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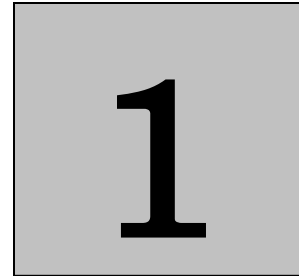
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DRAFT TOWN OF MARