, and vacation of plats. For purposes of this paragraph, the public meeting procedures set forth in section 10.7.B. are not mandatory but rather are at the discretion of the BCC. After consideration of the development application, the BCC shall approve, approve with modifications or deny the application. Applications which are not consistent with the Comprehensive Plan, the LDR and the Code shall not be approved.
3. Any person adversely affected by the final action of the BCC may apply for judicial relief.

10.5.B. *Revisions to the LDR.*

1. Following review by the LPA, the BCC shall consider revisions to the LDR at a public hearing, pursuant to the provisions of F.S. ch. 125.
2. The BCC shall review proposed revisions to the LDR for consistency with the Comprehensive Plan.
3. After the public hearing, the BCC shall approve, modify and approve, or reject a proposed LDR revision.

10.5.C. *Termination of a PUD development approval.* The BCC may initiate termination of a breached PUD zoning agreement according to the following procedure:

1. *Notice of a public hearing.* At such time as the BCC becomes aware of the possible breach, it may schedule a public hearing, pursuant to section 10.6, on reconsideration of the development approval and its possible termination.
2. *Public hearing.* At the public hearing, the BCC shall review the conditions of the PUD zoning agreement, consider the evidence of noncompliance with the condition(s) of approval, and determine whether a breach has occurred. The BCC may allow the property owner an opportunity to demonstrate compliance with the county's conditions of approval.
3. *Change to future land use and zoning.* In the event that the BCC determines that a breach of the PUD zoning agreement has occurred and voids the development order, the BCC may initiate an amendment to the plan to cause the property to revert to its immediately preexisting future land use designation or the most appropriate designation and rezone the property to a consistent zoning district.
4. *Cessation of permitting.* Following the termination of a PUD development order, all further county permitting associated with the voided approval shall cease.
5. *Nonconforming uses.* Those portions of the improvements authorized by the now-voided PUD development order and constructed in conformity with any approved final site plan shall be nonconforming uses when in noncompliance with the restored underlying future land use and/or appropriate zoning designation.

(Ord. No. 510, pt. 4, § 10.5, 11-5-1996; Ord. No. 544, pt. 1, § 10.5, 3-2-1999; Ord. No. 587, pt. 1, § 10.5, 5-15-2001; Ord. No. 616, pt. 2, 6-24-2002; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 821, pt. 5, 4-7-2009; Ord. No. 904, pt. 2, 1-10-2012)

Sec. 10.6. Notice requirements.

10.6.A. *General.* Notice of all meetings and hearings of the LPA and BCC regarding development applications shall follow the notice requirements provided for in this section.

10.6.B. *Posting of signs.* Not more than ten days after a development application has been determined to be complete, the applicant shall post the property that is the subject of the application with a waterproof sign(s) entitled "Notice of Development Application" or "Notice of Zoning Change" as appropriate which describes the nature of the development request, the name of the project (if any), the telephone number where additional information may be obtained, and the County assigned project or application number.

1. The sign(s) shall have a uniform yellow background with letters in black. Lettering shall be at least two inches in height except as otherwise set forth in paragraph 3 below.
2. The sign(s) shall be double-faced and placed perpendicular to the street. The sign face and lettering shall be clearly visible by drivers and pedestrians traveling in either direction and should not be obstructed. Where the property abuts more than one roadway, at least one sign for each additional roadway shall be posted to satisfy this requirement. If the property does not

abut a public right-of-way, signs shall be placed at the nearest public right-of-way with an indication of the location of the subject property.

3. Signs facing minor arterial, major arterial or major collector streets shall be at least 12 square feet in area per face and the title of the sign (e.g. "Notice of Development Application" and the project or application number shall have letters at least eight inches in height. Signs facing all other streets shall be at least six square feet in area per face and the title and project application number shall be at least four inches in height.

4. Reasonable maintenance of the sign(s) by the applicant shall be required until the conclusion of the development review process to ensure that the required sign(s) remain legible. All posted signs shall be removed within ten days after the final action has been taken on the development application.

5. The applicant shall submit a notarized certification to the County Administrator within ten days following the posting stating that the sign(s) was posted according to and complies with the standards of these notice provisions. Failure of the applicant to submit a notarized certification shall toll the application review periods of section 10.2.D.3.

10.6.C. *Public meetings and agendas.* Notice of public meetings of the LPA and the BCC regarding development applications shall be published in a newspaper of general circulation in Martin County as defined in F.S. ch. 50 consistent with F.S. ch. 286. Agendas for public meetings shall be available no less than five calendar days prior to the scheduled meeting; however, amendments to the agenda may occur subsequent to that time.

10.6.D. *Newspaper advertisement.* Notice of public hearings regarding development applications shall be published at least 14 days prior to the date of the public hearing (seven calendar days if the application is being expedited pursuant to section 10.12) in the legal advertisement section of a newspaper of general circulation in Martin County, as defined in F.S. ch. 50 and consistent with the provisions of F.S. chs. 125, 163 and 286.

10.6.E. *Mailing of notice.*

1. *Notice of a public hearing.* The notice of a public hearing regarding development applications shall be mailed at least 14 calendar days (seven calendar days if the application is being expedited pursuant to section 10.12) prior to the public hearing by the applicant to all owners of real property located within a distance of 500 feet of the boundaries of the affected property. For development parcels which lie outside of or border the primary urban service district, the notification distance shall be increased to 1000 feet. In addition, notice shall be mailed to all homeowner associations, property owners associations, condominium associations and the owners of each condominium unit within the notice area.

2. *List of property owners.* A list of all owners to be notified pursuant to this section shall be provided by the applicant to the County Administrator no later than two weeks prior to the scheduled time of the public hearing. This list shall be based on the most recent tax roll available and must be certified as to its authenticity and completeness by an attorney at law or title company.

10.6.F. *Notice to adjacent governments.* Notice of all development applications relating to property which is within one mile of another general purpose government shall be mailed by the applicant to the appropriate entity within the jurisdiction at least 14 days prior to the public hearing.

10.6.G. *Required content of mailing and advertisement.*

1. Mailed notices required pursuant to this article shall be in a form provided by the County Administrator and shall include at a minimum:

   a. The date, time and location of the public hearing.

   b. A general location map depicting the subject property.

c. A description of the location of the subject property (i.e., a description of the location in relation to major streets or other landmarks in the vicinity).

d. The current and previous names of the project (as well as any commonly known name).

e. The address of the subject property, if available.

f. The name of the applicant.

g. A summary of the proposal under consideration, including density and number and type of residential units or the intensity and square footage of nonresidential uses when applicable.

h. The name of the governmental body conducting the hearing.

i. The notice shall advise that interested parties are invited to appear at the meeting and be heard regarding the proposal under consideration.

j. The notice shall specify where the original application and associated documents can be reviewed.

k. Pursuant to F.S. ch. 286, the notice shall state that if any person decides to appeal any decision made with respect to any matter considered at such hearing, a record of the proceedings may be needed, and in that event, such person may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. The notice shall also specify where the original application and associated documents can be reviewed.

2. Newspaper advertisements required pursuant to this article shall include all items listed in subsection G.1., except item b. For item c. above the description of the location shall include an address. If no address is assigned then the location shall be written in plain language that clearly describes the property location.

10.6.H. *Additional notice.* The following notices are separate and distinct from the required public notice requirements of this section. Failure of any person to receive the notice provided for in this paragraph will not violate public hearing requirements.

1. In addition to the mailed notices required by section 10.6.E.1., the applicant shall provide copies of all public hearings notices regarding a development application to any person who has made a request for such notice to the County Administrator.

2. A person who has made a request to the County Administrator shall receive notices of the agendas of all public meetings and hearings concerning development applications. An annual fee established by the BCC shall be required in order to defray the costs of administration, reproduction and mailing.

(Ord. No. 510, pt. 4, § 10.6, 11-5-1996; Ord. No. 544, pt. 1, § 10.6, 3-2-1999; Ord. No. 579, pt. 1, 9-26-2000; Ord. No. 587, pt. 1, § 10.6, 5-15-2001; Ord. No. 612, pt. II, 5-14-2002; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 817, pt. 3, 2-24-2009; Ord. No. 904, pt. 2, 1-10-2012; Ord. No. 939, pt. 1, 8-20-2013; Ord. No. 991, pt. 2, 1-26-2016)

Sec. 10.7. Procedures for public meetings and hearings.

10.7.A. *General procedures for hearings and meetings.*

1. *Scheduling.* A matter shall not be set for a public meeting or hearing until the review process has been completed.

2. *Submittal of written materials.* Any party or interested person must provide any documentation intended to be proferred as evidence, in support of, or in opposition to a development application, to the Growth Management Department at least seven business days before the scheduled public meeting or public hearing, or as otherwise required by the decision-maker. The requirement for submittal of written materials shall not apply to members of the public providing public comment.

3. *Availability of an application and staff report.* Any person may examine a development application and materials submitted in support of or in opposition to the application at the office of the Growth Management Department during normal business hours upon reasonable notice. Any person shall be entitled to obtain copies of the application and the submitted materials upon payment of a fee to cover the cost of duplication.

4. *Postponements and continuances.*

   a. The body conducting the public hearing or meeting may continue the public hearing or meeting to a fixed date, time and place.

   b. The applicant shall, upon request, be granted two postponements or continuances of a public meeting or hearing of the deliberating body.

5. *Reconsideration of action.* A motion to reconsider action taken on a development application may be made at the same meeting or the next meeting of the decision-making body held thereafter only by a member voting on the prevailing side of the original vote. For purposes of this paragraph, an absent member will be presumed to have voted on the prevailing side. If the question resulted in a tie vote, any member may move for reconsideration at the same meeting or at the next meeting of the full body. A motion to reconsider may be seconded by any member and must be approved by a majority of the quorum in attendance. The notice provisions set forth in section 10.6 must be complied with prior to the subsequent public hearing for reconsideration of any action or taking new action on the development application.

6. *Ex parte communication rules.*

   a. Communication between staff and the applicant or staff and members of the public regarding development applications shall be permitted and is encouraged.

   b. Communication with a member of a decision-making body regarding development applications shall be governed by the provisions of F.S. ch. 286 and section 1-11 of the Code.

7. *The record.*

   a. The body conducting the public meeting or hearing shall record the proceedings. A copy of the record may be acquired by any person upon application to the Commission Records Department and payment of a fee to cover the cost of duplication of the record.

   b. A transcript of the meeting, when and if available, the minutes of the meeting, all applications, exhibits, documents, written comments and other materials submitted in any proceeding before a decision-making body shall constitute the record.

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

8. *Written decision.*

   a. All actions, whether final actions or recommendations, shall include a summary of, or reference to, the pertinent record before the decision-making body and a statement clearly indicating the action taken by the decision-making body.

b. A copy of the written decision shall be mailed to the applicant and shall be available for review at the office of the County Administrator during normal business hours within a reasonable period of time following the decision.

c. The date of the action shall be the date the decision is made and not the date the written document evidencing the action is executed, transmitted, or received by the applicant.

d. When an application is denied, the County shall give written notice to the applicant. The notice shall include a citation to the applicable portions of an ordinance, rule, statute or other legal authority for the denial.

10.7.B. *Procedure for public meetings.* Decision-making bodies may adopt additional procedural rules for public meetings which are not inconsistent with the provisions of the LDR. Generally, the order of the proceedings at a public meeting regarding a development application shall be as follows:

1. The County Administrator shall present the staff report and recommendation.

2. The applicant may make a presentation, review the staff report and discuss any information in the application or report the applicant deems appropriate.

3. The decision-making body shall allow public comment regarding a development application.

4. Members of the decision-making body or staff may ask questions or respond to statements made by the applicant or the public at any time upon recognition by the chair.

5. After the conclusion of the public meeting, the decision-making body shall either make a recommendation to approve, approve with modifications or deny the development application or take final action on the development application pursuant to the requirements of this article.

10.7.C. *Procedure for public hearings.*

1. *Order of proceedings.* Generally, the order of proceedings at a public hearing regarding a development application shall be as follows:

a. The County Administrator shall present the staff report and recommendation.

b. The applicant shall submit proof of the required mailing of public hearing notices. The applicant may make a presentation, review the staff report and discuss any information in the application or report the applicant deems appropriate.

c. Members of the public shall be given an opportunity to speak and submit written comments and materials during the public hearing. Comments and submittals should be directed toward the standards applicable to the subject development application. The chair may limit irrelevant, immaterial or unduly repetitious comments subject to concurrence by the majority of the decision-making body. The applicant shall be given an opportunity to respond to any testimony presented or materials submitted by the public.

d. Members of the decision-making body or staff may ask questions or respond to statements made by the applicant or the public at any time during the public hearing upon recognition by the chair.

e. Upon the conclusion of public comments and a final opportunity for the applicant to address any additional comments presented, the chair shall close the public hearing.

f. After the conclusion of the public hearing, the decision-making body shall approve, approve with modifications or deny the application.

g. The submission of written materials prior to the public hearing must be in accordance with section 10.7.A.2 to afford members of the decision-making body sufficient time for review, in order to be included in the record.

2. Decision-making bodies may adopt additional procedural rules for public hearings which are not inconsistent with the provisions of the LDR.

3. *Prohibition on successive applications.* Whenever any application for a development permit is denied, an application for a development permit for all or for a part of the same land shall not be considered for a period of one year after the date of denial unless the subsequent application involves a development proposal that is materially different from the prior proposal or unless the person or a majority of the members of the decision-making body that made the final decision on the application determined that the prior denial was based on a material mistake of fact. For the purposes of this section, an application for a development permit shall be considered materially different if it involves a change in use, a change in intensity or density of use of 25 percent or more, or if changed circumstances justify the application as a matter of law. The person who made the final decision, or if the final decision was made in a public hearing, then the BCC shall resolve any question concerning the similarity of a successive application, whether a successive application is authorized under this section, or any other question that may develop under this section.

(Ord. No. 510, pt. 4, § 10.7, 11-5-1996; Ord. No. 544, pt. 1, § 10.7, 3-2-1999; Ord. No. 587, pt. 1, § 10.7, 5-15-2001; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 991, pt. 2, 1-26-2016; Ord. No. 1039, pt. 2, 11-14-2017)

Sec. 10.8. Suspension of development orders for failure to comply.

10.8.A. *Purpose and intent.* Development activity shall be in compliance with the development order at all times. Failure to comply with a development order or unauthorized development activity may result in the suspension of the current development order, and the cessation of county processing of all applications for development on the subject property and any associated phases or termination of the development order.

10.8.B. *Applicability.* This section shall apply to all development orders subject to the provisions of this article. Time limits and conditions of approval are subject to the requirements of this section, whether approved prior to or subsequent to the effective date of this section.

10.8.C. *Exemptions.* Development orders for public projects are exempted from the provisions of this section.

10.8.D. *Misrepresentation.* If there is evidence that an application for a development order was considered wherein there was misrepresentation, fraud, deceit, a deliberate error of omission, or a material omission that should have been disclosed by the applicant, the County shall initiate a rehearing to reconsider the development order. The County shall re-approve, approve with new conditions, or deny the development order at the rehearing based upon the standards in this article. Any development order, or planned unit development which was granted or approved based on false or incomplete disclosure of ownership will be presumed to have been fraudulently induced and will be deemed by the Martin County Board of County Commissioners to be void ab initio and set aside, repealed, or vacated.

10.8.E. *Processing a complaint of failure to comply with conditions of approval or time requirements of a development order.* Any person, including the BCC or any member of the BCC, may file a complaint with the County Administrator alleging that the time limitations or condition of approval of a development order have been violated, that unauthorized development has occurred or that misrepresentation, fraud, deceit, deliberate error of omission or a material omission that should have been disclosed by the applicant regarding information required in a development application has occurred. In the event that a complaint is filed, the following procedures shall apply:

1. *Investigation of a complaint of a violation.* The County Administrator shall cause an investigation of the complaint.

2. *Assessment report of the alleged violation.* The County Administrator shall prepare a report assessing the alleged violation. The report shall be issued as soon as possible but no later than 30 calendar days of the receipt of the complaint.

3. *Notification of Code violation.* When the evidence indicates that a violation of the Code of Ordinances has occurred, the proof and the report shall be forwarded by the County Administrator to the appropriate county enforcement official as soon as possible, but no later than five calendar days following the determination.

4. *Suspension of a development order.* The severity of an alleged violation determines whether a suspension of development activity is required.

   a. Proof of the violation of a provision of the Comprehensive Plan, the LDR or the Code governing protection and management of coastal resources, conservation of habitat and wildlife and open space, drainage and groundwater resources shall be sufficient to immediately suspend unauthorized development activity on the property that is the subject of a complaint.

   b. Proof of a violation affecting the public safety shall be sufficient to suspend unauthorized development activity.

   c. Proof of a violation of the timetable of development or a condition of approval, the impacts of which have not directly degraded natural resources or public health, safety and welfare, may subject a development order to suspension. Suspension of a development order may not be necessary if staff determines that an alleged violation of a condition of approval or the timetable of development can be altered, as provided for in section 10.14, so long as the alteration does not contradict a specific BCC-imposed condition of approval. Such a change or amendment shall not cause the development to be inconsistent with any Comprehensive Plan, LDR, or Code requirement.

5. *Suspension of development activity on the subject property.* In the event of a suspension of a development order, the following will occur:

   a. No new development order affecting the property shall be issued.

   b. A stop work order shall be issued for any development authorized by a county permit on the subject property. However, limited development may be allowed to secure the site. The stop work order shall remain in effect until a final determination is made on the alleged violation.

   c. The County Administrator shall notify the property owner by certified mail of the suspension within five calendar days of the date of the completed assessment report.

6. *Record notice.* Within ten calendar days following the completion of the assessment report that indicates a violation has occurred, the County Administrator shall cause a document to be filed with the Martin County Clerk of the Circuit Court that provides the following record notice:

   a. A condition of development has been violated or a time-certain activity has not proceeded as required or unauthorized development or misrepresentation has occurred; and

   b. A review of the project and the development order is being conducted pursuant to the terms of this section; and

   c. Until the review is completed and any violation is satisfactorily resolved, all development is suspended and no new development order for the subject property shall be issued by Martin County; and

   d. Such other information as may be reasonable and necessary to afford adequate record notice of the effect of this section on the rights of property owners.

7. *Remedy by filing a new application.* Suspension of development shall not preclude the property owner from filing a new application so long as a satisfactory restoration plan pursuant to section 10.8.H is included as part of the new application.

10.8.F. *County Administrator's actions.*

1. When the County Administrator determines that a violation of a development order has occurred, the County Administrator may:

   a. Alter the development order, pursuant to section 10.14; or

   b. Revoke a minor development order; or

   c. Determine that an amendment to a major development order is necessary and schedule the matter as a public hearing before the BCC at the next available meeting consistent with the notice provisions of section 10.6.

2. *Appeal.* An appeal of a final action of the County Administrator regarding a complaint filed under this section shall be to the BCC, as provided in section 10.10.

10.8.G. *BCC review and final action.*

1. *Public hearing.* The BCC shall consider a proposed amendment of a major development order to resolve a violation at a public hearing, noticed pursuant to section 10.6 and conducted according to the provisions of section 10.7.

2. *Findings.* After the conclusion of the public hearing the BCC shall find that:

   a. A violation of the development order has not occurred; or

   b. A violation of a condition of approval has occurred; or

   c. A violation of the approved timetable of development has occurred; or

   d. The matter should be referred to the Martin County Code Enforcement Board for review.

3. *BCC action.* The BCC shall take one or more of the following actions:

   a. Direct that the right to develop be restored;

   b. Grant by resolution a time extension for compliance with a condition of approval beyond the limitations for administrative time extensions provided for in section 10.14;

   c. Adopt a resolution imposing modified time limit or additional conditions or direct the property owner to initiate an application to modify or add conditions to bring the development into conformity with the Comprehensive Plan, the LDR, and the Code;

   d. Direct the code enforcement staff to investigate the alleged violation;

   e. Direct the denial or revocation of a building permit, the issuance of a stop work order, or the withholding of a certificate of occupancy;

   f. Adopt a resolution terminating the development approval of the major or other conditional use, as provided for in section 10.5.C.

4. *Time limit for the decision of the BCC.* The decision of the BCC shall be rendered within 60 calendar days of the date of the advertised public hearing, unless good cause is shown and made part of the record, or provided that the property owner has not requested a postponement of the matter.

5. If the BCC fails to act within the prescribed time period, except when a postponement has been granted, the processing of new development orders on the subject property shall resume without further delay. Reinstatement of the right to develop shall be filed, as provided for in this section.

6. *Appeals.* Any person adversely affected by the final action of the BCC may apply for judicial relief.

10.8.H. *Procedure for reinstating the right to develop property.*

1. Initially, further development of the subject property shall be limited to activities which restore the property to its physical state that existed prior to the violation compliance with the suspended order; and

2. *Restoration plan.* The property owner shall submit restoration plan which complies with the following requirements, unless a more stringent standard is required elsewhere in the Comprehensive Plan, the LDR or the Code:

   a. Identify the extent of the unauthorized development and the resulting physical change to the property; and

   b. In a development application, specify how, where, what, when, and the cost of restoring the property to a condition of compliance; and

   c. When necessary, require the creation of native upland habitat on site to replace that which was destroyed; and

   d. Provide a preserve area management plan; and

   e. Provide certification from a professional responsible for the preserve area management plan that the plan will assure continuation of the wetland or upland values and functions; and

   f. Include performance surety in the amount of 150 percent of the estimated cost of restoring the property to its condition of compliance. Release of the surety shall be in accordance with the applicable provisions of the LDR for specific corrective measures, or, in the absence of an applicable provision, the surety shall not be released until two years after the County Administrator acknowledges completion of the restoration.

3. *Reinstating the right to develop.* After a minimum of one-half of the restoration plan has been completed and has been found acceptable by the County Administrator, and the performance surety for the remainder of the plan has been provided to the County, the County Administrator shall rescind the suspension of the development order. The property owner shall have six months to complete the restoration. At the conclusion of the six-month period, if the restoration has not been completed and found acceptable by the County Administrator, then the County Administrator shall reinstate the development order suspension. The right to develop may be reinstated by the County Administrator by filing a second document with the Martin County Clerk of the Circuit Court indicating that the right to develop on the property has been restored, and such other information as may be reasonable and necessary to afford adequate record notice of this effect of this section on the rights of the property owner.

4. *Fee for reinstating the right to develop.* The record notice shall only be recorded upon payment of the applicable fees as established by resolution of the BCC. The record notice fee may be waived for the following reasons:

   a. It has been determined that a violation has not occurred;

   b. The property owner is a government agency; or

   c. The property owner is prevented from complying by a government-caused delay or by litigation that would prevent action by the property owner to bring the development order into compliance.

10.8.I. *Vested rights.* This section is not intended to restrict any vested rights, as provided for in section 10.16.

(Ord. No. 544, pt. 1, § 10.8, 3-2-1999; Ord. No. 587, pt. 1, § 10.8, 5-15-2001; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 991, pt. 2, 1-26-2016)

Sec. 10.9. Post-approval process.

10.9.A. *Submittal of required documents to obtain a development order.*

1. *Option One.* This option shall apply to applicants who submitted all required federal and state permits and approvals prior to the issuance of a development order by the County.

    a. *Timely submittal.* All required and executed documents, plans, and fees shall be submitted at one time to the County Administrator. Required documents for all approvals shall be submitted within 60 calendar days of approval of the project.

    b. *Outstanding financial obligations.* All outstanding financial obligations owed to the County, including, but not limited to, code enforcement fees, fines, and liens; demolition costs and liens; hauling fees and inspection fees shall be paid prior to the issuance of a development order by the County. For development applications located within any of the County's Community Redevelopment Areas all outstanding financial obligations owed to the County, including, but not limited to, code enforcement fees, fines, and liens; demolition costs and liens, hauling fees and inspection fees shall be paid prior to the issuance of any building permits by the County.

    c. *Construction or development activity.* No construction or development activity shall commence until all required documents and fees are received and approved.

    d. *Extension of time to submit required documents.* The applicant may request a 60-calendar-day extension of time to submit the required documents. The written request shall be directed to the County Administrator who may grant the extension and notify the applicant in writing of the new extended date. There shall be no extension of the time for paying the fees required by article 5, Adequate Public Facilities and Transportation Impact Analysis, of the LDR.

    e. *Untimely submittal of documents.* Failure to submit the required approved, executed documents, and plans by the post-approval deadlines shall render the previously granted project approval null and void. The applicant may obtain a second 60-calendar-day extension by paying an extension fee established by resolution. There shall be no extension of the time for paying the fees required by article 5, Adequate Public Facilities and Transportation Impact Analysis, of the LDR.

2. *Option Two.* This option shall apply to applicants who elected not to submit all required federal and state permits and approvals prior to the issuance of a development order by the County.

    a. *Timely submittal.* All required and executed documents, plans, and fees shall be submitted at one time to the County Administrator. Required documents for all approvals shall be submitted within 60 calendar days of approval of the project.

    b. *Outstanding financial obligations.* All outstanding financial obligations owed to the County, including, but not limited to, code enforcement fees, fines, and liens; demolition costs and liens; hauling fees and inspection fees shall be paid prior to the issuance of a development order by the County. For development applications located within any of the County's Community Redevelopment Areas all outstanding financial obligations owed to the County, including, but not limited to, code enforcement fees, fines, and liens; demolition costs and liens, hauling fees and inspection fees shall be paid prior to the issuance of any building permits by the County.

    c. *Submittal of required federal and state permits and approvals.* For all final site plan or revised final site plan applications all required federal and state permits and approvals shall

be submitted prior to the scheduling of an on-site pre-construction meeting by the County and prior to the commencement of construction or development activities authorized by the development order. If the federal or state permit or approval issued for the project is inconsistent with the approved final site plan or revised final site plan or other approved plans and documents the applicant shall apply for an amendment to the approved development order in accordance with the requirements of section 10.14, Amendments to approved development orders.

d. *Review of federal and state permits and approvals.* All required federal and state permits and approvals that are submitted to the County after a development order has been issued shall be reviewed for consistency with the County issued development order, including approved plans and documents.

e. *Consistency review process.* Within 15 working days of the validated receipt of all required federal and state permits and approvals the County Administrator shall determine if the permits and approvals are consistent with the County issued development order, including approved plans and documents. Payment is required of a fee established by the Board of County Commissioners by resolution for the consistency review. At the conclusion of the review process the applicant shall be notified if the pre-construction meeting can be scheduled or an amendment to the approved development order is required.

f. *Construction or development activity.* No construction or development activity shall commence until all required documents, federal and state permits and approvals, and fees are received and approved. If an amendment is required to a development order no permits for construction or development activity shall be issued until the amended development order has been approved.

g. *Extension of time to submit required documents.* The applicant may request a 60-calendar-day extension of time to submit the required documents. The written request shall be directed to the County Administrator who may grant the extension and notify the applicant in writing of the new extended date. There shall be no extension of the time for paying the fees required by article 5, Adequate Public Facilities and Transportation Impact Analysis, of the LDR.

h. *Untimely submittal of documents.* Failure to submit the required approved, executed documents, plans and federal and state permits and approvals by the post-approval deadlines shall render the previously granted project approval null and void. The applicant may obtain a second 60-calendar-day extension by paying an extension fee established by resolution. There shall be no extension of the time for paying the fees required by article 5, Adequate Public Facilities and Transportation Impact Analysis, of the LDR.

10.9.B. *Procedure for review and submittal of documents after approval.*

1. *Applicant's responsibility.* It is the applicant's responsibility to submit all required documents, listed in the Requirements List which will be mailed to the applicant when the project receives approval. Documents submitted must reflect the approval action and be executed correctly by the applicant.

2. *Responsibility of the County Administrator:*

   a. The County Administrator shall be responsible for review of submitted documents to ensure they are in the same form approved by the decision-making body.

   b. When the decision-making body has imposed conditions, the County Administrator shall disseminate these conditions to the appropriate county staff for implementation.

3. *Sufficiency review.* Upon submittal of the required approved, executed post-approval documents, the County has five working days to perform a sufficiency review of the documents. If the County Administrator determines the post-approval documents are incomplete for review,

the applicant is required to retrieve the entire packet and provide a resubmittal within 20 working days or 60 days from the date of approval of the development order, whichever occurs last. If the applicant fails to meet the resubmittal deadline, the previously granted project approval shall be deemed null and void.

4. *County Administrator review and recordation of documents.* When the documents submitted are found sufficient, the County Administrator shall initiate the review of the applicant's post-approval documents, including any conditions. The review staff will have ten working days to perform their review. If the application requires legal review, the legal staff will have twenty working days to perform their review. The response shall be one of the following:

   a. *A "finding of compliance."* Within five working days of the completion of the staff and legal staff review, the County Administrator will notify the applicant via letter of the successful completion of the post-approval review and the required recording fees. Upon payment of the recording fees, the County Administrator will obtain the necessary signatures and record the documents in the public records. Copies of the recorded documents will be provided to the applicant.

   b. *A "finding of noncompliance."* Within five working days of the completion of the staff and legal staff review, the County Administrator will notify the applicant by letter of the deficiencies and how they are to be resolved. The applicant will submit the items necessary to resolve the deficiencies to the County Administrator. If the applicant does not resubmit the items with all the deficiencies corrected within 20 working days or 60 days from approval of the development order, whichever occurs last, the previously granted project approval shall be deemed null and void. Upon receipt of the corrected items by the County Administrator, the review will follow the procedures set forth in sections 10.9.B.3. and B.4.

10.9.C. *Continuing compliance requirements.* A development order shall be updated to reflect subsequent changes and modifications while it remains valid and development has not been completed. In addition, the owner of the property shall comply with the following continuing compliance requirements:

1. Excluding subdivision single-lot sales of property that is included in a development order, notice of change of ownership, including but not limited to changes due to mortgage foreclosure and bankruptcy, shall be submitted to the County Administrator within 60 days of any change;

2. Unity of title shall be maintained by the owner of the property that is the subject of a development order until completion of the project, provided that ownership of a phase may be transferred upon final approval of that phase; and

3. Unity of control shall be maintained by the owner of property until the completion of the project as approved in the master site plan and any zoning agreement. The owner shall be liable for compliance with the terms of the development order until all authorized development has been completed, with all conditions and requirements satisfied, and the last certificate of occupancy has been issued.

(Ord. No. 510, pt. 4, § 10.9, 11-5-1996; Ord. No. 544, pt. 1, § 10.9, 3-2-1999; Ord. No. 587, pt. 1, § 10.9, 5-15-2001; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 817, pt. 4, 2-24-2009; Ord. No. 917, pt. 1, 8-21-2012)

Sec. 10.10. Appeal of final actions.

10.10.A. *Purpose and applicability.* This section provides for the administrative appeal of final actions of the County Administrator and county administrative officials regarding development applications. The filing of an administrative appeal under this section shall suspend the finality of the action being

appealed until the administrative appeal proceedings are concluded. Where a final action regarding a site plan has been appealed pursuant to this section, the BCC shall not approve a plat for the subject parcel of land until the appeal proceedings are concluded.

10.10.B. *Initiation of the appeal.*

1. *Filing.* Any person adversely affected by a final action of the County Administrator or a County administrative official shall file an appeal with the County Administrator prior to applying to the courts for judicial relief.

   a. *Adversely affected person* means any person who will suffer an adverse effect to an interest protected or furthered by the Comprehensive Plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services or environmental or natural resources.

   b. The alleged adverse effect may be shared in common with other members of the community at large, but shall exceed in degree the general interest in common good shared by all persons.

   c. *Person* means individuals, local governments, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

   d. It is the intent of this section that the term "adversely affected person" shall be broadly and liberally construed so as to effect the purpose of recognizing standing to the fullest extent.

2. *Timely application.* Any adversely affected person may appeal a final action of the County Administrator or any County administrative official by filing a notice of appeal with the County Administrator within 30 days of the date of final action. For the appeal of County Administrator final actions on minor developments, the time shall be calculated from the date the final action is taken and not from the date the written document evidencing the final action is executed and filed. The appeal of a final action of a County administrative official shall be filed within 30 days of the date the final action is taken on a development order which relies on the final action of the County administrative official. If the appellant is not the applicant, the appellant shall serve the applicant with a copy of the notice of appeal at the same time as the notice of appeal is filed with the County Administrator. Failure to timely file an appeal shall constitute a waiver of any right to an appeal.

3. *Completeness determination.* The County Administrator shall determine if the appeal is complete pursuant to section 10.10.C. within five working days of the receipt of the notice of appeal. An appellant may request additional time to submit the record provided that such a request is made prior to the expiration of time to file a notice of appeal and provided that such extension does not exceed 30 days in total. If the appeal is not complete, a written notice shall be provided to the appellant by the County Administrator specifying the deficiencies. The appellant shall have ten working days from the date of the written deficiency notice to file with the County Administrator the information necessary to address the deficiencies. Failure of the appellant to complete the application, as determined by the County Administrator, within the time period shall constitute a waiver of any right to appeal and the final action shall become effective.

10.10.C. *Requirements for a complete notice of appeal.* A notice of appeal shall include the following materials to be considered complete:

1. *Identification of appellant.* The name, address, and telephone number of the party on whose behalf the appeal is filed shall be stated in the notice.

2. *Identification of appellant's representative.* The name, address and telephone number of any person representing an appellant shall be stated in the notice.

3. *Authorization.* Evidence of the representative's authority to act on behalf of the appellant shall be provided.

4. *Description of the action.* A statement identifying the final action that the appellant is appealing, including the name of the decision-maker or decision-making body, the date of the decision, and applicable resolution number or file number shall be stated in the notice, or a copy of the final action shall be attached to the notice.

5. *Description of alleged error.* A statement describing the basis for the appeal, identifying the issues to be addressed, the applicable legal authorities or precedents and the relevant portions of the record.

6. *Relief.* A demand for the relief which the appellant seeks.

7. *Fee.* A nonrefundable fee in the amount established by resolution of the BCC shall be paid when the notice of appeal is filed to defray the actual cost of processing the appeal.

8. *Record.* Copies of all documents or exhibits upon which the appeal is based shall be attached to the notice, or may be clearly identified in the notice by date, title and author if the documents are already filed in the public records of Martin County.

10.10.D. *Conduct of the appeal.*

1. *Schedule.* The County Administrator shall convene an administrative review meeting to consider the appeal no more than ten working days after the appeal has been determined to be complete. Notice of the time and date of the meeting shall be provided to the appellant and to the applicant, if the applicant is not the appellant, at least five working days prior to the date of the meeting.

2. *Participants.* The participants in the administrative review meeting shall consist of the County Administrator, the appellant and/or the appellant's representative, and the County Attorney. In addition, the director of the department whose final action has been appealed shall be a participant. If the appellant is not the applicant, the applicant and/or the applicant's attorney may attend the meeting and shall be entitled to participate as an intervenor.

3. *Conduct of the administrative review meeting.* At the administrative review meeting, the County Administrator shall consider the record and provide the appellant, an applicant and the County with an opportunity to be heard.

4. *Scope of the hearing.* The County Administrator shall consider only those facts established at the time of the appealed final action and shall not consider new information or evidence.

5. *Written decision.* Within 15 working days after the conclusion of the administrative review meeting, the County Administrator shall issue a written decision which shall be provided to the appellant and the applicant, if the appellant is not the applicant.

6. *Appeal to the BCC.*

   a. Within ten working days of the issuance of the written decision of the County Administrator on an appeal, the appellant or the applicant may appeal the written decision to the BCC by filing a notice of appeal with the County Administrator. Failure to timely file an appeal shall constitute a waiver of any right to any appeal under this subsection.

   b. *Completeness.* A notice of appeal shall include the materials set forth in section 10.10.C. and shall also include a copy of the written decision of the County Administrator.

   c. *Conduct of the appeal.* An appeal of the decision of the County Administrator pursuant to this paragraph shall be conducted in the manner set forth in section 10.10.E.3.

10.10.E. *Appeal to the BCC.*

1. *Initiation of the appeal.* See section 10.10.B.

2. *Requirements for a complete notice of appeal.* See section 10.10.C.

3. *Conduct of the appeal.*

   a. *Schedule.* The BCC shall consider the appeal within 30 days after the notice of appeal has been filed. Notice of the time and date of the meeting shall be provided to the appellant and to the applicant, if the appellant is not the applicant, at least five working days prior to the date of the meeting.

   b. *Participants.* The participants in the appeal to the BCC shall consist of the appellant and/or the appellant's representative, the County Administrator and the County Attorney. In addition, the director of the department whose final action has been appealed shall be a participant. If the appellant is not the applicant, the applicant and/or the applicant's representative may attend the meeting and shall be entitled to participate as an intervenor.

   c. *Conduct of the administrative review meeting.* The BCC shall consider the record and provide the appellant, an applicant, and the County with an opportunity to be heard.

   d. *Scope.* The BCC shall consider only those facts established at the time of the original decision that is the subject of the appeal and shall not consider new information or evidence. The decision of the BCC shall be limited to determining whether the County administrative officials accorded procedural due process, observed the essential requirements of law, and made the final action under review based upon competent substantial evidence.

   e. *Decision.* At the conclusion of the meeting, the BCC shall render its decision by resolution, which shall be reduced to writing and a copy provided to the appellant and the applicant, if the appellant is not the applicant. When an application is denied, the County shall give written notice to the applicant. The notice shall include a citation to the applicable portions of the ordinance, rule, statute or other legal authorities for the denial.

(Ord. No. 510, pt. 4, § 10.10, 11-5-1996; Ord. No. 544, pt. 1, § 10.10, 3-2-1999; Ord. No. 579, pt. 1, 9-26-2000; Ord. No. 587, pt. 1, § 10.10, 5-15-2001; Ord. No. 752, pt. 2, 6-5-2007)

Sec. 10.11. Requirements for developments and plats.

10.11.A. *Purpose and intent.*

1. Site plans shall be required for minor and major development proposals in accordance with the provisions of this section in order to ensure that the proposed development complies with the requirements of the Comprehensive Plan, the LDR and the Code.

2. The primary objective in the creation of minor and major development classifications is to identify those uses and intensities that may generate a need for greater public participation and involvement. Minor development applications are deemed to have a lesser need for public participation while major development applications are deemed to have a greater need for public participation including review and action by the Local Planning Agency and the Board of County Commissioners at public meetings or public hearings as provided by this article.

10.11.B. *Classification of development.* [2]

1. Proposed developments shall be classified as either new developments or as an addition to existing development. Development proposed on undeveloped land shall be new development. Proposed additions to existing developments built pursuant to an approved site plan and proposed additions to development built prior to the requirements for site plan approval shall be classified as an addition to existing development.

2. Proposed development shall be further classified as minor or major as provided in the following tables. The determination whether a proposed revised site plan constitutes minor or major development shall be based on the quantity of rooms, units, acres, or square feet in the existing development plus the quantity of development proposed.

Residential

Types of Development Applications	New Developments		Additions to Existing Developments	
	Minor (up to)	Major (over)	Minor (revisions up to)	Major (revisions over)*
Apartment hotels	50 rooms	50 rooms	25 rooms	25 rooms
Other residential	25 units	25 units	12 units	12 units

Agricultural

Types of Development Applications	New Developments		Additions to Existing Developments	
	Minor (up to)	Major (over)	Minor (revisions up to)	Major (revisions over)*
Agricultural veterinary medical services	25,000 sq. ft.	25,000 sq. ft.	50% up to 12,500 sq. ft.	12,500 sq. ft.
Exotic wildlife sanctuaries		All	Up to 50% of the area of the exotic wildlife sanctuaries	50% or more of the area of the exotic wildlife sanctuaries
Fishing and hunting camps		All	Up to 50% of the area of the existing camp	50% or more of the area of the existing camp

Stables, commercial	50,000 sq. ft.	50,000 sq. ft.	50% up to 25,000 sq. ft.	25,000 sq. ft.
Wildlife rehabilitation facilities		All	Up to 50% of the area of the wildlife rehabilitation facilities	50% or more of the area of the wildlife rehabilitation facilities

Public and Institutional

Types of Development Applications	New Developments		Additions to Existing Developments	
	Minor (up to)	Major (over)	Minor (revisions up to)	Major (revisions over)*
Cemeteries, crematory operations and columbaria		All	Up to 50% of the area of the cemetery or 50% up to 12,500 sq. ft. of the crematory operations and columbaria	50% or more of the area of the cemetery or 12,500 sq. ft. of the crematory operations and columbaria
Correctional facilities		All	50% up to 12,500 sq. ft.	12,500 sq. ft.
Educational institutions	25,000	25,000	50% up to 12,500 sq. ft.	12,500 sq. ft.
Electrical generating plants		All	50% up to 12,500 sq. ft.	12,500 sq. ft.
Hospitals		All	50% up to 12,500 sq. ft.	12,500 sq. ft.
Nonsecure residential drug and alcohol rehabilitation	25,000	25,000	50% up to 12,500 sq. ft.	12,500 sq. ft.

and treatment facilities				
Public parks and recreation areas, active		All	Up to 50% of the area of the public parks and recreation areas, active	50% or more of the area of the public parks and recreation areas, active
Public parks and recreation areas, passive		All	Up to 50% of the area of the public parks and recreation areas, passive	50% or more of the area of the public parks and recreation areas, passive
Public access to environmentally sensitive lands	All			
Recycling drop-off centers	25,000 sq. ft.	25,000 sq. ft.	50% up to 12,500 sq. ft.	12,500 sq. ft.
Solid waste disposal areas	25,000 sq. ft.	25,000 sq. ft.	12,500 sq. ft.	12,500 sq. ft.
Utilities	25,000 sq. ft.	25,000 sq. ft.	50% up to 12,500 sq. ft.	12,500 sq. ft.
Residential care facilities	50 beds	50 beds	50% up to 25 beds	25 beds
Other public and institutional	25,000 sq. ft.	25,000 sq. ft.	50% up to 12,500 sq. ft.	12,500 sq. ft.

Commercial and Business

Types of Development Applications	New Developments		Additions to Existing Developments	
	Minor	Major	Minor	Major

	(up to)	(over)	(revisions up to)	(revisions over)*
Adult business		All	50% up to 12,500 sq. ft.	12,500 sq. ft.
Campgrounds		All	Up to 50% of the area of the campground	50% or more of the area of the campground
Commercial amusements, outdoor		All	50% up to 12,500 sq. ft.	12,500 sq. ft.
Flea markets		All	50% up to 12,500 sq. ft.	12,500 sq. ft.
Golf courses		All	Up to 50% of the area of the golf course	50% or more of the area of the golf course
Golf driving ranges		All	Up to 50% of the area of the golf driving range	50% or more of the area of the golf driving range
Recreational vehicle parks		All	Up to 50% of the area of the recreational vehicle parks	50% or more of the area of the recreational vehicle parks
Shooting ranges, outdoor		All		All
Bed and breakfast inns	All		All	
Hotels and motels	50 bed	50 bed	50% up to 25 beds	25 beds
Parking lots and garages	250 spaces	250 spaces	50% up to 125 spaces	125 spaces
Vehicular sales and service		All	50% up to 12,500 sq. ft.	12,500 sq. ft.

Vehicular service and maintenance		All	50% up to 12,500 sq. ft.	12,500 sq. ft.
Other commercial and business	25,000 sq. ft.	25,000 sq. ft.	50% up to 12,500 sq. ft.	12,500 sq. ft.

Transportation, Communication and Utilities

Types of Development Applications	New Developments		Additions to Existing Developments	
	Minor (up to)	Major (over)	Minor (revisions up to)	Major (revisions over)*
Airstrips		All		All
Airports, general aviation		All		All
Truck stop/travel center		All		All

Industrial

Types of Development Applications	New Developments		Additions to Existing Developments	
	Minor (up to)	Major (more than)	Minor (additions up to)	Major (additions more than)*
Composting		All		All

Biofuel facility		All	50% of the existing biofuel building and activity, as defined in §3.58.1.A.3.(c) or 25,000 sq. ft., whichever is less, if the site plan was approved for a biofuel facility.	25,000 sq. ft. to a site plan approval for a biofuel facility. The proposed addition of a biofuel facility (of any size) to a site plan not previously approved for a such use.
Mining		All		All
Salvage yards		All		All
Yard trash processing		All		All
Other industries	50,000 sq. ft.	50,000 sq. ft.	50% up to 25,000 sq. ft.	25,000 sq. ft.

Life Science, Technology and Research (LSTAR)

Types of Development Applications	New Developments		Additions to Existing Developments	
	Minor (up to)	Major (over)	Minor (revisions up to)	Major (revisions over)*
All	50,000 sq. ft.	50,000 sq. ft.	50% up to 25,000 sq. ft.	25,000 sq. ft.

Targeted Industries Business (TIB)

Types of Development	New Developments	Additions to Existing Developments

Applications				
	Minor (up to)	Major (over)	Minor (revisions up to)	Major (revisions over)*
All	50,000 sq. ft.	50,000 sq. ft.	50% up to 25,000 sq. ft.	25,000 sq. ft.

Subdivisions

Types of Development Applications	New Developments		Additions to Existing Developments	
	Minor (up to)	Major (over)	Minor (revisions up to)	Major (revisions over)*
Residential	25 lots	25 lots	50% up to 12 lots	12 lots
Agricultural	25 lots	25 lots	50% up to 12 lots	12 lots
Industrial	10 acres	10 acres	50% up to 5 acres	5 acres
Other non-residential	5 acres	5 acres	50% up to 2.5 acres	2.5 acres

2. The thresholds for nonresidential and industrial development refer to the gross floor area of all proposed buildings plus 25 percent of the gross area of any primary use that is not contained in any proposed buildings on a development site unless otherwise noted.
3. For purposes of this subsection:
   a. Residential development means any use indicated in the permitted use schedule of article 3, Zoning Districts, of the LDR, under the use category of residential uses.

b. Industrial development means any use indicated in the permitted use schedule of article 3, Zoning Districts, of the LDR, under the category of industrial.

c. Nonresidential development means any use indicated in the permitted use schedule of article 3, Zoning Districts, of the LDR, excluding those listed as residential uses, exempt bona fide agriculture and industrial.

d. Additions to existing developments shall include all new additions as well as the replacement of existing structures and uses.

4. Where a mix of residential and nonresidential or industrial uses is proposed, each type of use shall be apportioned so as not to exceed the threshold established for each level of review in paragraph 1. above. For example, because the threshold for consideration as a minor development is 25,000 square feet of commercial and business uses and 25 residential dwelling units, the ratio of the proposed commercial and business uses gross floor area to 25,000 square feet, plus the ratio of the proposed number of dwelling units to 25, must not exceed one. Thus, a proposal for 10,000 square feet of commercial and business uses and 20 dwelling units would be apportioned as follows:

[(10,000/25,000) + (10/25) = (.40 + .40) = .80]

and, thus, would be considered a minor development.

5. When determining the threshold for the processing of major or minor development applications the proposed intensities identified in a new application (including applicable gross floor areas, residential units, rooms, site area) shall be added to any intensities that were approved and built on the same development site over a period of five years prior to the date of the new application. The total of all intensities over the five-year period shall be used to determine if the new application is processed as a major or minor development pursuant to the applicable thresholds contained in the classification for development table in subsection 10.11.B.1.

6. Notwithstanding the minor and major classifications, an application that is otherwise classified as a minor development may be classified as a major development based upon a review of the following factors by the County Administrator. The County Administrator shall have the discretion to classify the application as a major development based upon the totality of the factors listed below with no factor having greater weight in the determination than any other factor.

a. A determination that wetlands on the proposed development site may have been removed after April 1, 1982, the adoption date of the County's original Comprehensive Plan.

b. A determination that native upland habitat was removed from the proposed development site without permitting by the County after February 20, 1990.

c. A discovery of evidence of adverse impacts to wetlands or native upland habitat on the proposed development site.

d. A determination of adverse impacts to well fields on the proposed development site or within a well field protection zone.

e. A determination of contamination from regulated substances previously stored on the proposed development site.

f. The proposed use contains storage of regulated substances on the development site.

g. The presence of habitat for rare, endangered and threatened species and species of special concern on the proposed development site.

h. The proposed use of the development site is for biohazardous waste processing, incinerator or the storage of regulated hazardous substances.

i. A determination of potential negative impacts by the proposed development to the St. Lucie Estuary, the Indian River Lagoon or the Loxahatchee River by increasing runoff volume or peak inflows, increasing nutrients or adding toxic pollutants.

j. A determination of potential adverse affect by the proposed development to the water supply of existing homes, businesses and natural systems located in the vicinity of the proposed development site.

k. A determination of potential decrease by the proposed development to the flood protections for homes and businesses in the vicinity of the proposed development site.

l. A determination that the intensities (including applicable gross floor areas, residential units, rooms, site area) of the new development is within ten percent of the threshold for a major development application.

10.11.C. *Minor development.*

1. *A final site plan* is required for a minor development as defined in section 10.11.B.

2. *A minor development may be approved with a master site plan.* In the event that a proposed minor development is to include both a master and final site plan, the following provisions shall apply:

   a. No final site plan shall be approved until the master site plan has been approved and compliance with applicable conditions of approval of the minor development master site plan has occurred; and

   b. Any plat may be submitted after the first report is issued for a final site plan application concurrent with any resubmittal of a final site plan.

   c. Any minor master plan for a phased development that contains preserve areas shall comply with section 10.11.D.13.

3. *Minor technical adjustments to an approved master site plan* that are consistent with all applicable regulations such as but not limited to, changes to lot dimensions, easement locations or site data calculations, may be processed as a revised master site plan with the final site plan application. No separate application for a revised master site plan shall be required. The revised master site plan development order shall be recorded prior to the final site plan development order.

4. *Minor technical adjustments to an approved final site plan* that are consistent with applicable regulations such as but not limited to, changes to lot dimensions, easement locations or site data calculations, may be processed as a revised final site plan with the plat application. No separate application for a revised final site plan shall be required. The revised final site plan development order shall be recorded prior to the plat documents.

5. *Timetable of development.* All final site plan approvals for a minor development which has received master site plan approval shall be obtained no later than five years after the date of the master site plan approval, provided no certificate of public facilities reservation was issued with the master site plan approvals. After final site plan approval, all construction shall be permitted and completed consistent with the requirements of article 5, Adequate Public Facilities and Transportation Impact Analysis, of the LDR. A minor development which has received master site plan approval and a certificate of public facilities reservation, must obtain final site plan approval and complete all construction within two years of master site plan approval with one optional extension of up to one year. However, where the development order includes a subdivision of lots for individual resale, this mandatory timetable shall not apply to the development of approved uses on individual lots.

6. *Preapplication meeting.* See section 10.2.A.

7. *Application requirements.* See sections 10.2.B. and C.

8. *Review and final action by the County Administrator.* County Administrator final action required—see section 10.3.A.

9. *Standards and requirements to be considered for minor development master and final site plan approval.*

   a. A minor development site plan shall comply with the standards specified in the Comprehensive Plan, the LDR and the Code.

   b. The property owner shall provide an executed unity of title in a form acceptable to the County Attorney for the property that is the subject of the approved minor development. Included shall be a provision that requires unity of title to be maintained by the owner of the property until final site plan approval with the sole exception being that a portion of said property may be sold, transferred, devised or assigned to a governmental agency.

   c. A final site plan or a revised final site plan may be approved prior to an applicant obtaining a permit or approval from a state or federal agency unless the agency has issued a final action that denies the federal or state permit before the County action on the application. The issuance of a development order by the County does not in any way create any rights on the part of the applicant to obtain a permit from a federal or state agency and does not create any liability on the part of the County issuance of the development order if the applicant fails to obtain the required federal or state permit or approval or fulfill the obligations or conditions imposed by a federal or state agency or undertakes any action that result in a violation of federal or state law. If an application is made to any federal or state agency for a new permit or approval or a modification to a existing permit or approval that is required for the final site plan or revised final site plan, the application must be submitted concurrently to Martin County.

   d. A preserve area management plan shall be provided in association with an application for a final site plan, where required. An application for a master plan shall include an environmental assessment and the master site plan must illustrate delineated wetlands pursuant to the requirements found in article 4. All areas to be set aside to meet upland and wetland protection requirements shall be identified as preservation areas on the plans provided with a master site plan.

10. *Submittal of required documents and fees to the County Administrator.* See section 10.2.

11. *Effect of a development order for a minor development.* Issuance of a final site plan approval shall authorize the applicant to proceed with a preconstruction meeting and to submit building permit applications in accordance with the terms and conditions of the approval and the Comprehensive Plan, the LDR, and the Code. Permission to initiate construction of site improvements shall not be granted or building permits issued until all required documents are approved and all applicable conditions of approval satisfied.

10.11.D. *Major development, master site plan.*

1. *General.* Both a master and final site plan are required for any major development that is a multi-phase development, or is part of a PUD rezoning application. Master site plans are not mandatory for other major developments. Major development master site plans shall be subject to the following provisions.

2. *Preapplication meeting recommended.* See section 10.2.A.

3. *Application requirements.* See section 10.2.B. and 10.2.C.

4. *Review and recommendation by the County Administrator.* See section 10.2.E.

5. *Review and recommendation of the LPA.* See section 10.4.

6. *Action by the BCC.* Final action required—see section 10.5; public hearing notice required—see section 10.6; public hearing procedures required—see section 10.7.

7. *Standards to be considered for final action.* The approval of a master site plan shall be consistent with the standards specified in the Comprehensive Plan, the LDR, and the Code.

8. *Required condition of approval.* Except as otherwise provided in paragraph c., below, each development order resolution, excluding any DRI or development of a public project included in an adopted CIP, shall have the following conditions:

   a. All final site plan approvals for a major development shall be obtained no later than five years after the date of the master site plan approval, provided that no certificate of public facilities reservation was issued with the master site plan approval. If a certification of public facilities reservation was issued with the master site plan approval, all final site plan approvals and construction shall be permitted and completed consistent with the requirements of article 5, Adequate Public facilities and Transportation Impact Analysis of the LDR.

   b. The property owner shall provide an executed unity of title in a form acceptable to the County Attorney for the property that is the subject of the approved master site plan. Included shall be a provision that requires unity of title to be maintained by the owner of the property until final site plan approval with the sole exception being that a portion of said property may be sold, transferred, devised or assigned to a governmental agency.

   c. Where the applicant is an exempt organization pursuant to Section 501(c)3 of the Internal Revenue Code, the County may authorize timetable extensions provided that the final site plan for the last phase of development is obtained no later than ten years after the initial master site plan approval.

   d. An application for a master plan shall include an environmental assessment and the master site plan must illustrate delineated wetlands pursuant to the requirements found in article 4. All areas to be set aside to meet upland and wetland protection requirements shall be identified as preservation areas on the plans provided with a master site plan.

9. *Effect of a master site plan development order.* Issuance of a development order for a master site plan shall authorize the applicant to submit the final site plan(s) for a major development or plat in accordance with the terms and conditions of the master site plan, including the timetable of development. Issuance of a development order for a master site plan shall not constitute approval to build or construct any improvements and is not the final approval necessary for construction of the development.

10. *Time extension.* See Section 10.14.

11. *Minor technical adjustments to an approved master site plan* that are consistent with all applicable regulations such as but not limited to, changes to lot dimensions, easement locations or site data calculations, may be processed as a revised master site plan with the final site plan application. No separate application for a revised master site plan shall be required. The revised master site plan development order shall be recorded prior to the final site plan development order.

12. *Minor technical adjustments to an approved final site plan* that are consistent with all applicable regulations such as but not limited to, changes to lot dimensions, easement locations or site data calculations, may be processed as a revised final site plan with the plat application. No separate application for a revised master site plan shall be required. The revised final site plan development order shall be recorded prior to the plat documents.

13. *Establishment of preservation areas in phased development.* For sites under 50 acres, if the subject property is to be developed in phases, all required preservation areas shall be set aside with the first phase. A preserve area management plan (PAMP) shall be provided with the final development order for the first phase. On sites that are 50 acres or greater where the subject property is to be developed in discrete geographical phases, required preservation areas may be set aside as follows:

a. At a minimum, required preservation areas shall be set aside in proportion with the proposed developed areas in each phase. For example, if 30 percent of the developable area of the property is included in the first phase, at least 30 percent of the required preservation area shall be included with the first phase. A preserve area management plan (PAMP) shall be provided with the final development order for the first phase.

b. The preservation area to be set aside with each phase shall be designed to follow natural ecotonal boundaries to preclude fragmentation of like habitat into subsequent phases. Preservation areas shall be designed to consolidate contiguous habitat restoration areas that require vegetative exotic species removal or restoration planting areas. Additional preservation area may be required to be included in the first and subsequent phases if a discrete management area cannot be established to separate contiguous habitats.

c. The water management system, including wetlands and wetland buffers, shall be designed to function independently in each phase. A wetland and its corresponding wetland buffer area shall not be divided into a separate phase of a development.

The PAMP shall be amended to incorporate subsequent phases with the final development orders issued for each successive phase, to be ultimately managed under common ownership or a single property owners association. A separate PAMP may be created for phases to be managed under separate ownership.

14. *Monitoring.* As part of the conditions of approval for all development orders for major applications, including PUDs, the applicant shall provide annual status reports to the County Administrator to ensure that development occurs according to the terms of the development order. The monitoring report shall be due on the Anniversary date of the Major Master Plan approval.

10.11.E. *Major development final site plan.*

1. *General.* A final site plan or a revised final site plan may be approved prior to an applicant obtaining a permit or approval from a state or federal agency unless the agency has issued a final action that denies the federal or state permit before the County action on the application. The issuance of a development order by the County does not in any way create any rights on the part of the applicant to obtain a permit from a federal or state agency and does not create any liability on the part of the County for issuance of the development order if the applicant fails to obtain the required federal or state permit or approval or fulfill the obligations or conditions imposed by a federal or state agency or undertakes any action that result in a violation of federal or state law. If an application is made to any federal or state agency for a new permit or approval or a modification to a existing permit or approval that is required for the final site plan or revised final site plan, the application must be submitted concurrently to Martin County. In the event that a proposed major development is to include both a master and final site plan, the following provisions apply:

a. No final site plan shall be approved until the master site plan has been approved and compliance with applicable conditions of approval of the major development master site plan has occurred; and

b. Any plat may be submitted after the first report is issued for a final site plan application concurrent with any resubmittal of a final site plan.

c. The property owner shall provide an executed unity of title in a form acceptable to the County Attorney for the property that is the subject of the approved final site plan. Included shall be a provision that requires unity of title to be maintained by the owner of the property that states that said property shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised, or assigned separately except in its entirety as one plot and parcel of land; with the following exceptions: individual subdivision lot sales, condominium units that are developed as land

units, or a portion of said property that is sold, transferred, devised or assigned to any governmental entity.

d. A preserve area management plan shall be provided in association with an application for a final site plan, where required. An application for a master plan shall include an environmental assessment and the master site plan must illustrate delineated wetlands pursuant to the requirements found in article 4. All areas to be set aside to meet upland and wetland protection requirements shall be identified as preservation areas on the plans provided with a master site plan.

2. *Consolidated applications.* A consolidated master site plan and final site plan may be processed concurrently and pay one application fee. All other application and review provisions in this article shall apply.

3. *Preapplication meeting.* See section 10.2.A.

4. *Application requirements.* See section 10.2.B. and 10.2.C.

5. *Review and recommendation by the County Administrator.* See section 10.2.E.

6. *Action by the BCC.* See section 10.5. See section 10.6 for notice requirements and section 10.7 for public meeting requirements. Minor development final site plans that were determined complete prior to July 2, 2007 (effective date of Ordinance No. 752) and were reclassified as major developments pursuant to section 10.11.B.1. on July 2, 2007 (effective date of Ordinance No. 752) shall not be required to have a master site plan. However, the final site plan for these developments shall be reviewed by the County Administrator as a major development and final action shall be taken by the Board of County Commission as a major development.

7. *Consistency.* A major development final site plan shall be consistent with the master site plan, the timetable of development, and the standards in the Comprehensive Plan, the LDR and the Code, in effect at the time of the final site plan approval.

8. *Effect of approval of a final site plan.* A final site plan shall authorize the applicant to proceed with a preconstruction meeting and to submit building permit applications in accordance with the terms and conditions of the approval and the Comprehensive Plan, the LDR, and the Code. Permission to initiate construction of site improvements shall not be granted or building permits issued until all required documents are executed and all applicable conditions of approval satisfied.

9. *Timetable of development.* All construction shall be permitted and completed consistent with the requirements of article 5, Adequate Public Facilities and Transportation Impact Analysis, of the LDR. However, where the development order includes a subdivision of lots for individual resale, this mandatory timetable shall not apply to the development of approved uses on individual lots.

10. *Time extension.* See section 10.14.

11. *Minor technical adjustments to an approved master site plan* that are consistent with all applicable regulations such as but not limited to, changes to lot dimensions, easement locations or site data calculations, may be processed as a revised master site plan with the final site plan application. No separate application for a revised master site plan shall be required. The revised master site plan development order shall be recorded prior to the final site plan development order.

12. *Minor technical adjustments to an approved final site plan* that are consistent with all applicable regulations such as but not limited to, changes to lot dimensions, easement locations or site data calculations, may be processed as a revised final site plan with the plat application. No separate application for a revised master site plan shall be required. The revised final site plan development order shall be recorded prior to the plat documents.

13. *Monitoring.* As part of the conditions of approval for all development orders for major applications, including PUDs, the applicant shall provide annual status reports to the County Administrator to ensure that development occurs according to the terms of the development order. The monitoring report shall be due on the Anniversary date of the Major Final Site Plan approval.

10.11.F. *Plat and vacation of plat review and processing.*

1. *Platting process.* The plat is required to be submitted after the approval of a final site plan and shall comply with all state and county requirements of the Comprehensive Plan, the LDR and the Code. Any amendment to a plat which is not exempt pursuant to section 10.11.G.7. shall be reviewed in the same manner as a new plat.

   a. *Application requirements.* See section 10.2.B. and 10.2.C.

   b. *Review and recommendation of the County Administrator.* See section 10.2.E.

   c. *Action of the BCC.* See section 10.5.

2. *Form of plat.* No plat shall be approved which is inconsistent with an adopted final site plan.

3. *Executable plat submittal.* The executable plat and required documents shall be submitted to the County Administrator before the BCC review (see section 10.2).

4. *Processing of plat documents.* Following receipt of all documents and the required fees, the County Administrator shall distribute the appropriate documents for review and execution by appropriate county officials.

5. *Recordation.* The record plat shall be filed with the Martin County Clerk of the Court within ten working days of the execution of the plat.

6. *Failure to record.* In all instances, plats which have not been recorded within one year of BCC approval shall be considered null and void.

Cross reference— Subdivisions, § 4.911 et seq.

7. *Vacation of plat process.* An application for a plat vacation shall be processed pursuant to the requirements of F.S. ch. 177, and the following.

   a. Application requirements. See section 10.2.B. and 10.2.C.

   b. Review and recommendation of the County Administrator. See section 10.2.E.

   c. Action of the BCC. See section 10.5.

10.11.G. *Model home construction.* An applicant may request a building permit to construct residential models subsequent to an approved final site plan and before submitting the plat for approval, as provided in the subdivision regulations.

10.11.H. *"Permit-ready" nonresidential subdivision development.* Nonresidential subdivision developments may be approved as follows:

1. Notwithstanding sections 10.11.C.10.a., 10.11.D.9.a., 10.11.E.9. and 10.11.F.9., where the proposed use, maximum gross floor area, and maximum impervious area are specified for each lot, the final site plan may be approved without a full demonstration of compliance with certain requirements of the LDR, such as parking and landscaping, provided that the development order approving the final site plan clearly delineates the outstanding requirements and requires that the applicant demonstrate compliance with all outstanding requirements of the LDR prior to the issuance of a building permit.

2. For purposes of carrying out this subsection 10.11.H., and notwithstanding sections 10.11.C.3., 10.11.D.3., 10.11.E.10.a. and 10.11.F.11., the following standard condition of approval shall be included in all development orders for "permit-ready" nonresidential subdivision developments: "Construction of all site improvements shown on the final site plan shall be commenced within one year of final site plan approval and completed within two years of final site plan approval. All certificates of occupancy shall be obtained within ten years of final site plan approval."

(Ord. No. 510, pt. 4, § 10.11, 11-5-1996; Ord. No. 544, pt. 1, § 10.11, 3-2-1999; Ord. No. 564, pt. II, 12-21-1999; Ord. No. 579, pt. 1, 9-26-2000; Ord. No. 587, pt. 1, § 10.11, 5-15-2001; Ord. No. 612, pt. II, 5-14-2002; Ord. No. 616, pt. 2, 6-24-2002; Ord. No. 696, pt. 4, 2-14-2006; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 769, pt. 1, 9-25-2007; Ord. No. 772, pt. 1, 10-23-2007; Ord. No. 788, pt. 1, 2-12-2008; Ord. No. 817, pt. 5, 2-24-2009; Ord. No. 917, pt. 1, 8-21-2012; Ord. No. 939, pt. 1, 8-20-2013; Ord. No. 991, pt. 2, 1-26-2016; Ord. No. 1014, pt. 6, 12-6-2016)

Sec. 10.12. Expedited staff review.

10.12.A. *Purpose.*

1. The purpose of this section is to provide an expedited review process for applications that contribute to economic development or housing affordability. An eligible project meeting the criteria set forth in section 10.12.B. below shall be qualified for expedited staff review.

10.12.B. *Eligibility.*

1. Projects that are eligible for expedited staff review include:
   a. A small-scale industrial development project;
   b. A targeted business as defined in section 10.1.B.17.;
   c. An affordable/workforce housing project;
   d. Green developments; and
   e. Development applications within CRA areas.
   f. Development applications for public access to environmentally sensitive lands.
2. Eligible types of applications: Since various applications may be necessary depending upon the requirements found in the Land Development Regulations, the following applications for an eligible project shall receive expedited staff review: master site plan, final site plan, rezoning, plats and administrative amendments. PUD agreements and Developments of Regional Impact are specifically excluded from the eligible types of applications. Final site plans for affordable/workforce housing, small scale industrial and targeted industries in approved PUDs and Developments of Regional Impact shall be eligible for expedited review.
3. Expedited review of affordable housing projects addresses the housing needs of Martin County in accordance with the goals and objectives of the housing element of the Comprehensive Growth Management Plan. Affordable housing as used herein is defined by the current Martin County Local Housing Assistance Plan, as revised.

10.12.C. *Compliance.*

1. The expedited review process shall not be interpreted in any way as requiring the approval of an application that does not meet the standards of the Comprehensive Plan, the LDR, and the Code or to remove the legitimate exercise of discretion by the BCC.

2. Applicants who fail to keep their commitments shall be deemed ineligible for any future expedited reviews unless otherwise determined by the County Administrator.

3. Notification shall be posted on the Martin County Internet web site of all applications submitted pursuant to section 10.12 for expedited staff review

10.12.D. *Expedited small-scale industrial development application.*

1. *Applicability.* The procedures identified in this section shall apply to industrial projects which, at the completeness determination stage, are found by the County Administrator to meet all of the following:

   a. The use is allowable in the future land use designation.

   b. The request does not require a land use amendment;

   c. The request is for industrial uses which will have no extraordinary public service and environmental impacts.

2. *Standards.* Applications for an expedited small-scale industrial development review shall comply with the following additional requirements:

   a. Maximum number of employees associated with the current project being considered (expansion or new project): 250;

   b. All of the industrial process must occur inside a building.

3. *Preapplication meeting requirements.* See section 10.2.A.

4. *Application requirements.* See sections 10.2.B. and 10.2.C.

5. *Review and recommendation by the County Administrator.* See section 10.3.A.

6. *Final action.* Following the expedited staff review, the County Administrator or the BCC, as applicable, shall make a determination on the development application within 14 days. However, when the application includes a development agreement, the BCC shall make a determination on the application within 21 days. The applicant may extend the time for determination of the development application. Applications which are not consistent with the Comprehensive Plan, the LDR, and the Code shall not be approved.

10.12.E. *Targeted businesses.*

1. *Applicability.* The procedures identified in this section shall apply to targeted businesses which, at the completeness determination stage, are found by the County Administrator to meet all of the following criteria:

   a. The use is allowable in the future land use designation;

   b. The request does not require a land use amendment. However, projects that have been certified by the Office of Tourism, Trade and Economic Development (OTTED) pursuant to F.S. § 403.973, and are the subject of a project specific Memorandum of Agreement between OTTED and Martin County may include a proposed land use amendment. The land use amendment shall be reviewed pursuant to the requirements of the Comprehensive Plan, F.S. ch. 163, and F.S. § 403.973.

2. *Standards.* Applications for expedited staff review of a targeted business shall meet at least two of the following criteria:

   a. Creates at least ten new net full-time equivalent jobs in Martin County within two years of receiving a certificate of occupancy.

   b. Pays an average annual wage that is at least 115 percent of the State, or Port St. Lucie-Ft. Pierce Metropolitan Statistical Average (MSA), or Martin County average wage, as

established annually by Enterprise Florida, Inc., in their "Incentives Average Annual Wage Requirements" publication.

c. Generates at least 50 percent of its revenues from outside of Martin County.

d. The County Administrator determines that the economic development benefits of the project warrant expedited processing. For example, but not limited to: projects located in a designated brownfield area, enterprise zone, Small Business Administration Hubzone, or distressed area.

The applicant must demonstrate the eligibility of the project as a targeted business, by the submission of a letter from the Business Development Board, the Enterprise Florida, or OTTED; a letter of request on company letterhead that describes the mission of the company, the industry sector, and the project scope (in Martin County) including existing and projected new employment, average wage, projected investment, and building size.

3. *Preapplication meeting requirements.* See section 10.2.A.

4. *Application requirements.* See sections 10.2.B. and 10.2.C.

5. *Review and recommendation by the County Administrator.* See section 10.3.A.

6. *Final action.*

a. Following the expedited staff review, the County Administrator or the BCC, as applicable, shall make a determination on the development application within 14 days. However, when the application includes a development agreement, the BCC shall make a determination on the application within 21 days. The applicant may extend the time for determination of the development application.

b. When the application includes a land use amendment and a project which is the subject of a project specific Memorandum of Agreement between OTTED and Martin County, the BCC shall make a determination on the land use amendment consistent with the requirements of the Comprehensive Plan, F.S. ch. 163, and F.S. § 403.973.

c. Applications which are not consistent with the Comprehensive Plan, the LDR, and the Code shall not be approved.

10.12.F. *Expedited review of affordable/workforce housing projects.*

1. *Applicability.* The procedures identified in this section shall apply only to projects which at the completeness determination stage are found by the County Administrator to meet all the following criteria:

a. The site is located in the primary urban service district;

b. The request does not require a land use amendment;

c. The request does not require a development agreement;

d. A commitment, executed by the applicant and recorded in the public records of Martin County, agreeing that the units in the development shall be sold or rented for an amount which qualifies as affordable housing or workforce housing, and that the proposed buyers and or renters of such units shall qualify as set out in the current local housing assistance plan.

2. *Preapplication meeting.* See section 10.2.A.

3. *Application requirements.* See sections 10.2.B. and 10.2.C.

4. *Conceptual approval for affordable housing application seeking federal or state funding.* The County does not provide conceptual site plan approval or preliminary site plan approval. However, the review of a conceptual or preliminary site plan for affordable housing may occur at

a preapplication meeting conducted pursuant to section 10.2.A. If the assessment of the conceptual or preliminary site plan reviewed during the preapplication meeting is that it generally demonstrates conformance with applicable County requirements, the County Administrator is authorized to execute documentation indicating the County has reviewed the site plan, but final site plan approval has not been issued.

5. *Review and recommendation by the County Administrator.* See section 10.3.A.

6. *Further review.* Following the expedited staff review, the application will be processed in accordance with the procedures specified for the particular type of development application in accordance with this article.

10.12.G. *Expedited green development application.*

1. *Applicability.* The procedures identified in this section shall apply only to a project which at the completeness determination stage are found by the County Administrator to be a development that is applying for green certification as defined by organizations dedicated to defining green development standards, such as but not limited to the Florida Green Building Coalition, Inc. (FGBC); the United States Green Building Council (USGBC); or other recognized programs.

2. *Preapplication meeting.* See section 10.2.A.

3. *Application requirements.* See sections 10.2.B. and 10.2.C.

4. *Review and recommendation by the County Administrator.* See section 10.3.A.

5. *Further review.* Following the expedited staff review, the application will be processed in accordance with the procedures specified for the particular type of development application in accordance with this article.

10.12.H. *Development applications within CRA areas.*

1. *Applicability.* The procedures identified in this section shall apply only to applications which at the completeness determination stage are found by the County Administrator to be for land within one of the designated Community Redevelopment Agency areas within unincorporated Martin County.

2. *Preapplication meeting.* See section 10.2.A.

3. *Application requirements.* See sections 10.2.B. and 10.2.C.

4. *Review and recommendation by the County Administrator.* See section 10.3.A.

5. *Further review.* Following the expedited staff review, the application will be processed in accordance with the procedures specified for the particular type of development application in accordance with this article.

10.12.I. *Development applications for public access to environmentally sensitive lands.*

1. *Applicability.* The procedures identified in this section shall apply only to applications which at the completeness determination stage are found by the County Administrator to be for land determined to be environmentally sensitive and that is managed by the County or other governmental agency designated as the managing partner pursuant to a State of Florida or South Florida Water Management District approved management plan or other binding agreement.

2. *Preapplication meeting.* See section 10.2.A.

3. *Application requirements.* See sections 10.2.B. and 10.2.C.

4. *Review and recommendation by the County Administrator.* See section 10.3.A.

5. *Further review.* Following the expedited staff review, the application will be processed in accordance with the procedures specified for the particular type of development application in accordance with this article.

(Ord. No. 510, pt. 4, § 10.12, 11-5-1996; Ord. No. 544, pt. 1, § 10.12, 3-2-1999; Ord. No. 587, pt. 1, § 10.12, 5-15-2001; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 799, pt. 4, 7-1-2008; Ord. No. 817, pt. 6, 2-24-2009; Ord. No. 859, pt. 4, 3-16-2010; Ord. No. 991, pt. 2, 1-26-2016; Ord. No. 1039, pt. 3, 11-14-2017)

Sec. 10.13. Planned unit development procedures.

10.13.A. *General purpose.* The purpose of the PUD district rezoning change and associated PUD zoning agreement is to allow for flexibility in the land development regulations in a manner which mutually benefits the county and the developer, and encourages innovative approaches to community planning. Specific PUD district regulations are negotiated voluntarily by both the developer and the county, and neither is guaranteed maximum benefits by right.

10.13.B. *Review procedures for a PUD zoning agreement and master site plan application.*

1. *Preapplication meeting.* The negotiated character of the PUD development order must be considered. The developer of a potential PUD may initiate the application process by participating in a preapplication meeting at which time such contractual considerations may be discussed.
2. *Application requirements.* See section 10.2.B. and 10.2.C.
3. *Review and recommendation by the County Administrator.* See section 10.2.E.
4. *Action by the LPA.* Recommendation required—see section 10.4; public hearing notice required—see section 10.6; public hearing procedures required—see section 10.7.
5. *Action by the BCC.* Final action required—see section 10.5; public hearing notice required—see section 10.6; public hearing procedures required—see section 10.7.
6. *Standards to be considered for the review of a PUD application.*
   a. A PUD master site plan and the PUD zoning agreement shall be consistent with the standards specified in the Plan, the LDR, and the Code.
   b. *Unity of control.* The property owner shall demonstrate unity of control for the entire parcel that is proposed for development as a PUD. See section 10.9.C.
7. *Amendment of the official zoning map.* The change of zoning district designation shall occur at the master site plan approval stage, preceding the adoption of the final site plan. (See other, applicable provisions of the Comprehensive Plan, the LDR, and the Code and F.S. ch. 125.)
8. *Effect of approval of the PUD master site plan.* Approval of a PUD zoning agreement shall be deemed to authorize the applicant to submit final site plans for the PUD in accordance with the terms, conditions and limitations of the PUD agreement and the Comprehensive Plan, the LDR, and the Code. A PUD master site plan approval does not constitute final approval to build. No final site plan shall be accepted for review and consideration unless the master site plan for the PUD has been approved and remains valid and in effect, or a master site plan is being considered concurrently with a final site plan.
9. *Validity of a PUD development order.* A PUD development order shall run with the land according to the terms set forth in the PUD agreement. Permitted time frames do not change with successive owners without compliance with other applicable requirements set forth in the LDR.

10. *Nonsubstantial amendments.* Notwithstanding the requirements set forth in subsections B.3 through B.6 of this section, a proposed nonsubstantial amendment to a PUD zoning agreement or master site plan shall be considered pursuant to section 10.14.

10.13.C. *PUD final site plan.*

1. *Application requirements.* See section 10.2.B.
2. Any plat may be submitted after the first report is issued for a final site plan application concurrent with any resubmittal of a final site plan.
3. *Review and recommendation by the County Administrator.* See section 10.2.E.
4. *Standards to be considered in the review of the PUD final site plan application.*
   a. The master site plan and final site plan shall be consistent.
   b. A PUD shall be consistent with the standards specified in the Comprehensive Plan, the LDR, and the Code.
   c. If an application is made to any federal or state agency for a new permit or approval or a modification to an existing permit or approval that is required for the PUD final site plan or PUD revised final site plan, the application must be submitted concurrently to Martin County.
   d. A PUD final site plan or a PUD revised final site plan may be approved prior to an applicant obtaining a permit or approval from a state or federal agency unless the agency has issued a final action that denies the federal or state permit before the County action on the application. The issuance of a development order by the County does not in any way create any rights on the part of the applicant to obtain a permit from a federal or state agency and does not create any liability on the part of the County for the issuance of a development order if the applicant fails to obtain the required federal or state permit or approval or fulfill the obligations or conditions imposed by a federal or state agency or undertakes any action that result in a violation of federal or state law.
5. *Consistency.* The final PUD site plan shall be consistent with the approved PUD master site plan, the PUD zoning agreement, the approved timetable of development, any special conditions of master site plan approval, and the standards specified in the Comprehensive Plan, the LDR, and the Code, in effect at the time of the final site plan approval. If deviations from the master site plan are sought, the proposed modifications shall be subject to the standards of section 10.14.
6. *Timetable condition.* All PUD development orders shall contain a timetable condition which limits the vesting effect of the other terms and conditions of the development order.
7. *Effect of a PUD final site plan approval.* Approval of a PUD final site plan shall be sufficient for the applicant to seek authorization to begin construction of the engineered infrastructural improvements in accordance with the approved PUD master site plan and agreement, the final site plan and the approved construction plans. The submission of applications for building permits shall be in accordance with the terms and conditions of the PUD and the standards of the Comprehensive Plan, the LDR, and the Code.
8. *Amendments.* Notwithstanding the requirements set forth in subsections C.3 through C.7 of this section, nonsubstantial amendments to PUD final site plans shall be considered pursuant to section 10.14.

(Ord. No. 510, pt. 4, § 10.13, 11-5-1996; Ord. No. 544, pt. 1, § 10.13, 3-2-1999; Ord. No. 587, pt. 1, § 10.13, 5-15-2001; Ord. No. 612, pt. II, 5-14-2002; Ord. No. 616, pt. 2, 6-24-2002; Ord.

No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 817, pt. 7, 2-24-2009; Ord. No. 917, pt. 1, 8-21-2012; Ord. No. 991, pt. 2, 1-26-2016)

Sec. 10.14. Amendments to approved development orders.

10.14.A. *In general.*

1. Notwithstanding section 10.11, this section provides processes for the review and approval of amendments to approved development orders. For purposes of this section, the term "approved development orders" includes developments established prior to the requirement for development orders.
2. Only those phases, or portions thereof, that are the subject of an application proposing an amendment to an approved development order, or that would be affected thereby, shall be subject to the current review standards specified in the Comprehensive Plan, the LDR, and the Code.
3. Existing buildings and improvements that are proposed to be retained in applications for amendments to approved development orders shall be required to comply with current review standards specified in the Comprehensive Plan, the LDR, and the Code to the maximum extent feasible.
4. There are three types of amendments to an approved development order: administrative amendments that are minor changes to an approved development order; timetable extensions that are amendments to revise the timetable of an approved development order; and all other amendments.

10.14.B. *Application.*

1. *In general.* Applications for amendments to approved development orders shall be subject to section 10.2 except as set forth below.
   a. Within seven days of receiving an application, the County Administrator shall determine whether the application for amendment meets the criteria of section 10.14.C., i.e., whether the application is eligible to be reviewed as an administrative amendment or whether another level of review is required.
   b. The review of an amendment to an approved development order may be limited to staff and application requirements the County Administrator determines is necessary to ensure that the proposed amendment is in compliance with the Plan, Code and LDR.
2. *Extensions to development timetables.* Applications for extensions to development timetables shall be processed in the same manner as amendments to approved development orders and shall be subject to section 10.2 except as set forth below.
   a. Applications for a timetable extension must be submitted prior to the County Administrator no later than 90 days prior to the expiration of the development order.
   b. All applications for extensions to development timetables must include specific reason(s) why the authorized timetable deadline cannot be met.
   c. The review of extensions to development timetables may be limited to staff and application requirements the County Administrator determines is necessary to ensure that the proposed extension is in compliance with the Plan, Code and LDR.
   d. Each extension to a development timetable shall be limited to a maximum period of two (2) years for an approved final site plan and the timetable of development shall not exceed a period of two (2) years at any time.

e. Each extension to a development timetable shall be limited to a maximum period of five (5) years for an approved master site plan and the timetable of development shall not exceed a period of five (5) years at any time.

f. All applications for an extension to a development timetable that includes an extension to a Certificate of Public Facilities Reservation shall document full compliance with section 5.32.D., procedure to obtain certificate of public facilities reservation, LDR.

g. Any amendment to a development timetable shall be reviewed cumulatively with other timetable amendments for that development, excluding those timetable extensions granted by state statute. Cumulative County timetable amendments of more than five years shall not be permitted unless the development is consistent with all policies of the plan in effect at the time of the timetable extension is granted. When cumulative timetable amendments for a phase of a PUD reach five years, the PUD must be renegotiated and, at a minimum, must be consistent with all plan policies in effect at the time.

10.14.C. *Administrative amendments.* Applications for amendments to approved development orders that meet the following criteria shall be processed as administrative amendments.

1. Except when a vested rights resolution, settlement resolution, or administrative vesting determination specifically provides otherwise, an administrative amendment to an existing development order shall be reviewed in accordance with the laws in effect at the time of the application for the modification, and all changes shall be consistent with all applicable Comprehensive Plan, LDR and Code requirements in effect at the time of final action on the application.

2. Administrative amendments shall be considered cumulatively. A proposed amendment shall not be approved if the proposed amendment, along with previously approved administrative amendments, would cumulatively exceed any of the criteria set forth in subsection 10.14.C.4.

3. If an administrative amendment of a final site plan would render the final site plan inconsistent with the master plan, then an administrative amendment to both the master and final site plans will be required.

4. The following shall not be reviewed as administrative amendments and shall instead be reviewed in the manner provided in section 10.14.F. below:

a. Amendments which would contradict any BCC-imposed special condition of approval for a master site plan, final site plan or PUD.

b. Modifications to the unity of control.

c. Reductions in the amount of approved recreation acreage or the number of recreation improvements.

d. Increase in proportion of multi-family unit types when more than one type of residential use is included.

e. Increases in the height of any building by more than five feet.

f. The construction of new principal buildings.

g. Expansion of the approved gross floor area by more than 25 percent.

h. Increases in the number of residential dwelling units.

i. Increases the gross floor area of any existing accessory structure by more than twenty percent.

j. Reduction of the size or location of any wetland or upland preserve areas.

k. Creation of any new vehicular use access connection or more than a minor relocation of any approved access connection.

l. Creation of any new roads or more than minor changes to the location of any approved road in any direction; or more than minor changes to parking areas, internal drives and landscape plan.

m. More than a minor alteration of the external perimeter of the development.

n. More than a minor alteration to any internal boundary within a development separating residential from nonresidential use, excluding areas eligible for mixed use development within Community Redevelopment Areas.

10.14.D. *Final action on administrative amendments.* The County Administrator shall consider the application for the administrative amendment, the staff report and any applicant response. Upon completion of the review, the County Administrator shall issue a written development order approving, approving with modifications or denying the application, which shall constitute final action of the County Administrator. Applications which are not consistent with the Comprehensive Plan, the LDR and the Code shall not be approved by the County Administrator.

10.14.E. *Appeals of administrative amendment final action.* Appeal of any administrative action of the County Administrator taken pursuant to section 10.14.D. shall be to the BCC pursuant to section 10.10.

10.14.F. *Amendments.* Application for amendments to approved development orders that do not meet the criteria for administrative amendments shall be processed as follows. The following table indicates the formal decision-making process required for each type of application for amendments to approved development orders including applications for extensions to development timetables. Where any difference may exist between the information provided in the table and the text of these regulations, the text shall prevail.

Type of Amendment Applications	County Administrator	LPA	BCC
Minor Development Master Site Plan Amendment (Revised Master Site Plan)	R and F		
Minor Development Master Site Plan Extension to Development Timetable	R and F		
Minor Development Final Site Plan Amendment (Revised Final Site Plan)	R and F		
Minor Development Final Site Plan Extension to Development Timetable	R and F		
Major Development Master Site Plan Amendment (Revised Master Site Plan)	R		F
Major Development Master Site Plan Extension to Development Timetable	R		F

Major Development Final Site Plan Amendment (Revised Final Site Plan)	R		F
Major Development Final Site Plan Extension to Development Timetable	R		F
PUD Zoning Agreement Amendment	R		F
Development Agreement Amendment	R		F
Plat Amendment (Replat)	R		F

R = Review and Recommendation

F = Final Action

10.14.G. *Final action on amendments.* For those applications identified in section 10.14.F. for final action by the County Administrator, the County Administrator shall consider the application for the amendment, the staff report and any applicant response. Upon completion of the review, the County Administrator shall issue a written development order approving, approving with modifications or denying the application, which shall constitute final action of the County Administrator. Applications which are not consistent with the Comprehensive Plan, the LDR and the Code shall not be approved by the County Administrator.

10.14.H. *Appeals of amendments final action.* Appeal of any administrative action of the County Administrator taken pursuant to section 10.14.G. shall be to the BCC pursuant to section 10.10.

(Ord. No. 544, pt. 1, § 10.14, 3-2-1999; Ord. No. 564, pt. II, 12-21-1999; Ord. No. 587, pt. 1, § 10.14, 5-15-2001; Ord. No. 696, pt. 5, 2-14-2006; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 792, pt. 1, 3-11-2008; Ord. No. 817, pt. 8, 2-24-2009; Ord. No. 904, pt. 2, 1-10-2012; Ord. No. 939, pt. 1, 8-20-2013; Ord. No. 991, pt. 2, 1-26-2016)

Sec. 10.15. Development of regional impact (DRI).

10.15.A. *General.* An amendment to a DRI development order shall be processed in accordance with the requirements of F.S. ch. 380 and F.A.C. ch. 9J-2, as amended.

10.15.B. *Additional review procedures.* A DRI amendment shall be processed in accordance with the applicable requirements for PUD amendment approvals set forth in section 10.13, with the following exceptions and additional requirements:

1. *Review and recommendation by the County Administrator.* See section 10.2.D., LDR. The review period shall be as required by F.S. ch. 380 to determine consistency with the Comprehensive Plan, the LDR and the Code after the release of the report of the Treasure Coast Regional Planning Council.

2. *Conditions.* A DRI development order amendment shall be consistent with its PUD agreement or master site plan.

3. *Timetable of development limit.* No Martin County development order shall have a build-out, as provided in the approved timetable of development or as modified by County amendments to the development order, which cumulatively exceeds 15 years beyond the date of the original first development order. Timetables that received extensions pursuant to state statute shall not be used in the calculation of the 15 years.

4. The first final site plan approval for the first discrete phase of development of a DRI shall be obtained no later than two years after the date of the master site plan approval, unless modified by timetable amendments. The approval of the final site plan for the last phase shall be obtained no later than two years prior to the build-out date. If, subsequent to the first final site plan, other final site plan approvals are not obtained, according to the approved timetable of development, satisfactory progress shall not have been maintained, and all authorized development approved in that and any remaining phases on the master site plan shall have lapsed and expired and cease to be authorized.

5. The property owner shall provide an executed unity of title in a form acceptable to the County Attorney for the property that is the subject of the approved master site plan. Included shall be a provision that requires the unity of title to be maintained by the owner of the property that is the subject of master plan approval until completion of the project, provided that ownership of a phase or subphase may be transferred upon final site plan and plat approval of each phase or subphase.

6. If a comprehensive growth management plan (CGMP) amendment is required for any proposed development of regional impact (DRI) project a PUD zoning change and PUD master site plan application for the DRI shall not be submitted to the County until the required CGMP amendment transmittal hearing has been completed by the County and the CGMP amendment has been approved for transmittal by the Board of County Commissioners to the Florida Department of Economic Opportunity.

(Ord. No. 510, pt. 4, § 10.15, 11-5-1996; Ord. No. 544, pt. 1, § 10.15, 3-2-1999; Ord. No. 587, pt. 1, § 10.15, 5-15-2001; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 788, pt. 1, 2-12-2008; Ord. No. 939, pt. 1, 8-20-2013; Ord. No. 991, pt. 2, 1-26-2016)

Sec. 10.16. Vested rights.

10.16.A. *Purpose.* The purpose of this section is to provide a process for the determination of vested rights in accordance with section 1.12 of the Comprehensive Plan.

10.16.B. *Applicability.* This section is applicable to requests for a determination of vested rights from any of the requirements of the Comprehensive Plan, the LDR and the Code. The opportunity to obtain a "Letter of Vesting Determination for Public Facilities" expired on December 31, 1991. Accordingly, all projects must comply with concurrency requirements, except those projects which are exempt pursuant to the article 5, Adequate Public Facilities and Transportation Impact Analysis, of the LDR.

10.16.C. *Processing of the vested rights claim.*

1. *Application requirements.* See section 10.2.B.

2. *Completeness determination.* Upon a determination that the application is incomplete, the applicant may withdraw it and receive a partial refund of the application fee. See section 10.2.C.

3. *Review and recommendation by the County Administrator.* See section 10.2.E.

4. *Action by the BCC.* Final action required—see section 10.5; the BCC may also accept a settlement proposal or continue the meeting and direct staff to entertain settlement negotiations, in accordance with the Comprehensive Plan, the LDR and the Code; public hearing notice required—see section 10.6; public hearing procedures required—see section 10.7.

5. *Standards to be considered in the final action.* The standards applicable to a vested rights determination shall include:

   a. Statutory vested rights, as set forth in the Florida Statutes and the Comprehensive Plan; and

   b. Common law vested rights.

10.16.D. *Effect of the vested rights determination and vested rights settlement resolution.* The effect of a vested rights determination or stipulated settlement agreement shall be to excuse the development to the extent of the vesting from compliance with any new laws and regulations so long as the terms and conditions of the original development order or vested rights settlement are maintained. Upon approval of the development as vested, the project will be either a conforming use or a legal nonconforming use, as defined elsewhere in the LDR.

(Ord. No. 510, pt. 4, § 10.16, 11-5-1996; Ord. No. 544, pt. 1, § 10.16, 3-2-1999; Ord. No. 587, pt. 1, § 10.16, 5-15-2001; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007)

Sec. 10.17. Monitoring.

10.17.A. *Monitoring of development orders, generally.*

1. Monitoring of actual development is necessary to measure the change in the distribution and composition of population and land use, as well as to confirm compliance with the Comprehensive Plan, the LDR and the Code. As part of the conditions of approval, all development orders for major applications, including PUDs, shall require the applicant to provide annual status reports to the County Administrator to ensure that development occurs according to the terms of the development order. The monitoring report shall be due on the anniversary date of the major master approval.

2. *Site inspection.* Any member of the BCC and any duly authorized representative of the BCC, such as, but not limited to, staff of the Environmental Review Division of the Growth Management or the Engineering Department, may enter and inspect any parcel of land for which a development approval or permit has been issued, or where there is a reasonable cause to believe that a development activity is being carried out, for the purpose of ascertaining the state of compliance with the LDR. The interiors of buildings shall not be subject to such inspections unless related to the enforcement of the building code. No person shall refuse immediate entry or access to any authorized representative of the BCC or one of the specified agencies who requests entry for the purpose of inspection and who presents appropriate credentials. No person shall obstruct, hamper or interfere with any such inspection. If requested, the owner or operator of the premises shall receive a report setting forth the facts and results of the compliance determination.

3. *Final development order monitoring.* The County Administrator shall compile a report, on an annual basis, until the completion of development, on the construction undertaken for projects receiving BCC approval of a master site plan. The report will include a comparison of actual development with approved site plans and permits for development and the approved development schedule. The intent of the report is to identify the portions of the development that are actually built and to confirm that they are in compliance with the development order, the Comprehensive Plan, the LDR and the Code.

4. *Completion progress.* The County Administrator shall also monitor all unbuilt development approved as final site plans for satisfactory progress toward completion. When the County Administrator determines that the first final site plan approval for a phased project has not been obtained within one year, and an extension has not been approved, or that the scheduled phases for development have lapsed, this shall be evidence of unsatisfactory progress toward completion of the approved development. This information shall be noted in a project status report by the County Administrator.

5. *LPA recommendation.* The LPA shall consider the project status report. The LPA may make recommendations on the findings of the report for the BCC's consideration.

6. *BCC consideration.* The County Administrator shall present the project status report and LPA conclusions and recommendations to the BCC at a regularly scheduled public meeting. The BCC may accept, modify, postpone or reject the project status report. For those projects determined by the BCC not to be proceeding satisfactorily toward completion, pursuant to section 10.5, the property owner will be notified in writing by the County Administrator that all further permitting of the development is to cease.

7. *Exception for single-family lot development.* Single-family lot development which is in compliance with the standards of the article 5, Adequate Public Facilities and Transportation Impact Analysis, of the LDR, shall be exempt from the final approval termination requirement for failure to maintain satisfactory progress.

10.17.B. *Monitoring of residential development orders.*

1. The County Administrator shall compare the timetables of developments with expected population projections so that development approvals are consistent with a fiscally feasible strategy for planning and construction of public facilities.

2. The County Administrator shall enforce the limitation on final residential development approvals scheduled for the first five years of the 15-year planning period, to 125 percent of the projected need for residential units for that period.

3. Development orders that have expired shall be removed from the active residential development tracking list.

(Ord. No. 510, pt. 4, § 10.17, 11-5-1996; Ord. No. 544, pt. 1, § 10.17, 3-2-1999; Ord. No. 587, pt. 1, § 10.17, 5-15-2001; Ord. No. 612, pt. II, 5-14-2002; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007; Ord. No. 991, pt. 2, 1-26-2016)

Sec. 10.18. Amendment of the official zoning map.

10.18.A. *Purpose.* This section provides a procedure for amending the boundaries of the official zoning map.

10.18.B. *Application requirements.*

1. See section 10.2.B. and 10.2.C.

2. Rezoning to the PUD district shall be in association with a master site plan application pursuant to sections 10.11 and 10.13.

3. The PUD standards and procedures provided elsewhere in the LDR shall apply to the creation of PUD zoning districts.

10.18.C. *Review and recommendation by the County Administrator.* See section 10.2.D. and 10.2.E.

10.18.D. *Recommendation of the LPA.* Review and recommendation by the LPA at a public hearing is required. See section 10.4; public notice required, see section 10.6.

10.18.E. *Action by the BCC.* Final action shall be taken by the BCC at a public hearing. See section 10.5; public hearing notice, see section 10.6; public hearing procedures, see section 10.7.

1. When the BCC grants a final approval to a proposed PUD zoning district application, the master site plan including all related information, agreements, and supporting materials required pursuant to this and other sections of the LDR shall be adopted as an amendment to the Official Zoning Map and shall become the standards of development for the subject PUD.
2. Development in the area delineated as a PUD district on the Official Zoning Map shall proceed only in accordance with the adopted master site plan and zoning agreement, any approved changes and amendments, any development of regional impact agreement, and the standards specified in the Comprehensive Plan, the LDR, and the Code.

(Ord. No. 587, pt. 1, § 10.18, 5-15-2001; Ord. No. 608, pt. 3, § 7, 3-19-2002; Ord. No. 612, pt. II, 5-14-2002; Ord. No. 730, pt. 1, 12-5-2006; Ord. No. 752, pt. 2, 6-5-2007)

Sec. 10.19. Amendment of a special exception.

10.19.A. *Purpose.* This section provides a procedure for amending an approved special exception.

10.19.B. *Application requirements.*

1. See section 10.2.B. and 10.2.C.
2. In addition to the requirements of section 10.2.B. and 10.2.C. the applicant must provide:
   a. A copy of the resolution or other document approving the special exception.
   b. Documentation that the use is still in operation and in compliance with any conditions;
   c. A recorded deed for the subject property, and certification of any subsequent transfers of interest in the property;
   d. A narrative that documents that the amendment to this special exception will not be detrimental to the public safety, health or welfare or be injurious to other property or improvements in the area in which the property is located; and the amendment requested is compatible and harmonious with the other uses allowed in the district; and
   e. A site plan revising the original site plan, if a site plan was included in the approval of the special exception.

10.19.C. *Review and recommendation by the County Administrator.* See section 10.2.D. and 10.2.E.

10.19.D. *Action by the BCC.* Final action shall be taken by the BCC at a public hearing. See section 10.5; public hearing notice, see section 10.6; public hearing procedures, see section 10.7.

10.19.E. *Standards to be considered for final action.* The BCC may approve an amendment to a special exception only if it finds that:

1. The special exception is not for a use regulated by Article 4, Division 8, or Article 4, Division 18, Land Development Regulations;
2. The special exception is in continuing use and in compliance with its original conditions, unless good cause is shown why those conditions are no longer applicable;
3. The amendment to the special exception will not be detrimental to the public safety, health or welfare or be injurious to other property or improvements in the area in which the property is located;
4. The amendment requested is compatible and harmonious with the uses allowed in the district; and

5. The amendment is not otherwise prohibited by the Comprehensive Growth Management Plan, the Land Development Regulations or General Ordinances of Martin County.

10.19.F. *Effect of approval of an amendment to the special exception.* The approval of an amendment shall allow the applicant to submit building permits in conformance with the terms and conditions of the approval, the Comprehensive Growth Management Plan, the Land Development Regulations or General Ordinances of Martin County.

(Ord. No. 1038, pt. 2, 11-14-2017)

FOOTNOTE(S):

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Editor's note— The Adequate Public Facilities Ordinance (AFPO) referred to in this article is codified as article 5 of the Land Development Regulations. (Back)

Cross reference— Preserve area management plan, § 4.36; approval of alteration, removal or destruction of mangroves, § 4.75; wellfield protection permit, § 4.151; approval of excavation and filling activities, § 4.344; stormwater management and flood protection submittal requirements, § 4.385; landscaping application requirements, § 4.662; development approval for telecommunications facilities, § 4.793; subdivisions, § 4.911 et seq.; subdivision plat approval procedure, § 4.972; adequate public facility standards, art. 5; adequate public facilities review procedure, § 5.32; development agreements, art. 7. (Back)

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Editor's note— The amendments to Section 10.11.B., Classification of development, made by Ord. No. 939, adopted Aug. 20, 2013, shall not apply to development applications where such applications were determined to be complete by the Martin County Growth Management Department prior to August 20, 2013, provided that final action on such applications is taken prior to December 31, 2013. (Back)

Article 11 ENFORCEMENT PROCEEDINGS AND PENALTIES (RESERVED)

CODE COMPARATIVE TABLE
1974 CODE

This table gives the location within this volume of those sections of the 1974 Code, as updated through May 23, 2000, that are included herein. Sections of the 1974 Code, as supplemented, not listed herein have been omitted as repealed, not of a general and permanent nature or included in volume I.

1974 Code Section	Section this Volume
3-1	4.501
3-21—3-28	4.521—4.528
3-31—3-35	4.551—4.555
ch. 12, art. VII, exhibit A	4.154
12-81—12-88	4.71—4.78
12-100—12-113	4.141—4.154
23-201—23-216	7.1—7.16
23-228—23-241	4.621—4.634
23-252—23-265	6.41—6.54
30½-1—30½-9	4.911—4.916
30½-19—30½-33	4.931—4.946
30½-41—30½-52	4.971—4.982

30½-61— 30½-67	4.1011—4.1017
31-42	4.181
31-42.1	4.182
31-43— 31-48	4.183—4.188
31-48.1	4.189
31-49— 31-51	4.190—4.192
31-51.1	4.193
31-52, 31-53	4.194, 4.195
31-54— 31-60	4.221—4.227
31-60.1— 31-60.8	4.228— 4.235
31-120—31-131	4.261—4.272
31-132—31-140	4.301—4.309
31-140.1— 31-140.3	4.310—4.312
33-72(A)— 33-72(K)	4.101—4.111
33-722— 33-740	4.691—4.709
33-741	4.731

LAND DEVELOPMENT REGULATIONS COMPARATIVE TABLE LAWS OF FLORIDA

This is a numerical listing of the chapters of the Laws of Florida used in this volume.

Laws of Fla. Chapter	Section	Code Section
61-2466		3.425
67-1708	1	4.501

CODE COMPARATIVE TABLE ORDINANCES

This is a numerical listing of the ordinances and resolutions of the county for volumes 1, 2 and 3.

Ord./Res. Number	Date	Ord./Res. Section	Volume Number	Section of Volume
	10- 8-63		2	4.913
				4.971—4.973
				4.975—4.980
	11-12-63	1, 2	1	5.3
	9- 8-64 (Superseded by Ord. No. 80)			
	10- 3-64 (Recodified in 2002)			
	2-23-65 (Superseded by Ord. No. 80)			
	6- 8-65 (Recodified in 2002)			
	5- 9-67 (Repealed by Ord. No. 608)			
1	8-11-70	1	1	91.35—91.38
		2		91.40, 91.41
	12-22-70 (Repealed by Ord. No. 608)			
	12-21-71 (Repealed by Ord. No. 608)			
	12-21-71 (Repealed by Ord. No. 608)			
2 (Repealed by Ord. No. 36)				
3 (Repealed by Ord. No. 68)				

4 (Number not used)				
5 (Superseded by Ord. No. 601)				
6 (Repealed by Ord. No. 8)				
7 (Repealed by Ord. No. 103)				
8 (Repealed by Ord. No. 521)				
9 (Repealed by Ord. No. 550)				
10	4-11-72	1—3	1	139.2
11	6-27-72	1, 2	1	123.1
12	11- 7-72	pt. 2	2	4.915
13 (Not passed)				
14	11- 7-72	pt. 1	2	4.912
				4.914
				4.931—4.944
		pts. 2, 3		4.945, 4.946
15	11- 7-72	pt. 1	1	103.51, 103.52
		pt. 2		103.53
16	11- 7-72	pt. 1	1	155.31
		pt. 2		155.34, 155.35
		pt. 3		155.36
		pt. 4		155.33

		pt. 5		155.32
17	11- 7-72	pts. 1—3	2	4.1011— 4.1013
		pt. 4		4.1014
		pts. 5—7		4.1015— 4.1017
18	2- 6-73	pts. 2, 3	2	4.916
19 (Not passed)				
73-3.10 (Recodified in 2002)				
73-3.11 (Deleted during recodification—2002)				
73-3.12	3-27-73	1—6	1	107.31—107.36
73-4.8	4-24-73	1—3	1	47.32
20 (Repealed by Ord. No. 608)				
21 (Repealed by Ord. No. 608)				
22 (Included in Ord. No. 80)				
23 (Repealed by Ord. No. 526)				
24	5- 8-73	pt. 1	2	4.911
25 (Recodified in 2002)				
26 (Repealed by Ord. No. 608)				
27 (Number not used)				
28 (Superseded by Ord. No. 295)				

29	3-12-74	pt. I	1	103.91—103.105
30 (Repealed by Ord. No. 608)				
31 (Temporary ordinance)				
32 (Temporary ordinance)				
33 (Repealed by Ord. No. 608)				
34 (Repealed by Ord. No. 271)				
35 (Repealed by Ord. No. 608)				
36 (Repeals Ord. No. 2)				
37 (Recodified in 2002)				
38 (Adopted the 1974 Code)				
39 (Number not used)				
40 (Number not used)				
41 (Not passed)				
42 (Repealed by Ord. No. 271)				
43 (Adopted Supp. No. 1—1974 Code)				
44	1-28-75	pt. 1	2	4.911
75-1.9	1-28-75	A	2	4.972
45 (Number not used)				
46 (Number not used)				
47	12- 3-74	pt. 1	1	131.1

				131.31—131.44
				131.71—131.73
				131.101, 131.102
48	9-21-81	pt. 1	1	1.61—1.64
49	4-22-75	pt. 1	1	63.1—63.5
				63.31—63.43
				63.61—63.63
				63.91—63.95
				63.121—63.123
50 (Repealed by Ord. No. 608)				
51 (Withdrawn)				
52 (Recodified in 2002)				
53 (Recodified in 2002)				
54 (Repealed by Ord. No. 608)				
75-3.5 (Repealed by Ord. No. 442)				
75-3.6 (Deleted during recodification—2002)				
55 (Adopted Supp. No. 2—1974 Code)				
56 (Number not used)				
57 (Not passed)				
58 (Repealed by Ord. No. 608)				

59 (Included in Ord. No. 80)				
60 (Included in Ord. No. 80; Ord. No. 149)				
61	5-27-75	pt. 1	1	5.5
62	6-10-75	2	1	67.206
		pt. 3		67.201—67.204
63 (Recodified in 2002)				
64 (Repealed by Ord. No. 87)				
65				
66	9- 9-75	pt. 1	1	115.10
67 (Adopted Supp. No. 3—1974 Code)				
68 (Repeals Ord. No. 3)				
69 (Repealed by Ord. No. 550)				
70 (Repealed by Ord. No. 271)				
71 (Recodified in 2002)				
72				
73				
74 (Repealed by Ord. No. 608)				
75 (Included in Ord. No. 608)				
76	9- 9-75	pt. 1	2	4.911
77 (Number not used)				

78 (Repealed by Ord. No. 550)				
79 (Adopted Supp. No. 4—1974 Code)				
80	1-13-76	pt. 1	1	21.1—21.6
				21.31—21.44
				21.81—21.83
				21.141—21.144
				21.171, 21.172
				131.102
81 (Included in Ord. No. 608)				
82	12- 9-75	pt. 1	1	5.3
83 (Superseded by Ord. No. 285)				
84 (Number not used)				
85 (Adopted Supp. No. 5—1974 Code)				
85-2.13	2-12-85	1—3	1	47.32
86	12-16-75	pt. 1	1	71.71
87 (Repealed by Ord. No. 178)				
88	3-23-76	pt. 1	1	103.5
		pt. 2		103.6
		pt. 3		103.52
		pt. 4		103.106

89 (Number not used)				
90 (Adopted Supp. No. 6—1974 Code)				
91	6-15-76	pt. 1	2	4.911
92				
93	8-10-76	pt. 1	1	83.151
94	1-24-78	pt. 1	1	79.61—79.66
95 (Not passed)				
96 (Not passed)				
97 (Adopted Supp. No. 7—1974 Code)				
98 (Not passed)				
99 (Adopted Supp. No. 8—1974 Code)				
100	4-26-77	pt. 1	1	21.144
101 (Repealed by Ord. No. 608)				
102 (Adopted Supp. No. 9—1974 Code)				
103	7-12-77	pt. 2	1	155.61—155.73
104	3-14-78	pt. 1	1	103.71—103.75
105	11- 8-77	pt. 1	1	155.101, 155.102
				155.104, 155.105
106 (Number not used)				
107	9-27-77	pts. 1, 2	2	4.911

108 (Superseded by Ord. No. 288)				
109 (Not passed)				
110	1-10-78	pt. 1	1	63.3
				63.31
				63.33
				63.42
				63.95
				63.122
111 (Repealed by Ord. No. 361)				
112 (Not passed)				
113 (Recodified in 2002)				
114 (Repealed by Ord. No. 608)				
115 (Recodified in 2002)				
116 (Repealed by Ord. No. 608)				
117 (Number not used)				
118 (Recodified in 2002)				
119 (Repealed by Ord. No. 608)				
120 (Deleted by Ord. No. 442)				
121 (Repealed by Ord. No. 521)				
122 (Number not used)				

123 (Repealed by Ord. No. 608)				
124 (Repealed by Ord. No. 416)				
125	3-14-78	pt. 1	1	21.144
126 (Adopted Supp. No. 10—1974 Code)				
127	9-26-78	pt. 1	1	43.1—43.16
		pt. 2		21.35
				21.44
		pt. 3		63.35
				63.43
		pt. 4		131.35
				131.44
128 (Adopted Supp. No. 11—1974 Code)				
129	7-25-78	pt. 1	1	63.121, 63.122
130 (Repealed by Ord. No. 608)				
131 (Adopted Supp. No. 12—1974 Code)				
132 (Repealed by Ord. No. 608)				
133 (Not passed)				
134	11-14-78	pt. 1	1	155.131—155.134
135 (Adopted Supp. No. 13—1974 Code)				
136 (Recodified in 2002)				

137	3-17-81	pt. 1	1	79.121
138	4-10-79	pt. I, § A	2	4.976
		pt. I, § D	1	103.105
139				
140 (Repealed by Ord. No. 608)				
141				
142 (Recodified in 2002)				
143 (Repealed by Ord. No. 608)				
144 (Adopted Supp. No. 14—1974 Code)				
145 (Recodified in 2002)				
146 (Repealed by Ord. No. 608)				
147	10- 9-79	1—9	1	67.71—67.79
148	10- 9-79	pt. 1	1	43.8
149	11-27-79	pt. 1	1	21.141—21.144
150	11-27-79	pt. 1	2	4.973
151 (Repealed by Ord. No. 608)				
152	12-18-79	pt. 1	1	71.71
153 (Adopted Supp. No. 15—1974 Code)				
154 (Repealed by Ord. No. 608)				
155	2- 1-80	pt. 1	1	115.1

156	3-24-81	pt. 3	1	17.9
157	5-20-80	pt. 1	1	115.1
158 (Number not used)				
159 (Number not used)				
160 (Number not used)				
161 (Repealed by Ord. No. 608)				
162 (Number not used)				
163 (Number not used)				
164 (Repealed by Ord. No. 608)				
165	7- 8-80	pt. 1	1	43.16
166	7- 9-80	pt. 1	1	79.92, 79.93
167	2-10-81		1	131.101, 131.102
168	8-12-80	pt. 1	1	71.131—71.134
169 (Repealed by Ord. No. 608)				
170	8-26-80	pt. 1	1	71.71
171	10- 7-80	pt. 1	1	103.6
				103.52
172 (Number not used)				
173 (Number not used)				
174 (Repealed by Ord. No. 608)				

175 (Superseded by Ord. No. 227)				
176	6- 9-81	pt. 1	1	123.18
177	6- 2-81	pt. 1	1	21.144, 21.145
178	6- 9-81	pt. 1	2	4.181
				4.183—4.188
				4.190—4.192
				4.194, 4.195
				4.234
81-6.4	6- 9-81	1—5 Added	1	71.431—71.435
179 (Recodified in 2002)				
180 (Recodified in 2002)				
181	6-30-81	pt. 1	1	79.124—79.128
182 (Recodified in 2002)				
183 (Deleted by Ord. No. 442)				
184	9-22-81	pt. I	1	103.105
		pt. II		155.33
		pt. III	2	4.976
185	11-10-81	pt. 1	1	17.9
186	11-10-81	pt. 1	1	79.92
187	1-26-82	pt. 1	1	159.2—159.6

188 (Repealed by Ord. No. 271)				
189 (Deleted by Ord. No. 373)				
82-2.13	2-23-82	1,2, 4—7 Added	1	71.441—71.446
190	4-13-82	pt. 1	1	79.63
191 (Repealed by Ord. No. 526)				
192 (Superseded by Ord. No. 227)				
193	11- 9-82	pt. I	1	79.181—79.188
194	5-25-82	pt. 1	2	4.190
195	5-25-82	pt. 1	1	159.71—159.76
196	6- 8-82	pt. 1	1	17.9
197	7-27-82	pt. 1	1	21.301—21.310
		pt. 12		21.311
198	1-12-83	pt. 1	1	21.311
199	1-12-83	pt. 1	1	17.9
200 (Failed)				
201	11-23-82	pt. 1	1	79.1—79.6
202	1-12-83	pt. 1	1	115.2—115.7
203 (Recodified in 2002)				
204	5-24-83	pt. 1	1	63.122
205	2- 8-83	pt. 1	1	131.33

				131.101, 131.102
206	2- 8-83	pt. 1	1	1.91—1.93
				1.95—1.99
207	3- 8-83	pt. 1	1	107.32
				107.34
208 (Recodified in 2002)				
209	4-12-83	pt. 1	1	17.9
210	4-26-83	pt. 1	2	4.234
211 (Comprehensive Plan amendment)				
212	5-10-83	pt. 1	1	17.9
213 (Superseded by Ord. No. 227)				
214 (Superseded by Ord. No. 608)				
215 (Recodified in 2002)				
216 (Repealed by Ord. No. 608)				
217 (Superseded by Ord. No. 295)				
218 (Recodified in 2002)				
219	8-23-83	pt. 1	2	4.235
220 (Comprehensive Plan amendment)				
221 (Superseded by Ord. No. 608)				
222 (Comprehensive Plan amendment)				

223	11- 8-83	pt. 1	1	21.143
				21.171
224	11- 8-83	pt. 1	1	63.122
225 (Deleted as superseded by F.S. § 386.209)				
226 (Comprehensive Plan amendment)				
227 (Deleted during recodification—2002)				
228 (Repealed by Ord. No. 361)				
229	1-24-84	pt. 1	1	123.41—123.44
				123.46
				123.48, 123.49
230 (Repealed by Ord. No. 310)				
231 (Comprehensive Plan amendment)				
232	4-10-84	pt. 1	1	1.31—1.34
				1.38
233	4-10-84	1—8	2	4.521—4.528
234 (Superseded by Ord. No. 558)				
235	4-24-84	pt. 1	2	4.181—4.185
				4.187, 4.188
				4.190—4.192
				4.234

236	6-12-84	pt. 1	1	79.64
237	6-12-84	pt. 1	1	79.121
				79.125
238	6-12-84	pt. 1	1	119.1—119.5
239	6-26-84	pt. 1	1	17.9
240 (Comprehensive Plan amendment)				
241	6-26-84	pt. 1	2	4.551—4.555
242	6-26-84	pt. 1	2	4.187
243 (Comprehensive Plan amendment)				
244 (Superseded by Ord. No. 608)				
245	8-14-84	pt. 1	1	143.1
246	8-14-84	pt. 1	1	131.102
247 (Deleted during recodification—2002)				
248	10-23-84	pt. 1	1	155.103—155.105
249	11- 6-84	pt. 1	1	67.202—67.204
250	11- 6-84	pt. 1	1	17.9
251	12-18-84	pt. 1	1	159.3—159.6
252	1-22-85	pt. 2	1	43.41—43.48
				43.51
				43.71—43.73

85-2.13 (Recodified in 2002)				
253	2-12-85	pt. 1, §§ 1—4	1	47.71—47.74
254				
255 (Repealed by Ord. No. 608)				
256				
257 (Superseded by Ord. No. 469)				
258	7-23-85	pt. 1	1	43.41
				43.44
				43.46
259 (Repealed by Ord. No. 469)				
260 (Comprehensive Plan amendment)				
261 (Comprehensive Plan amendment)				
262	7-23-85	pt. 1	1	17.9
263	8-13-85	1	1	71.181, 71.186
		2—5		71.182—71.185
264 (Comprehensive Plan amendment)				
265	8-13-85	pt. 1	1	143.1
266 (Repealed by Ord. No. 471)				
267 (Repealed by Ord. No. 443)				
268 (Comprehensive Plan amendment)				

269	9-10-85	pt. 1	1	155.69
270	9-10-85	pt. 2	1	123.18
	9-24-85	pt. 2	1	123.1
				123.4, 123.5
				123.8
				123.10
				123.13
271 (Superseded by Ord. No. 453)				
272 (Deleted during recodification—2002)				
273	6-23-87	pt. 1	2	4.234
274 (Deleted during recodification—2002)				
275 (Repealed by Ord. No. 521)				
276	12- 3-85	pt. 1	2	4.189
277	12-17-85	pt. 1	1	63.122
278	1-14-86	pt. 1	1	107.32
279 (Repealed by Ord. No. 608)				
280	1-28-86	pt. 1	2	4.71—4.78
281 (Superseded by Ord. No. 497)				
282 (Repealed by Ord. No. 550)				
283 (Comprehensive Plan amendment)				

284 (Repealed by Ord. No. 446)				
285 (Superseded by Ord. No. 608)				
286 (Deleted during recodification—2002)				
287 (Deleted during recodification—2002)				
288	2-25-86	pt. 1	1	21.111—21.115
				21.117—21.121
				67.205
289 (Repealed by Ord. No. 550)				
290	3-11-86	pt. 1	1	79.221—79.224
291	2-11-86	pt. 1	2	4.181
292	4-22-86	pt. 1, § 1	1	5.6
293 (Repealed by Ord. No. 608)				
294	5-20-86	pt. 1	1	155.61—155.73
295	6-10-86	2, 3	1	25.1, 25.2
		4		25.41
		5.1, 5.2		25.43, 25.44
		5.3—5.5		25.45
		5.6		25.46
		5.7		25.75
		5.8		25.77

		5.9		25.47
		6—8		25.48—25.50
		9		25.42
		10.1—10.3		25.71
		10.4		25.72
		10.5		25.74
		10.6		25.79
		10.7		25.73
		10.8		25.76
		10.9		25.78
		11.1		25.80, 25.81
				25.83
		11.2		25.85
		11.3		25.82
		11.5—11.7		25.84
		11.8, 11.9		25.87, 25.88
		12, 13		25.5, 25.6
		14		25.12
		15		25.7
		16.1		25.8

		16.2		25.15
		16.3		25.51
		16.4		25.86
		16.5		25.14
		16.6		25.13
		16.7		25.9
		16.8, 16.9		25.3
		16.10, 16.11		25.10, 25.11
		16.12		25.4
		16.13		25.10
296 (Repealed by Ord. No. 471)				
86-6.18 (Repealed by Ord. No. 608)				
297	6-24-86	pt. 1(I)	1	103.191
298 (Repealed by Ord. No. 557)				
299	7- 8-86	pt. 1	1	123.47
				123.50
				123.52—123.56
300 (Comprehensive Plan amendment)				
301	7-22-86	1	1	71.181, 71.182
		3—5		71.183—71.185

302	7-15-86	1—6	1	71.201—71.206
303 (Deleted during recodification—2002)				
304	8-26-86	pt. 1	1	131.33
				131.35, 131.36
				131.38, 131.39
				131.44
				131.71, 131.72
				131.101, 131.102
305 (Repealed by Ord. No. 608)				
306 (Repealed by Ord. No. 464)				
307	8-26-86		1	71.205
308	9- 9-86	pt. 1	1	79.61—79.63
309	9- 9-86	pt. 1	1	5.6
310	9-23-86	pt. 1	2	4.181—4.188
				4.190—4.192
				4.234
311	11-18-86	pt. 1, §§ 1—3	1	5.7
312 (Repealed by Ord. No. 608)				
313 (Repealed by Ord. No. 529)				
314	12- 2-86	pt. 1	2	4.261—4.272

315 (Comprehensive Plan amendment)				
316	1-27-87	pts. 1, 2	1	21.116
		pt. 2		21.111— 21.115
				21.117— 21.121
317	1-27-87	pt. 1	1	111.51— 111.53
318	2- 2-87	pts. 1, 2	1	5.3, 5.4
319	2-24-87	pt. 1	1	159.7—159.9
320 (Deleted during recodification—2002)				
321	3-10-87	pt. 1(a), (b)	2	4.973
322 (Repealed by Ord. No. 529)				
323	4-23-87	pt. 1	1	55.111— 55.120
324	4-28-87	pt. 1	1	139.2
325 (Superseded by Ord. No. 469)				
326	6-23-87	pt. 1	1	17.9
327 (Repealed by Ord. No. 454)				
328 (Comprehensive Plan amendment)				
329 (Repealed by Ord. No. 557)				
330 (Comprehensive Plan amendment)				

331 (Repealed by Ord. No. 445)				
332 (Repealed by Ord. No. 444)				
333 (Repealed by Ord. No. 557)				
334 (Repealed by Ord. No. 454)				
335	10- 6-87	pt. 1	2	4.190
		pt. 2		4.267
336	10- 6-87	pt. 1	1	21.3, 21.4
				21.33
				21.35, 21.36
				21.38
				21.42
				21.44
				21.81, 21.82
				21.143, 21.144
				21.171
		pt. 2		21.5, 21.6
337	12- 1-87	1—10	1	29.31—29.40
338 (Repealed by Ord. No. 521)				
339 (Repealed by Ord. No. 521)				
340 (Repealed by Ord. No. 521)				

341	10-11-94	pt. 1	1	79.92
342	1-12-88	pt. 1	1	159.7—159.9
343 (Repealed by Ord. No. 608)				
344 (Repealed by Ord. No. 608)				
345	4-26-88	pt. 1	1	111.51—111.53
346 (Superseded by Ord. No. 469)				
347 (Repealed by Ord. No. 521)				
348	6-28-88	1—7	1	163.91—163.97
349 (Repealed by Ord. No. 454)				
350 (Recodified in 2002)				
351 (Comprehensive Plan amendment)				
352	8-23-88	pt. 1, § 3	1	25.2
		pt. 1, § 4		25.41
		pt. 1,		
		§§ 5.3—5.5		25.45
		pt. 1, §§ 5.7, 5.8		25.75
		pt. 1, §§ 6—8		25.48—25.50
		pt. 1, § 9		25.42
		pt. 1, §§ 10.1, 10.2		25.71
		pt. 1, § 10.4		25.74

		pt. 1, § 10.5		25.79
		pt. 1, § 10.6		25.73
		pt. 1, § 10.8		25.76
		pt. 1, § 10.9		25.78
		pt. 1, § 11.2		25.85
		pt. 1, § 11.3		25.82
		pt. 1, § 12		25.5
		pt. 1, § 16.1		25.8
		pt. 1, § 16.6		25.13
353	9-13-88	pts. 1, 2	1	5.3
354 (Repealed by Ord. No. 428)				
355 (Comprehensive Plan amendment)				
356 (Deleted during recodification—2002)				
357	2-20-88	pt. 2	1	63.122
	12-20-88	pt. 1	1	63.91
358 (Repealed by Ord. No. 443)				
359 (Deleted during recodification—2002)				
360 (Not codified—Temporary)				
361	3-28-89	pts. 1—5	1	75.1—75.5
362	5- 9-89	pt. 1	1	21.32

		pt. 2		21.143
		pts. 3, 4		21.144
363	3- 9-89	pts. 2, 3	1	131.102
	5- 9-89	pt. 1	1	131.101
364 (Comprehensive Plan amendment)				
365	9-26-89	pt. 1	1	111.51
366 (Comprehensive Plan amendment)				
367	12- 5-89	pt. 1	1	67.201
368 (Repealed by Ord. No. 529)				
369	1- 9-90	1—5	1	67.231—67.235
		7—13		67.237—67.243
370	1-23-90	3(B)	1	29.31
		3(C)		29.35
		3(D)		29.37
		3(F)		29.40
371 (Deleted during recodification—2002)				
372 (Recodified in 2002)				
373	2-20-90	1.1—1.13	3	Ch. 1
		2.1, 2.2		Ch. 2
		3.1, 3.2		Ch. 3

		4.1, 4.2		Ch. 4
		9.1—9.4		Ch. 9
		10.1—10.5		Ch. 10
		11.1—11.5		Ch. 11
		12.1—12.5		Ch. 12
		13.1—13.7		Ch. 13
		14.1—14.5		Ch. 14
		15.1—15.5		Ch. 15
		16.1—16.4		Ch. 16
374	2-13-90	pt. 1	2	4.190
		pt. 2		4.267
375 (Repealed by Ord. No. 529)				
376	4-10-90	pt. 1	1	43.5
		pt. 2		43.41
				43.43—43.46
377 (Deleted during recodification—2002)				
378	4-24-90	pt. 1	1	67.234
		pts. 2, 3		67.238, 67.239
		pt. 4		67.243
379 (Repealed by Ord. No. 608)				

380 (Repealed by Ord. No. 557)				
381	5-22-90	pt. 1	1	21.191—21.200
		pt. 2		21.221, 21.222
		pt. 3		21.241—21.243
382 (Repealed by Ord. No. 446)				
383	7-10-90	pt. 1	1	21.271
384	8-14-90	pt. 1	1	1.91—1.93
				1.97, 1.98
385 (Repealed by Ord. No. 529)				
386	9-25-90	pt. 1(A)	2	4.181
		pt. 1(B)		4.193
387	10- 9-90	pt. 1	1	63.31—63.42
		pt. 2		63.91
				63.95
		pt. 3		63.121—63.123
388 (Comprehensive Plan amendment)				
389	11-20-90	pt. 1	1	21.301—21.311
390 (Repealed by Ord. No. 521)				
391	3-12-91	pt. 1	1	139.2
392	3-12-91	pt. 1	1	79.121—79.123

393 (Deleted during recodification—2002)				
394	4- 9-91	1—6	2	7.1—7.6
		6		7.13
				7.16
		7		7.9
				7.11
		8		7.10
		10		7.12
		12, 13		7.14, 7.15
395	4-23-91	pt. 1	1	21.271
396 (Repealed by Ord. No. 444)				
397 (Repealed by Ord. No. 445)				
398 (Repealed by Ord. No. 443)				
399	6-25-91	pt. 1	1	123.41—123.57
400	7- 9-91	4.1, 4.2	3	Ch. 4
		5.1—5.6		Ch. 5
		6.1—6.4		Ch. 6
		7.1—7.8		Ch. 7
		8.1—8.4		Ch. 8
		9.1—9.4		Ch. 9

		10.1—10.5		Ch. 10
		11.1—11.5		Ch. 11
		14.1—14.5		Ch. 14
401 (Repealed by Ord. No. 608)				
402	10- 8-91	pt. 1	1	67.2
403	10-22-91	4.1, 4.2	3	Ch. 4
		5.1—5.6		Ch. 5
		14.1—14.5		Ch. 14
404	11-19-91	pt. 1	1	21.271
405	12- 3-91	pt. 1	1	17.61—17.67
406 (Repealed by Ord. No. 521)				
407 (Repealed by Ord. No. 521)				
408 (Repealed by Ord. No. 521)				
409	12-17-91	pt. I	1	79.151—79.155
410	2-25-92	pt. 1	1	17.8—17.12
411	5-26-92	pt. I	1	47.101—47.103
412	5-26-92	1—3	1	71.17
413	8-25-92	pt. II, § 1—	1	159.131—
		pt. II, § 5		159.135
414	9- 8-92	pt. 1	1	131.101

		pt. 2		131.102
415	9- 8-92	pt. 1	1	21.143
416	9-22-92	pt. II	1	107.61—107.64
417	10- 6-92	pt. 1	1	91.31—91.33
				91.35—91.38
418 (Repealed by Ord. No. 608)				
419	10-27-92	4.1, 4.2	3	Ch. 4
		5.1—5.6		Ch. 5
		6.1—6.4		Ch. 6
		7.1—7.8		Ch. 7
		8.1—8.4		Ch. 8
		11.1—11.5		Ch. 11
		12.1—12.5		Ch. 12
		14.1—14.5		Ch. 14
		15.1—15.5		Ch. 15
420	12-15-92	pt. 1	1	71.72
421 (Repealed by Ord. No. 521)				
422	1-12-93	pt. 1	1	17.91—17.100
423	3- 2-93	4.1, 4.2	3	Ch. 4
		9.1—9.4		Ch. 9

424	4- 6-93	pt. 1	1	21.272—21.275
425	5-25-93	pt. I	1	79.7
426	5-23-93	1	1	51.41
	5-25-93	2	1	51.42
427	7-13-93	1	1	47.121, 47.123
		2		47.122
		4—6		47.124—47.126
428	7-27-93	pt. 2	2	4.141
		pt. 2(A)—(M)		4.142—4.154
429	9-28-93	pt. A	1	115.11
430	10-26-93	3.1, 3.2	3	Ch. 3
		4.1, 4.2		Ch. 4
		5.1—5.6		Ch. 5
		6.1—6.4		Ch. 6
		7.1—7.8		Ch. 7
		8.1—8.4		Ch. 8
		9.1—9.4		Ch. 9
		10.1—10.5		Ch. 10
		11.1—11.5		Ch. 11
		12.1—12.5		Ch. 12

		13.1—13.7		Ch. 13
		14.1—14.5		Ch. 14
		15.1—15.5		Ch. 15
		16.1—16.4		Ch. 16
431 (Deleted during recodification—2002)				
432	10-26-93	pts. 1—6	2	7.2—7.7
		pt. 6		7.8
				7.12
				7.14, 7.15
		pts. 6, 7		7.9
				7.11
		pts. 6, 8		7.10
		pt. 9		7.13
		pt. 10		7.16
433	11-23-93	pt. A	1	127.3
434	12- 7-93	pt. 1	1	71.73
435	1-11-94	pt. A	1	115.12
436 (Repealed by Ord. No. 492)				
437	3- 8-94	pt. I	2	4.141
		pt. II		4.147

		pts. III, IV		4.148
		pts. V—VIII		4.150
		pts. IX—XII		4.151
		pt. XIII		4.154
438 (Repealed by Ord. No. 464)				
439	3- 8-94	pt. A	1	115.11
440 (Repealed by Ord. No. 608)				
441 (Repealed by Ord. No. 517)				
442	4-12-94	pt. 1	1	47.31, 47.32
				47.51
				47.72
443 (Repealed by Ord. No. 453)				
444 (Deleted during recodification—2002)				
445	11-23-94	pt. 1	1	79.4
446	9-13-94	pt. 1	2	4.691—4.709
447 (Repealed by Ord. No. 557)				
448	9-13-94	4.1, 4.2	3	Ch. 4
		5.1—5.6		Ch. 5
		6.1—6.4		Ch. 6
		7.1—7.8		Ch. 7

		8.1—8.4		Ch. 8
		12.1—12.5		Ch. 12
		13.1—13.7		Ch. 13
		14.1—14.5		Ch. 14
		15.1—15.5		Ch. 15
449	10-11-94	pt. 1	1	79.1
				79.3
				79.91
				79.93
450	11-29-94	4.1, 4.2	3	Ch. 4
		6.1—6.4		Ch. 6
		10.1—10.5		Ch. 10
		11.1—11.5		Ch. 11
451	12- 6-94	pt. 1	1	71.73
452	2-14-95	pt. 1	2	4.621—4.634
453 (Deleted during recodification—2002)				
454	2-14-95	pt. 2	2	4.221—4.235
455	2-28-95	pt. 1	1	115.2—115.9
456	2-28-95	pt. 1	2	4.71—4.78
457 (Repealed by Ord. No. 608)				

458 (Growth Management Plan amendment)				
459 (Deleted during recodification—2002)				
460	5- 2-95	pt. 2	2	4.301—4.312
461 (Growth Management Plan amendment)				
462	6- 6-95	pt. I	2	4.101—4.111
463	6-13-95	pt. I, § 1—	1	67.271—
		pt. I, § 3		67.273
464	6-13-95	pt. 2	1	123.1—123.18
				123.53
				123.56
465	6-13-95	pt. 2	1	159.161— 159.167
466	6-20-95	2—7	1	71.221— 71.226
467 (Superseded by Ord. No. 499)				
468 (Repealed by Ord. No. 608)				
469 (Repealed by Ord. No. 608)				
470	7-25-95	pt. 1	2	4.696
471	7-25-95	pt. IV	2	4.630
472 (Repealed by Ord. No. 608)				
473 (Repealed by Ord. No. 529)				

474	7-25-95		2	6.54
		I—XIII		6.41—6.53
475	7-25-95	pt. I, §§ 1—4	1	1.10
476 (Not codified—Special assessments)				
477	9-12-95	1.1—1.13	3	Ch. 1
		8.1—8.4		Ch. 8
		12.1—12.5		Ch. 12
		14.1—14.5		Ch. 14
478 (Deleted during recodification—2002)				
479 (Growth Management Plan amendment)				
480	10-10-95		1	79.61—79.66
481 (Deleted during recodification—2002)				
482	11-21-95	pt. 1	1	21.171, 21.172
483	12- 5-95	pts. 1, 2	2	4.972
		pt. 3		4.981
484	12- 5-95	5.1—5.6	3	Ch. 5
		14.1—14.5		Ch. 14
485 (Repealed by Ord. No. 527)				
486 (Repealed by Ord. No. 608)				
487 (Not codified—One-year sales surtax)				

488 (Not codified—Reassessments)				
489	1-23-96	pt. 1	2	4.232
490	1-23-96	pt. 1	2	4.311
491 (Not codified—MSBU assessments)				
492 (Deleted during recodification—2002)				
493	4- 9-96	arts. I—V	1	71.101—71.105
494 (Repealed by Ord. No. 608)				
495 (Repealed by Ord. No. 557)				
496	6-25-96	pt. 1	1	21.274
497	7- 9-96		1	87.101—87.114
498				
499	7-25-96	art. I, § 1.01—	1	159.191—
		art. I, § 1.03		159.193
		art. II, § 2.01—		159.201—
		art. II, § 2.03		159.203
		art. III, § 3.01—		159.221—
		art. III, § 3.12		159.232
		art. IV, § 4.01—		159.251—
		art. IV, § 4.13		159.263
		art. V, § 5.01—		159.281—

		art. V, § 5.04		159.284
		art. VI, § 6.01—		159.301—
		art. VI, § 6.09		159.309
		art. VII,		159.331—
		§§ 7.01—7.03		159.333
500 (Repealed by Ord. No. 608)				
501 (Repealed by Ord. No. 608)				
502	8-27-96	14.1—14.5	3	Ch. 14
503 (Repealed by Ord. No. 608)				
504	10- 8-96	pt. 1	1	47.52
505 (Deleted by Ord. No. 525)				
506 (Repealed by Ord. No. 608)				
507 (Not codified—MSBU assessments)				
508	11- 5-96	pt. 1	1	21.308
509				
510	11- 5-96	pt. 4, §§		
		10.1—10.7	2	10.1—10.7
		pt. 4,		
		10.9—10.13	2	10.9—10.13
		pt. 4,		

		§§ 10.15—10.17	2	10.15—10.17
511 (Repealed by Ord. No. 529)				
512 (Growth Management Plan amendment)				
513 (Deleted during recodification—2002)				
514				
515	5-27-97	pt. 1	1	155.103—155.105
516 (Growth Management Plan amendment)				
517	6-24-97	pt. 1, § 7 1/3 -1—		
		pt. 1, § 7 1/3 -5	1	39.1—39.4
518	6-24-97	art. 1	1	13.1
		arts. 2—8		13.2—13.8
519 (Repealed by Ord. No. 608)				
520 (Growth Management Plan amendment)				
521	9-23-97	pt. 2	1	71.71
		pt. 3		79.251—79.257
522 (Repealed by Ord. No. 608)				
523	12-16-97	pt. 1	1	47.51
524 (Repealed by Ord. No. 608)				
525	3-10-98	pt. 2	2	4.731
526	4-14-98	pt. 2, §§		

		4.17.01—		
		4.17.05	2	4.761—4.765
527	5-21-98	pt. 1	2	4.31—4.35
				4.37, 4.38
		§ 4.2.09		4.36
528 (Not codified—One-cent sales tax)				
529	9-29-98		1	151.1—151.3,
				151.31, 151.32,
				151.51—151.62,
				151.81—151.83,
				151.111— 151.115,
				151.141— 151.149,
				151.171, 151.172
				151.201, 151.202
530	10- 9-98	pt. I	2	4.33
				4.35
531	10-13-98	1—9	1	67.301— 67.309
532 (Not codified—MSBU assessments)				

533	11-17-98	pts. 1, 2	1	67.232, 67.233
		pt. 3		67.238
		pt. 4		67.241
534	11-17-98	pt. 1	1	43.1, 43.2
				43.42
				43.49, 43.50
535				
536	12- 8-98	pt. 1(A)	1	39.1
		pt. 1(B)		39.4
537	12-15-98	3.1, 3.2	3	Ch. 3
		4.1, 4.2		Ch. 4
		5.1—5.6		Ch. 5
		7.1—7.8		Ch. 7
		8.1—8.4		Ch. 8
		9.1—9.4		Ch. 9
		10.1—10.5		Ch. 10
		11.1—11.5		Ch. 11
		13.1—13.7		Ch. 13
		14.1—14.5		Ch. 14
		15.1—15.5		Ch. 15

538				
539				
540	1-12-99	pt. 1	1	111.81
		pt. 2		111.82
541	2- 9-99	pt. 1, § 1.1—		
		pt. 1, § 1.3	2	1.1—1.3
		pt. 1, § 1.5—		
		pt. 1, § 1.8		1.5—1.8
		pt. 1, § 1.4		1.4
542				
543				
544	3- 2-99	pt. 1, §§		
		10.1—10.17	2	10.1—10.17
		pt. 2	1	103.103
545	12-15-98	15.1—15.5	3	Ch. 15
		16.1—16.4		Ch. 16
546	3-25-99	pt. 1, §§		
		4.18.1—4.18.3	2	4.791—4.793
		pt. 1, §§		
		4.18.5—4.18.13		4.795—4.803

		pt. 1, § 4.18.14		4.794
		pt. 1, §§		
		4.18.15—4.18.22		4.804—4.812
		pt. 2		4.695
547	6-15-99	pt. 1	1	79.221— 79.224
548	6-22-99	pt. 1, §§		
		4.1.1—4.1.4	2	4.1—4.4
549	7-13-00	pt. 1, §§		
		4.8.1—4.8.11	2	4.341—4.351
		pt. 2(C)		4.981
550 (Repealed by Ord. No. 600)				
551	8-10-99	pt. 1	1	115.7
552				
553				
554				
555	9-28-99	3.1, 3.2	3	Ch. 3
		4.1, 4.2		Ch. 4
		5.1—5.6		Ch. 5
		6.1—6.4		Ch. 6
		7.1—7.8		Ch. 7

		10.1—10.5		Ch. 10
		11.1—11.5		Ch. 11
		12.1—12.5		Ch. 12
		13.1—13.7		Ch. 13
		14.1—14.5		Ch. 14
556	10-18-99	pt. 1	1	1.92
		pts. 2—10		1.93—1.101
557	10-26-99	pt. 1	1	9.1—9.5
				9.31—9.38
				9.61—9.64
				9.91—9.98
558	11- 9-99	pt. 1	1	51.1—51.12
559	11- 2-99	pt. 1	1	21.143
		pt. 2		21.144
560	11-16-99	pt. I, § 1—	1	111.101—
		pt. I, § 11		111.111
561	12- 7-99	pt. I, §§		
		4.19.1—4.19.9	2	4.841—4.849
		pt. II		4.973
562	12- 7-99	pt. 1, §§		

		6.1—6.13	2	6.1—6.13
563				
564	12-21-99	pt. I, § 5.1	2	5.1
		pt. I, § 5.2		5.2
		pt. I, § 5.4		5.3
		pt. I, § 5.6—		
		pt. I, § 5.8		5.31—5.33
		pt. I, § 5.9—		
		pt. I, § 5.12		5.61—5.64
		pt. II		10.11
				10.14
565				
566	1-11-00	pt. 1, §§		
		8.01—8.04	2	8.1—8.4
567				
568	5-16-00	pt. 1, §§		
		4.9.1—4.9.12	2	4.381—4.392
		pt. 2		4.973
		pt. 3		10.1
569	5-23-00	pt. 1	1	9.1

		pt. 2		9.65
570	6-13-00	pt. 1	2	4.348
571	6-13-00	pt. I, § 7 1/3 -1	1	39.3
		pt. I, § 7 1/3 -5		39.5
572	7-25-00	pt. 1	2	4.3
573	5-25-00	pt. 1	2	4.2
574	8-15-00	pt. 1	2	4.809
575				
576				
577	8-22-00	1.1—1.13	3	Ch. 1
		8.1—8.4		Ch. 8
		9.1—9.4		Ch. 9
		14.1—14.5		Ch. 14
578	5-26-00	pt. 1	2	8.3, 8.4
	5-26-00	pt. 2	1	103.103
579	9-26-00	pt. 1	2	10.1
				10.6
				10.10, 10.11
580	11- 7-00	pt. 1, § 4.1.2	2	4.2.C., H.
		pt. 1, § 4.1.3	2	4.3.A.

581	12- 5-00	pt. I	1	79.221—79.224
582				
583				
584	12- 5-00	8.1—8.4	3	Ch. 8
		9.1—9.4		Ch. 9
585	3-20-01	pt. 1, § 31-77—	1	159.101—
		pt. 1, § 31-81		159.105
586	4-10-01	pt. 1	1	21.274
587	5-15-01	pt. 1, §§		
		10.1—10.18	2	10.1—10.18
		pt. 2, § 1.4		1.4
		pt. 3		5.32
588	5-22-01	pt. 1	1	5.5
589	6-19-01	pt. 1, § 31-78	1	159.102
590	6-19-01	pt. 1, § 4.1.2, fig. 4.1.1	2	4.2
		pt. 1, § 4.1.3		4.3
		pt. 1, § 4.1.4		4.4
		pt, 1, § 4.1.1		4.1
591	7-10-01	pt. 1, § 3.60		
		Added	2	3.260

		pt. 1, § 3.61		
		Added		3.261
592	7-10-01	pt. 1, §§		
		4.8.1—4.8.11	2	4.341—4.351
593	7-24-01	pt. 1, §§		
		4.9.1—4.9.12	2	4.381—4.392
594	8-14-01	pt. I, § 31-3—		
		pt. I, § 31-5	1	159.3—159.5
		pt. I, § 31-5		159.6
595	8-14-01	1—5	1	75.6.A—75.6.E
596	8-21-01	pt. 1, § 3.61		
		Added	2	3.262
597	9-11-01	pt. 1	1	103.52
598	9-25-01	pt. I(Exh. A)	3	4.1.A.
				4.2.A.3.
				4.2.A.9.a., b.
		Added		4.4.G.3.f., g.
				4.4.M.1.f., g.
				4.6.B.2.
				15.1—15.7

599	9-25-01	pt. I, § 3.62		
		Added	2	3.263
600	9-25-01	pt. 2, § 27½-1—	1	135.1—
		pt. 2, § 27½-6		135.6
601	10- 2-01	pt. 1, §§		
		4.15.1—4.15.8	2	4.661—4.668
602	11- 6-01	pts. 1, 2	1	17.9
603	11-20-01	pt. I, §§		
		4.19.1—4.19.9	2	4.841—4.849
604	11-27-01	pt. I	1	71.73
605	12- 4-01	pt. 1, §§		
		4.2.1—4.2.8	2	4.31—4.38
		pt. 2	1	67.201
606	12-11-01	pt. I (Not codified, voided by Ord. No. 630)		
		pt. II(#01-11, Exh. B)	3	3.2.A.8.d.,
				3.2.A.10.,
				4.4.G.1.m.
		pt. III(#01-12, Exh. C)	3	4.5.B.5.h.,
				8.4.A.1.b.(6)(h),
				8.4.A.1.o.,

				9.4.A.7.b.(7)(h),
				9.4.A.7.q.,
				14.4.A.4.,
				14.4.A.5., 6.
607	3-19-02	1—7 Added	1	71.227—71.233
608	3-19-02	pt. 1 Added	2	3.1—3.3,
				3.10—3.16,
				3.31—3.32,
				3.51—3.110,
				3.201—3.210,
				3.241—3.244,
				3.401—3.425
		pt. 2, § 5.7.B		5.32.B.3
		pt. 3(1) Rpld		23-7, 23-7
		pt. 3(2) Rpld		23-103— 23-110
		pt. 3(3) Rpld		33-1— 33-43,
				33-45— 33-49,
				33-56— 33-70,

				33-75— 33-578,
				33-581.2—
				33-716,
				33-955— 33-980
		pt. 3(4) Rpld		Ch. 35
		pt. 3(5) Rpld		App. A, Arts. I—III
		pt. 3(6) Rpld		Ord. 509
		pt. 3(7) Rpld		10.18.F.
609	3-26-02	pt. 1, § 3.61	2	3.261.F.
610	4-23-02	pt. 1		
		(24½-4) Added	1	115.13
611	4-23-02	1—4,		
		7—14 Added	1	71.234—71.245
612	5-14-02	pt. I Added	2	9.1—9.7
		pt. II		10.1.D., 10.4,
				10.6.A., C.,
				10.11.E.1., 5., 7.,
				10.13.B.4, 6.,
				10.17.A.5—7.,

				10.18.D.
		pt. III.A(23-6) Rpld	1	103.6
		pt. III.B(23-22—23-24) Rpld	1	103.51—103.53
		pt. III.C(23-25—23-25.4) Rpld	1	103.71—103.75
		pt. III.D(23-30—23-37.9) Rpld	1	103-91—103.106
		pt. III.E(23-171) Rpld	1	103.191
613	5-14-02	pt. 1(7¼-3)	1	13.3
		(7¼-5)		13.5.A.5., 6.
		(7¼-3)		13.6.B.1.
614	5-28-02	pt. 1, §		
		33-728 Added	2	4.697.D.
615	5-28-02	pt. 1(7 1/3 -1)	1	39.1.C.
		(7 1/3 -3)		39.3
		(7 1/3 -4)		39.4
616	6-24-02	pt. 1,		
		§ 4.21 Added	2	4.911—4.914
		pt. 2		10.1.D., 10.2.D.2.,
				10.3.B.3.a.,
				10.5.A.2.,
				10.11.C.2.b., D.2.b.,

				F.2., G., 10.13.C.2.
		pt. 3,		
		Ch. 30½ Rpld	2	4.911—4.916,
				4.931—4.946,
				4.971—4.982,
				4.1011—4.1017
617	7- 9-02	pt. 1, §§ 4.20.1—		
		4.20.4 Added	2	4.871—4.874
		pt. 2, § 4.19 Rpld		
				4.844.B.3., 4.
		pt. 3, § 4.15.3		
				4.663.B.1.
618	7-23-02	pt. 1(1) Rpld	1	21.1—21.7
		Added		21-1—21.12
		(3) Rpld		21.31—21.44
		Added		21.15—21.27
		Rnbd		21.191—21.200
		as		21.28—21.37
		(4)		21.38—21.49
		Dltd		63.61—63.63

		(5)		21.50—21.62
		Dltd		131.71—131.73
		(6) Rnbd		21.81—21.83
		as		21.63—21.65
		(7) Rnbd		21.111—21.121
		as		21.66—21.76
		(8) Dltd		21.141—21.144
		(9) Rnbd		21.145
		as		21.77
		(10) Rnbd		21.171, 21.172
		as		21.78, 21.79
		(12) Rpld		21.241—21.243
		(13) Rnbd		21.271—21.275
		as		21.80—21.84
		(14) Rnbd		21.301—21.312
		as		21.85—21.96
		pt. 2(1) Rpld		63.1—63.5,
				63.91—63.95,
				63.121—63.123
		(2) Rnbd		63.31—63.43

		as		21.38—21.49
		pt. 3(1) Rpld		131.1, 131.101, 131.102
		(2) Rnbd		131.31—131.44
		as		21.50—21.62
		pt. 4(1) Added		43.16.E., F.
				43.71
619				
620	8- 6-02	pt. 1, §§		
		4.13.1—		
		4.13.15 Added	2	4.581—4.595
		pt. 2	1	79.5
621	8-27-02	pt. 1 Added	1	47.150—47.153
622	8-27-02	pt. 1,		
		§ 4.14 Added	2	4.621—4.633
		pt. 2(A),		
		§§ 23-228—		
		23-241 Rpld		4.621—4.634
		pt. 2(B),		
		§ 4.19.6 Rpld		4.846
02-9.34	9-17-02		1—3	Adopting Res., pg. xi

623	11- 5-02	pt. 1	2	3.3, 3.11,
				3.12, 3.16
		Added		3.56.1
				3.62, 3.63,
				3.66, 3.73,
				3.201, 3.206,
				3.401, 3.402,
				3.407, 3.411
		pt. 2 Added		8.4.D., E.
624	11- 5-02	pt. 1,		
		§ 3.64 Added	2	3.264
625	11- 5-02	pt. 1, § 3.62	2	3.263.A., H.
626	11-12-02	pt. 1, § 3.61	2	3.262.A., H.
627	12-10-02	pt. IV(Exh. E)	3	8.4.A.2.h., i.
				9.4.A.9.h., i.
628	2-11-03	pt. 1	1	Ch. 9
629	5-27-03	pt. 1	1	Ch. 43
630	5-27-03	pt. I(Exh. A)	3	4.1.B.15.—20.,
				4.4.A.1.a.(10)(b),
				4.4.B.1.c.(1), d.,

				4.4.C., 4.4.G.1.h.,
				4.4.I.3.a.(3), 4.b., 5.,
				4.4.J.2.c., 3.b.,
				4.b., 5.a., 4.4.M.2.,
				4.5.A.1.c.(4), 2.,
				4.5.C.4., 4.6.A.2., 3.,
				6.4.A.2.b.
		Added		8.4.A.1.i.
		Rltd		8.4.A.1.i.—o.
		as		8.4.A.1.j.—p.
		Added		9.4.A.7.i.
		Rltd		9.4.A.7.i.—q.
		as		9.4.A.7.j.—r.
				13.4.A.5.h.,
				14.4.A.1.j.,
				14.4.A.7.
631	6-24-03	pt. 1	1	17.2—17.5,
				17.7—17.11,
		Dltd		17.12
632	8-12-03	pt. V(Exh. E)	3	Ch. 14

633	9- 2-03	pt. 1	2	3.1.C., 3.3
				3.11.1—3.11.3,
				3.12.1, 3.12.2,
				3.14
		Added		3.15.1
				3.16, 3.32.A.,
				3.56, 3.56.1.F.,
				3.58
		Added		3.61.1
				3.68.A., 3.69.E.,
				3.80.A., F., 3.81,
				3.82.A.
		Dltd		3.83
				3.81.1., 3.87,
				3.95.B., 3.100.A,
				3.104.A., D.,
				3.106.d., E.2.,
		Added		3.108.1
				3.109
		Added		3.109.1

				3.110, 3.201.C.2.i.,
		Added		3.207.F.
				3.209.B., F.,
		Added		3.244.C.
				3.402, 3.411.A.6.,
				3.411.1.A.8.,
				3.412.A.9.,
				3.413.B.5.,
				3.424.E.4.,
		pt. 2		8.3.B.2.
634	10- 7-03	pt. 1	2	At. 6, Fig. 6.1
635	10-28-03	pt. 1 Added	1	5.3.E.
636	11- 4-03	pt. 1	2	4.761—4.772
637	11-18-03	pt. 1	1	17.67
638	12-16-03	pt. IV(Exh. D)	3	3.2.A.4.g.
		pt. V(Exh. H)		4.4.M.1.h.
639	1-13-04	pt. 1	1	17.3—17.5,
				17.7—17.9
640	3- 9-04	pt. 1	2	4.2.H., J.1.
		pt. 2		4.36.A.3, 4.37.C.

641	4-20-04	pt. 1	2	6.54
642	7-13-04	pt. 1 Added	1	47.154
		pt. 2 Added		47.155
643	7-27-04	pt. 1	2	4.799.B.
644	8-10-04	pt. 1	2	9.5.B.3.
645 (Not codified—One cent surtax)				
646 (Not codified—Land use amendment)				
648 (Not codified—Land use amendment)				
649 (Not codified—Land use amendment)				
650 (Not codified—Land use amendment)				
651 (Not codified—Land use amendment)				
652 (Not codified—Land use amendment)				
653	10- 5-04	pt. I(Exh. A)	3	13.6
654	10- 5-04	pt. I(Exh. A)	3	4.4.G.
655	10- 5-04	pt. I(Exh. A)	3	5.1—5.6
		(Exh. B)		14.4.A.1.b.(1), d.(1)(a)
656	10-26-04	pt. 1 Added	1	71.271—71.276
657	11-16-04	pt. 1 Added	2	3.265
658	12- 7-04	pt. I(Exh. A)	3	4.3
659 (Not codified—Land use amendment)				

660	12- 7-04	pt. I(Exh. A)	3	14.4.A.1.c.(10),
				14.5.A.—C.
		(Exh. B)		8.2.B.,
				8.3,
				8.4.B.3.a.
661	1- 4-05	pt. 1 Added	1	159.351—159.354
662 (Not codified—Rezoning moratorium)				
663	2- 8-05	pt. 1	2	3.262.H.
		pt. 2		3.263.H.
		pt. 3		3.265.I.
664	2- 8-05	pt. 1 Added	2	3.266
665	3- 1-05	pt. 1	1	1.91—1.101
666	5- 3-05	pt. 1	1	5.3.D.
667	5-10-05	pt. 1 Rpld	2	4.791—4.812
		Added		4.791—4.811
668	5-24-05	pt. I(Exh. A)	3	10.4.A.1.g.
		(Exh. B)		11.4.A.3.j.
		(Exh. C)		4.4.G.1.c.
669	6-28-05	pt. I	2	3.3,
				Tbls. 3.11.1—3.11.3

		Added		3.71.1,
				3.411.A.7.,
				3.411.1.A.9.,
				3.412.A.10.
670	7-12-05	pt. 1	2	3.14.B.2., 5.
671 (Not codified—Call for mail ballot referendum)				
672 (Not codified—Repeal of Ord. No. 671)				
673	8- 2-05	pt. 1	2	6.6.A.1., 2.,
				6.9.O.,
				6.10.A.,
				6.10.A.2.,
				Figure 6.1
674 (Not codified—Amends Ord. No. 662 re an interim moratorium)				
675	9- 6-05	pt. I(Exh. A)	3	4.4.M.1.e.
676	9- 6-05	pt. I(Exh. A)	3	14.5.A.—C.,
				Tables
677	9- 6-05	pt. I(Exh. A)	3	8.4.A.1.d.(2)(g)3), 4)
				8.4.A.4.a.(4)(h)
		(Exh. B)		9.4.A.7.d.(2)(g)3), 4)
				9.4.A.8.a.(4)(h)

678 (Not codified—Land use amendment)				
679 (Not codified—Land use amendment)				
680 (Not codified—Land use amendment)				
681	9-13-05	pt. 1 Added	1	67.320—67.326
682	9-27-05	pt. 1 Added	1	111.121—111.139
		2		Ch. 79, Art. 5, Div. 1,
				Subdiv. 2(title),
				3.261.C.
		Added		3.261.H., I.
684 (Not codified—Land use amendment)				
685 (Not codified—Land use amendment)				
686 (Not codified—Land use amendment)				
687	12- 6-05	pt. I(Exh. A)	3	4.4.M.1.f.[g.](4)
688 (Not codified—Amends Figure 4-5)				
689 (Not codified—Land use amendment)				
690	12-20-05	pt. 1	1	71.243
691 (Not codified—Temporary property tax abatement)				
692	2- 7-06	pt. 1 Added	1	139.50
693	2-14-06	pt. 1 Added	1	67.351—67.356
694	2-14-06	pt. 1 Added	1	79.101—79.103

695	2-14-06	pt. 1 Added	1	87.121—87.124
696	2-14-06	pt. 1	2	3.402
		pt. 2		3.260.C.
		pt. 3 Added		10.1.E.2.k., l.
		pt. 4		10.11.B.5.
		pt. 5		10.14.C.3.
		pt. 6 Added		4.593.C.
697	3-14-06	pt. 1	1	1.97.B.
698	3-21-06	pt. 1 Added	2	3.267
699	4-11-06	pt. 1	1	13.1—13.8
700 (Not codified—Repeals Ord. No. 689)				
701	5- 9-06	pt. 1	2	4.699.A., C., J.
		Added		4.699.M.
702	6-13-06	pt. 1 Added	2	10.1.E.2.m.
703	6-20-06	pt. 1	2	6.54
704	6-20-06	pt. 1	1	17.8
				17.9.A.2.
705	7-11-06	pt. 1	2	3.67.A.2.a.(3), 3.a.(1)
706	7-11-06	pt. 1 Added	1	71.233.1
707	7-11-06	pt. 1 Added	1	71.233.2

708	7-11-06	pt. 1 Added	1	71.233.3
709	7-18-06	pt. 1 Added	1	67.400—67.410
710	8- 1-06	pt. 1	1	9.1
		pt. 2		9.61.A., B.,
				9.62.C., E.
		Added		9.63.C.
		Rltd		9.63.C.—F.
		as		9.63.D.—G.
				9.64.A.2.
711 (Not codified—Five-year surtax)				
712 (Not codified—Land use amendment)				
713 (Not codified—Land use amendment)				
714 (Not codified—Land use amendment)				
715 (Not codified—Land use amendment)				
716 (Not codified—Land use amendment)				
717 (Not codified—Land use amendment)				
718 (Not codified—Land use amendment)				
719 (Not codified—Land use amendment)				
720 (Not codified—Land use amendment)				
721	9- 6-06	pt. 1(Exh. A)	3	14.5.A.,

				14.5.B.,
				14.5.C.,
				14.5.C. Tables
722	9- 6-06	pt. 1(Exh. A)	3	14.1.B.13
		Added		14.4.A.3.d.3)
		Rnbd		14.4.A.3.d.3)
		as		14.4.A.3.d.4)
723 (Repealed by Ord. No. 771)				
724	9-26-06	pt. 1 Added	1	71.300—71.307
725	10-10-06	pt. 1	2	4.582.E.
726	10-24-06	pt. 1	1	71.273
727	10-24-06	pt. 1	2	3.1.C.,
				3.12.2
728	11-28-06	pt. 1	2	5.3, 5.32.D.4.c.(2)
		pt. 2		6.4
		Added		6.11.D.
729	12- 5-06	pt. 1	1	47.150,
				47.152(a)
730	12- 5-06	pt. 1	2	10.1—10.3,
				10.6, 10.7, 10.9,

				10.11—10.18
731	12- 5-06	pt. 1 Added	2	5.32.D.3.f.(1)(g)
		pt. 2 Added		5.70—5.75
		pt. 3		6.11.B.
732	12-19-06	pt. 1	2	4.1.C,, 4.3.7.
		Added		4.3.8—4.3.12.
733 (Not codified—Land use amendment)				
734 (Not codified—Land use amendment)				
735 (Not codified—Land use amendment)				
736 (Not codified—Repealed by Ord. No. 797)				
737 (Not codified—Land use amendment)				
738	12-19-06	pt. I	3	14.5.D.1(3)(a)
739 (Not codified—Land use amendment)				
740	1-23-07	pt. 1 Rnbd	1	115.2—115.9
		as		115.21—115.28
		2 Added		115.20
		3 Rpld		115.12
		4 Added		Ch. 115, Art. 1(title)
		5 Rnbd		155.104
		as		115.27.B.

		6 Rpld		155.101—155.103,
				155.105
		7		17.11
741	2- 6-07	pt. 1	1	87.101—87.107,
				87.110, 87.111
		Added		87.114
		Rnbd		87.114
		as		87.115
742	2- 6-07	pt. 1—3	1	Ch. 21
		4 Added		43.16.F., G.
		Rpld		43.71—43.73
743	3- 6-07	pt. 1	2	3.16.B.
744 (Not codified—Land use amendment)				
745	3-20-07	pt. 1 Added	1	17.9.J.
746	4-10-07	pt. 1 Added	2	4.807.C.
747 (Not codified—Interim moratorium)				
748	5- 1-07	pt. 1 Dltd	2	4.628.D.
		pt. 2 Added	1	115.4
749	5- 8-07	pt. 1	1	Ch. 123(title),
				123.1.A.,

				123.2,
				123.5,
				123.6,
				123.13,
				123.14,
				123.16,
				123.51.D.,
				123.53.A., D.2.
750	5-22-07	pt. 1	1	51.4, 51.6.B.
751 (Not codified—Interim moratorium)				
752	6- 5-07	pt. 1 Dltd	2	9.4
		pt. 2		10.1—10.18
753	6-26-07	pt. 1		123.5.B., C.,
				123.13
754	6-26-07	pt. I	3	14.5.A.—14.5.C.
755	7-10-07	pt. 1	2	3.260, 3.261
756	7-10-07	pt. 1 Added	1	71.400
757 (Not codified—Land use amendment)				
758	8- 7-07	pt. I(Exh. A)	3	4.4.D.2.b.
759 (Not codified—Land use amendment)				

760 (Not codified—Land use amendment)				
761 (Not codified—Land use amendment)				
762 (Not codified—Land use amendment)				
763 (Not codified—Land use amendment)				
764 (Not codified—Land use amendment)				
765	8- 7-07	pt. I(Exh. A)	3	4.4.G.1.c., k., n.,
				4.4.M.1.h.,
				10.4.A.1.i.
766 (Not codified—Land use amendment)				
767	8-14-07	pt. 1(2)	1	111.122
		pt. 1(4)		
		Added		111.124.G.
768	8-14-07	pt. 1 Added	1	17.9.K.
769	9-25-07	pt. 1	2	10.11.D.8.
770	10- 2-07	pt. 1(2)	1	111.122
		pt. 1(3)		111.123.B.
		pt. 1(4)		111.124.D., F.
771 (Not codified—Repeals Ord. No. 723)				
772	10-23-07	pt. 1	2	10.11.E.6.
773	11-27-07	pt. 1 Added	1	79.110—79.112

774	11-27-07	pt. 1	1	79.64
775 (Not codified—Repealed by Ord. No. 806)				
776	12-11-07	pt. I(Exh. A)	3	4.1.B.14.
				4.4.M.1.e.(6)
		Dltd		6.1.B.10., 11.
		Added		6.1.B.10.
				6.4.A.4.b., (c)(1)(b)1), (2)(a)
		Added		6.4.A.4.f.—l.
				6.4.A.6.
		Added		6.4.A.11., 12.
777	12-11-07	pt. 1(Exh.A)	3	4.4.E.7.
778	12-11-07	pt. 1(Exh. A)	3	10.4.A.1.g.,
				11.5.A.3.j.
779	12-11-07	pt. 1(Exh. A)	3	3.2.A.5.c., j.
				9.4.A.2.a., g.
				Ch. 11
				13.3, 13.4.A.1., 2.
780	12-11-07	pt. 1(Exh. A)	3	8.4.B.1.a.
781	12-11-07	pt. 1(Exh. A)	3	4.4.G.1.e., i., 2.a., 2.g., h.
				4.4.M.1.d.

				4.5.G.
				4.5.H.
				4.6.D.3.
				10.1.C.13.
				10.4.A.1.f.(1)
				10.4.A.1.h.(1)
				10.4.A.3.
				11.1.C.17.
				11.2.B.
				11.4.A.3.A.
				11.4.A.3.i.
782	12-11-07	pt. 1(Exh. A,		
		II)	3	4.4.G.1.c.
		pt. 1(Exh. A,		
		III) Added		10.4.A.1.h.
		pt. 1(Exh. A,		
		IV) Added		11.5.A.3.k.
783 (Not codified—Land use amendment)				
784 (Not codified—Amends legal description)				
785	1- 8-08	pt. 1	1	71.239.A.

		pt. 2		71.242.A., C.
		pt. 3		71.243.B., D.
786	2- 5-08	pt. 1	2	6.54
787	2-12-08	pt. 1(Exh. A)		
		Added	3	4.5.A.2.e.
				4.4.G.1.c., 2.a., f.,
				10.4.A.3.a.(2),
				11.4.A.3.a.(2)
788	2-12-08	pt. 1	2	10.11.D.8.,
				10.15.B.
789	2-12-08	pt. 1 Added	1	71.420—71.423
790	2-12-08	pt. 1	1	71.242.C.
		pt. 2		71.243.B.
791	3- 4-08	pt. 1	2	4.843.K.
792	3-11-08	pt. 1 Added	2	10.14.F.
		pt. 2 Added		5.32.D.8.c.
793	3-18-08	pt. 1	1	Ch. 67,
				Art. 4(title),
				67.101—67.103
		Added		67.104—67.108

794	3-18-08	pt. 1 Dltd	2	4.661.B.5.
				4.663.B.,
				4.664.A.1.,
				4.665.B.3.
795	4-29-08	pt. I(Exh. A)	3	4.4.M.1.i.
				4.4.M.1.i.(2)
796	4-29-08	pt. I(Exh. A)	3	4.4.M.1.e.(6)
797 (Not codified—Repeals Ord. No. 736)				
798	6-10-08	pt. 1	2	10.2.D.3., 5.
799	7- 1-08	pt. 1	2	10.1.B.
		pt. 2		10.2.A.
		pt. 3		10.2.D.
		pt. 4		10.12
800	8- 5-08	pt. 1		
		(Exh. A)		
		Added	3	5.1.C.37., 58.
		Rnbd		5.1.C.37.—85.
		as		5.1.C.38.—87.
				5.5.B.1.c.
		Added		5.5.B.1.g.—i.

801	8- 5-08	pt. 1(Exh. A)	3	Ch. 17
				3.2.A., 1., 3., 4., 4.b.
		Added		3.2.A.5.j.—m.
				3.2.A.8.—10.
				14.1.B.2.
				14.4.A.1.a.(1), (10)
				14.5.A.
803	8- 5-08	pt. 1		
		(Exh. A) Dltd	3	4.4.C.1.a.(2)(d)
				4.4.C.1.b., d.
804	8-12-08	pt. 1 Added	1	71.45
805	8-21-08	pt. 1	1	21.256
806 (Not codified—Repeals Ord. No. 775)				
807	9- 9-08	pt. 1	2	4.582,
				4.584—4.586,
				4.594.F.
808	9- 9-08	pt. 1	1	21.115
809	9- 9-08	pt. 1	2	Tables
				3.11.1, 3.11.3,
				3.12.1, 3.12.2

		Added		3.98
		Rnbd		3.98, 3.99
		as		3.99, 3.99.1
810	9-16-08	pt. 1(3.99)	2	3.99.1.B., C.
811	10-28-08	pt. 1	2	4.841.B.2.,
				4.843.G.
812	11-25-08	pt. I (Exh. A)	3	14.5
813	12- 9-08	pt. 1	2	5.3,
				5.31.B., C.,
				5.32.A.1.
		Added		5.32.B.9.
				5.32.C.2.
		Added		5.32.D.3.i.
		Rltd		5.32.D.3.i., j.
		as		5.32.D.3.j., k.
		as		5.32.D.4.c.(1), (2)
				5.33.C.2.
				Art. 5,
				Div. 4(title)
				5.74(title)

		Added		5.80—5.85
814	12- 9-08	pt. 1(Exh. A)	3	5.3.B.,
				5.4.C.,
				5.5.F.—5.5.J.
		Dltd		5.6.C.1.
815	2-10-09	pt. 1	1	67.303,
				67.305.A., K.
816	2-24-09	pt. 1	2	4.391.B.
817	2-24-09	pt. 1 Added	2	10.1.E.2.o.
		pt. 2		10.2.D.3., 4., 6.
		pt. 3		10.6.D., E.1.
		pt. 4		10.9.A., B.
		pt. 5		10.11.B—E.
		pt. 6		10.12.B., D., E.
		pt. 7		10.13.C.
		pt. 8		10.14.B., C., F.
818	3-17-09	pt. 1	2	8.1.A., C.
		pt. 2		8.2
		pt. 3		8.3
		pt. 4 Added		8.4.C.4.

		pt. 5 Added		8.5
		pt. 6 Added		8.6
		pt. 7 Added		9.5.A.3.
819	3-31-09	pt. 1	2	Art. 6, Fig. 6.1
820 (Not codified—Land use amendment)				
821	4- 7-09	pt. 1 Added	2	4.3.A.12.
		pt. 2		4.843.G.7.
		pt. 3		9.5.A., K.
		pt. 4		10.4.A.1.
		pt. 5		10.5.A.1.
822	5-19-09	pt. 1(Exh. A)	3	4.4.A.3.e.
823	6- 2-09	pt. 1	1	107.32.A., B.,
				107.34
824	7-21-09	pt. 1	1	67.305.A., K.,
				67.309
825	7-21-09	pt. 1	1	159.191,
				159.201,
				159.203,
				159.221,
				159.222,

				159.224—
				159.227,
				159.232.A.,
				159.251—
				159.258,
				159.263.A., B.
		Dltd		159.351, 159.352
		Added		159.351
		Rnbd		159.353, 159.354
		as		159.352, 159.353
826 (Not codified—Land use amendment)				
827 (Not codified—Land use amendment)				
828 (Not codified—Land use amendment)				
829	9-15-09	pt. 1 Added	1	135.7
830	9-22-09	pt. 1	1	47.155.A., B.
831	10-27-09	pt. 1 Rpld	1	79.110—79.112
832	10-27-09	pt. 1	2	4.798.A.
		pt. 2		4.799.B.
833	11-17-09	pt. 1	2	3.3
		pt. 2 Added		3.76.1

		pt. 3		3.403
		pt. 4		3.412.A.7.—11.
834	11-17-09	pt. 1 Added	2	4.843.A.3., 4.
				4.843.D.2., 3.
		Added		4.843.L.
835	11-17-09	pt. 1 Dltd	2	4.621—4.633
		Added		4.621—4.628
		pt. 2		5.32.B.3.f.(4)
		pt. 3		5.61—5.64
		pt. 4		10.1.B., C.3.b., E.2.o.
836	12- 1-09	pt. 1 Dltd	2	4.190.B.
		Rltd		4.190.C.
		as		4.190.B.
837 (Not codified—Land use amendment)				
838 (Not codified—Land use amendment)				
839 (Not codified—Land use amendment)				
840	12-16-09	pt. 1(Exh. A)	3	4.4.G.1.d.,
				10.4.A.1.i.,
				11.5.A.3.l.
841 (Not codified—Land use amendment)				

842	12-16-09	pt. 1(Exh. A)	3	17.2.E.
				14.5.A.—C., Tables
843	12-16-09	pt. 1(Exh. A)	3	Ch. 1
		pt. 1(Exh. B)		Ch. 2
		pt. 1		
		(Exh. C) Dltd		17.1.A
844	12-16-09	pt. 1(Exh. A)	3	Ch. 3
845	12-16-09	pt. 1(Exh. A)	3	Ch. 4
846	12-16-09	pt. 1(Exh. A)	3	Ch. 5
847	12-16-09	pt. 1(Exh. A)	3	Ch. 6
848	12-16-09	pt. 1(Exh. A)	3	Ch. 7
849	12-16-09	pt. 1(Exh. A)	3	Ch. 8
850	12-16-09	pt. 1(Exh. A)	3	Ch. 9
851	12-16-09	pt. 1(Exh. A)	3	Ch. 10
		pt. 2(Exh. B)		Ch. 11
		pt. 3(Exh. C)		Ch. 12
852	12-16-09	pt. 1(Exh. A)	3	Ch. 13
853	12-16-09	pt. 1(Exh. A)	3	Ch. 14
854	12-16-09	pt. 1(Exh. A)	3	Ch. 15
855	12-16-09	pt. 1(Exh. A)	3	Ch. 16

856	12-16-09	pt. 1(Exh. A)	3	5.3.B.
		Rnbd		as 5.3.A.,
				5.4.C. as 5.5.A.,
				5.5.F. as Goal 5.6,
				5.5.G. as Goal 5.7,
				5.5.H. as Goal 5.8,
				5.5.I. as Goal 5.9,
				5.5.J. as Goal 5.10
857	3-16-10	pt. 1		
		(Exh. A) Rpld	3	4.13A.8.(6)
858	3-16-10	pt. 1	2	Art. 6, Fig. 6.1
859	3-16-10	pt. 1	2	9.5.K.6.
		pt. 2		10.1.B.
		pt. 3		10.2.D.
		pt. 4 Added		10.12.B.1.d., e.,
				10.12.G.,
				10.12.H.

860	3-30-10	pt. 1	1	39.1.C, 39.2,
				39.3.A.1., 4.b.,
				39.3.B.4.
		Added		39.B.7.—13.
				39.4
861	3-30-10	pt. 1	1	135.7
863	4-20-10	pt. 1 Added	2	4.843.K.1.d.
864	6- 8-10	pt. 1 Added	1	71.455—71.466
865	6- 8-10	pt. 1	1	71.45
866	6-22-10	pt. 1	2	3.3
		pt. 2		3.10, 3.11.2, 3.12.1, 3.12.2
		pt. 3 Added		3.83
867	6-22-10	pt. 1	2	7.5.B.1., 3.
868 (Not codified—Land use amendment)				
869 (Not codified—Land use amendment)				
870	8-10-10	pt. 1(Exh. A)	3	4.4.G.1.c.,
				10.4.A.1.h.,
				11.5.A.3.k.
871 (Not codified—Land use amendment)				
872 (Not codified—Land use amendment)				

873 (Not codified—Land use amendment)				
874 (Not codified—Land use amendment)				
875 (Not codified—Land use amendment)				
876 (Not codified—Land use amendment)				
877	8-10-10	pt. 1(Exh. A)	3	4.4.A.3.e.(2)
878 (Not codified—Land use amendment)				
879	8-10-10	pt. I(Exh. A)	3	4.1B.2.(4),
				4.5G
880	8-10-10	pt. I(Exh. A)	3	4.7A.5.¶,
				4.13A.8.(6)
881 (Not codified—Land use amendment)				
882	8-10-10	pt. 1(Exh. A)		3
		(4.4.M.1.h.) Added		4.13A.9
		(4.4.M.1.h.—l.) Rltd		4.13A.9—4.13A.13
		(4.4.M.1.i—m.) as		4.13A.10—4.13A.14
		(4.4.G.1.n.)		4.7A.13
883	9-28-10	pt. 1 Dltd	1	71.243.D.
		Rltd		71.243.E.
		as		71.243.D.

884	10- 5-10	pt. 1	1	21.256.C.
885	10-26-10	pt. 1	1	43.2—43.16,
				43.40—43.50
886	10-26-10	pt. 1(Exh. A)	3	17.2.E.
		Dltd		14.5.C(tables)
				14.5.A—14.5.C
887 (Not codified—Land use amendment)				
888	12-14-10	pt. 1(Exh. A)		
		Added	3	4.4.A.3.e.
889	1-11-11	1	1	107.32.A.
890	2-22-11	1 Added	1	9.92.A.12.
891	2-22-11	1 Added	2	3.3
				3.11(Table 3.11.2)
		Added		3.86.1
892	3- 1-11	1—6 Added	1	87.131—87.136
893	4-19-11	pt. 1	2	4.581.B,
				4.582.E.1., 3., 4.,
				4.584.A.,
				4.585.C.,
				4.586.B.,

				4.590.B.
		Added		4.593.D.
				4.594.F.
894	5-24-11	pt. 1	1	9.1
		Added		9.90.D.
895	7-26-11	pt. 1 Added	1	67.430—67.438
897	8-23-11	pt. 1	1	17.8, 17.9.A.2.e., p., 4., 67.303
		Rpld		75.1—75.6
		Added		75.1, 75.2
				83.151, 155.133
898 (Not codified—Amended CGMP Ch. 5 Figures)				
899	9-27-11	pt. 1 Added	1	159.375—159.388
900	11-22-11	pt. 1	1	13.2—13.5,
				13.7, 13.8
901	11-22-11	pt. 1 Rpld	1	123.41—123.57
		pt. 2 Dltd	1	9.88
		pt. 3 Added	2	3.209.2
902 (Not codified—Land use amendment)				
903	12-13-11	pt. 1		
		(Exh. A) Dltd	2	4.1—4.4

		Added		4.1—4.7
904	1-10-12	pt. 1	2	9.5.A.1.
		pt. 2 Added	2	10.1.E.2.p., q.
		Dltd		10.2.A.2.k.
				10.5.A.2., 10.6.I,
				10.14.A.—10.14.E.
		Added		10.14.G.—10.14.I.
905	1-10-12	pt. 1 Added	2	3.211
906	1-10-12	pt. 1	1	159.384.L.,
				159.385.T., U.
907	1-10-12	pt. 1(Exh. A)		
		Added	3	4.7A.3(6),
				10.1A.8(3),
				11.1C.11(3)
908	2-21-12	pt. 1	1	21.3.J.
		Added		Ch. 21, App. A
909	2-21-12	pt. 1	2	4.762, 4.765,
				4.767.C., D.,
				4.769, 4.770
910	3-27-12	pt. 1	2	4.302,

				4.307.A.6.—8.,
				4.307.B.1.
911	4-24-12	pt. 1 Added	1	8.1, 8.2
912	5- 8-12	Rpld	1	71.131—71.134
913	7-10-12	pt. 1	3	4.1(Table 4-2),
				4.2.A.(1), (6)(b)10),
				4.1B.1.,
				4.13A.9., (3), (8)
		pt. 2		6.1D.9.
		pt. 3		8.1C.1(1)(a)
		pt. 4		10.3(Table 10-2)
914	7-10-12	pt. 1	3	Ch. 11
		pt. 2		13.3.,
				13.1B.2.,
				13.1G.13.,
				13.1G.15.
915	7-10-12	pt. 1 Added	3	8.1C.1(3)(h)8)
916	8- 7-12	pt. 1	1	107.34.A.
917	8-21-12	pt. 1	2	10.9.A.,
				10.11.C.9.,

				10.11.E.,
				10.13.C.4.
918	8-21-12	pt. I	1	71.73.A.
919	9-11-12	pt. 1 Added	2	3.33, 3.34
920	10-23-12	pt. 1	2	3.93.D.
921	11-13-12	pt. 2 Dltd	3	4.1B.2(4), 4.5G.
922	12-18-12	pt. 1	3	14.5.C.(note)
923	12-18-12	pt. 1	1	39.1.C., 39.2—39.4
924	1-15-13	pt. 1 Added	1	71.277
925	1-15-13	pt. 1 Added	1	8.10—8.13
		pt. 2 Rpld		159.4
926	2-12-13	pt. 1	1	5.3
927	3-19-13		2	6.4,
				6.8.A., C.—E.,
				6.9.I., K., M.,
				Fig. 6.1
928	3-19-13	pt. 1	1	8.12,
				8.13.F., G., I.
929	4- 2-13	pt. 1(A)	1	17.9.A.,

				17.9.B.
		pt. 1(B) Added		17.12
		pt. 2 Added		5.3.A.2.g.
930	6-11-13	pt. 1	2	4.31.C.
				4.32
				4.33.A., B.
				4.35.A.—E.
				4.36.A.—C.
				4.37.B., C.
				4.38.A.
		pt. 2	2	4.661.C.
				4.662
				4.663.A.—C.
			Added	4.663.E.
				4.664
				4.665.B.
				4.666.A.
				4.667.A.
				4.668
		pt. 3	2	4.872.C.

				4.872.G.
				4.873.D.
			Dltd	4.874.B.
931	6-18-13	pt. 1	2	4.798.B.
			Added	4.798.D.
			Added	4.810.C.
932	8- 6-13	pt. 1	1	39.1—39.4
933 (Not codified—Land use amendment)				
934 (Not codified—Land use amendment)				
935 (Not codified—Land use amendment)				
936 (Not codified—Land use amendment)				
937	8- 6-13	pt. 1	2	3.10
				3.11(Table 3.11.1)
				3.12(Table 3.12.1, Table 3.12.2)
		pt. 2	2	4.765.E.
938	8-13-2013	pt. 1(Exh. A)	3	1.1—1.3
		pt. 1(Exh. B)	Rnbd	2.1, 2.2
			as	2.3, 2.4
			Added	2.1, 2.2
		pt. 1(Exh. C)		4.2, 4.4

939	8-20-13	pt. 1	2	10.1.B., E.
				10.2.D.
			Dltd	10.6.I.
				10.11.A., B.
				10.14.A.3.
				10.15.B.6.
940 (Not codified—Interim moratorium)				
941	9-24-13	pt. I	3	14.5.C.(note)
943	12-10-13	pt. I(Exh. A)	3	14.1.A.
				14.4
				14.5.A.—C.
				14.5.D.(1)3)a)
944 (Not codified—Amended CGMP Ch. 5 Figures)				
942	10- 8-13	pt. I	1	71.73.A.
945	12-10-2013	pt. 1(Exh. A)	3	8.3
		pt. I(Exh. B)		9.4
946	12-10-2013	pt. 1(Exh. A)	3	2.1—2.4
		pt. 1(Exh. B)		4.2
				4.4
		pt. 1(Exh. C)		6.4

		pt. 1(Exh. D)		15.1—15.3
947	12-10-13	pt. I(exh. A)	1	123.6
				123.15
948 (Not codified—Interim moratorium)				
949	2-18-14	pt. I	2 Added	4.150.I.
950 (Not codified—Interim moratorium)				
951	4-15-14	pt. I	2	4.765.E.
				4.767.D.
			Added	4.768.F.
				4.769.A.
				4.769.D.
				4.770.D.2.
952 (Not codified—Calling referendum)				
953	5-20-14	pt. I	1	71.73.A.
954	5-20-14	pt. I	2	4.7
		pt. II		4.663.B.
955 (Not codified—Land use amendment)				
956 (Not codified—Amended CGMP Ch. 5 Figures)				
957	7- 8-2014	pt. 1(Exh. A)	3	1.9
				1.12

		pt. 1(Exh. B)		2.2—2.4
		pt. 1(Exh. C)		4.2, 4.3
		pt. 1(Exh. D)		9.4
958	7-15-14	pt. 1	2	3.261.F.
959	8-19-14	pt. 1	1	107.36
14-9.6	9- 9-14	pt. 3	Att. A	1.10
960	9- 9-14	pt. 1	1 Added	1.102
		pt. 2		43.49
961 (Not codified—Capital improvements schedule)				
962	10- 7-14	pt. 1	1	13.2, 13.3
				13.5
963	10- 7-14	pt. 1	1	67.431
				67.433—67.435
			Rnbd	67.436, 67.437
			as	67.437, 67.438
			Added	67.436
			Rnbd	67.438
			as	67.440
			Added	67.439
964	10-21-14	pt. 1	2	3.3

965	12-16-14	pt. 1(Exh. A)	3	10.1.A.
				10.2.A.—E.
				10.3
		(Exh. B)		4.2.A.(6)(b)
				4.4
		(Exh. C)		2.2
		(Exh. D)		11.1.A.
				11.2.B.
				11.5
966	1-13-15	pt. 1	1	47.154
967	1-20-15	pts. 1, 2	1	71.238, 71.239
		pts. 3, 4		71.242, 71.243
968 (Not codified—Interim moratorium)				
969	3- 3-15	pt. 1(Exh. A)	2	Art. 4, Div. 9 (title)
				4.381—4.383
			Rpld	4.384
			Rnbd	4.385, 4.386
			as	4.384, 4.385
			Rpld	4.387
			Rnbd	4.388—4.392

			as	4.386—4.390
		pt. 2(Exh. B)	2 Added	4.421—4.436
		pt. 3(Exh. C)	1	Ch. 21, Pt. 1 (title)
			Added	21.22—21.25
970	4- 7-15	pt. 1	2	3.3
				(3.11)Table 3.11.2
			Added	3.59.F.
			Rnbd	3.80—3.82
			as	3.79—3.81
			Added	3.91.E.—3.91.M.
			Added	3.103.1
				3.402, 3.403
				6.4
				6.11.A.
				6.44
971	5- 5-15	pt. 1	1 Added	21.270—21.279
972	6- 9-15	pt. 1	1	9.63.C.
973 (Not codified—Interim moratorium)				
974 (Not codified—Land use amendment)				
975 (Not codified—Land use amendment)				

976 (Not codified—Land use amendment)				
977 (Not codified—Land use amendment)				
978 (Not codified—Land use amendment)				
979 (Not codified—Land use amendment)				
980 (Not codified—Land use amendment)				
981 (Not codified—Land use amendment)				
982 (Not codified—Land use amendment)				
983	9- 1-15	pt. 1	2	3.3
			Added	3.68.2
				3.402, 3.403
984	10-20-15	pt. I(Exh. A)	3	10.4
		(Exh. B)		4.4
		(Exh. C)		11.5
985	11-10-15	pt. 1	1 Added	111.145—111.148
986 (Not codified—Land use amendment)				
987 (Not codified—Land use amendment)				
988	11-24-15	pt. 1	1	9.3
		pt. 2	1	9.92
989 (Not codified—Electrical franchise agreement)				
990 (Not codified—Capital improvements schedule)				

991	1-26-2016	pt. 1	2	9.5
		pt. 2		10.1—10.4
				10.6—10.8
				10.11—10.15
				10.17
992	1-26-2016	pt. 1	1	1.2
			Added	1.11—1.13
993	2- 9-2016	pt. 1(A)	1	17.4
		pt. 1(B)		17.9
994	3-22-2016	pt. 1	1 Added	115.12
995	3-22-2016	pt. 1	2	6.4, 6.8, 6.9, Fig. 6-1
996	4-19-2016	pt. 1	1	1.92
		pt. 2	1	67.302—67.306, 67.309
997	5-24-2016	pt. 1(Exh. A)	3	1.7.B—1.7.D
		pt. 1(Exh. B)		4.2
998	6- 7-2016	pt. 1	1	9.90
999	6- 7-2016	pt. 1	1	67.201—67.203
			Rpld	67.204
			Rnbd	67.205, 67.206
			as	67.204, 67.205

			Added	67.206—67.209
1000 (Not Codified—Comprehensive Plan Amendment)				
1001 (Not Codified—Comprehensive Plan Amendment)				
1002 (Not Codified—Comprehensive Plan Amendment)				
1003 (Not Codified—Comprehensive Plan Amendment)				
1004 (Not Codified—Comprehensive Plan Amendment)				
1005 (Not Codified—Comprehensive Plan Amendment)				
1006 (Not Codified—Comprehensive Plan Amendment)				
1007 (Not Codified—Comprehensive Plan Amendment)				
1008 (Not Codified—Comprehensive Plan Amendment)				
1009 (Not Codified—Comprehensive Plan Amendment)				
1010 (Not Codified—Comprehensive Plan Amendment)				
1011 (Not Codified—Comprehensive Plan Amendment)				
1012 (Not Codified—Comprehensive Plan Amendment)				
1014	12- 6-2016	pt. 1	2	3.3
		pt. 2		3.11, 3.12
		pt. 3	Added	3.58.2
				3.70.1
		pt. 4		3.207
		pt. 5		3.402, 3.403

				3.420—3.422
		pt. 6		10.1, 10.2
				10.11
1015	12-13-2016	pt. 1	1	39.1—39.5
1016	1-24-2017	pt. 1	1 Added	67.441—67.444
1017	3-28-2017	pt. 1	1	21.256
1018	4-25-2017	pt. 1 Rpld	1	5.1
1019	4-25-2017	pt. 1	2	4.841.B, C
				4.843
				4.847
1020	4-25-2017	pt. 1	2	4.626.B
1021	5- 9-2017	pt. 1 Rpld	1	1.13
1022	5-23-2017	pt. 1	1	13.2, 13.3
				13.5
1023	6- 6-2017	pt. 1	1	9.90.D
1024 (Not Codified—One year sales surtax)				
1025	7-25-2017	pt. I(Exh. A)	3	4.4
		pt. I(Exh. B)		10.4
		pt. I(Exh. C)		11.1
1031 (Not codified—Electrical franchise agreement)				

1032	8-22-2017	pt. I(Exh. A)	3	10.2—10.4
		pt. I(Exh. B)		4.4
		pt. I(Exh. C)		11.5
		pt. I(Exh. D)		2.4
1033	8-22-2017	pt. I(Exh. A)	3	1.11
1034	10-24-2017	pt. 1A	1	5.3.A.2
		pt. 1B		5.3.F
1035	10-24-2017	pt. 1A	1	17.4
		pt. 1B, 1C		17.8, 17.9
		pt. 1D, 1E		17.11, 17.12
		pt. 1F Added		17.13
1036	11-14-2017	pt. 1	2	4.224
				4.227—4.231
				4.272
				4.304
				4.307, 4.308
				4.310
		Rpld		4.232
				4.311
1037 (Not codified—Future land use map)				

1038	11-14-2017	pt. 1	2	9.5
		pt. 2		10.1
		Added		10.19
1039	11-14-2017	pt. 1	2	10.2
		pt. 2		10.7
		pt. 3		10.12
1040 (Not codified—Future land use map)				
1041	11-28-2017	pt. 1A	1	9.1
		pt. 1B		9.62
		pt. 1C		9.90
1042	11-28-2017	pt. 1A	1	ch. 29 tit.
		pt. 1B, 1C		29.31, 29.32
1043	12-12-2017	pt. 1	2	3.412
1044	12-12-2017	pt. 1 Rpld	2	3.262
		Added		3.262
1045	1- 9-2018	pt. 1	2	3.11(Table 3.11.1/3.11.2)
				3.61
				3.77
1046 (Not codified—Wireless communications facilities within rights-of-way)				

STATE LAW REFERENCE TABLE

This table shows the location within this volume, either in the text or notes following the text, of references to Florida Statutes.

F.S.	Section this Volume
39.01(11)	3.3
ch. 50	10.3
	10.6
112.2143	4.582
	9.3
	9.5
112.3145	4.582
	9.3
	9.5
ch. 125	4.78
	6.2
	6.41
	10.5
	10.6
	10.13

125.01	1.2
125.01 et seq.	5.1
	7.1
125.68(1)(a)	Adopt. Res.,
	pg. ix
125.69	4.709
ch. 153	4.184
161.053	4.103
	4.423
161.141	4.425
161.54	4.430
ch. 163	10.6
	10.12
163.180(12)	5.72
163.3161 et seq.	Adopt. Res.,
	pg. ix
	5.2
	7.1
163.3161(8)	5.1
163.3177(10)(h)	5.1

163.3180	5.1
	5.31
163.3180(c)	5.85
163.3180(13)(e)	5.85
163.3180(13)(e)(2)	5.85
163.3184	7.11
163.3187	7.11
163.3189	7.11
163.3201	6.2
	6.41
163.3202	1.2
163.3202(2)(g)	5.1
163.3202(3)	6.2
	6.41
163.3220 et seq.	5.3
	7.1
	7.16
ch. 177	Art. 4, Div. 21
	4.911—4.914
	10.11

ch. 177, pt. II	3.13
	4.1
193.461	3.3
	4.342
196.1997	4.594
212.12(3)	4.594
ch. 232	3.403
ch. 235	6.47
253.025(6)(b)	4.232
	4.311
ch. 267	4.582
ch. 286	10.6
	10.7
316.515	3.3
316.515(9)	3.3
320.01	4.423
320.8249	4.433
ch. 333	Art. 4, Div. 12, Subdiv. 2
333.03(3)	3.34
333.11	4.528

334.03(19)	6.9
334.03(22)	6.4
366.02	4.3
	4.76
	4.425
373.019(19)	4.1
373.019(25)	4.1
373.036	4.425
373.421	4.2
373.421(1)	4.1
377.19(1)	3.103.1
ch. 380	10.1
	10.2
	10.15
380.04	4.222
	4.302
	7.3
380.06	5.32
	10.2
380.06(16)	6.2

	6.11
	6.41
381.0065	4.425
393.063(11)	3.3
394.455(18)	3.3
ch. 395	3.3
ch. 397	3.86
ch. 400, pt. X	3.86.1
400.618	3.3
402.307(7)	3.3
403.0877	10.2
403.061	3.100
403.973	10.12
419.001(2)	3.84
456.037	3.86.1
456.057	3.86.1
ch. 458	3.3
	3.86.1
458.3265	3.86.1
458.3265(1)	3.86.1

458.3265(1)(a)	3.3
458.327	3.86.1
458.331	3.86.1
ch. 459	3.3
	3.86.1
459.013	3.86.1
459.0137	3.86.1
ch. 460	3.3
465.003	3.3
465.0276	3.86.1
ch. 471	4.384
481.301 et seq.	4.662
ch. 482	4.150
ch. 487	4.143
	4.150
509.013	3.211
509.233	3.211
ch. 553	3.3
	3.403
ch. 553, pt. II	10.1

553.73(5)	4.428
553.73(10)(k)	4.425
604.50	4.425
ch. 704	4.594
ch. 718	3.98
	8.2
ch. 719	3.98
	8.2
760.22(7)(a)	3.3
ch. 849	3.59
872.05	4.590
893.055	3.86.1
984.03(9), (12)	3.3
985.03(8)	3.3
ch. 1013	3.34
1013.64	5.85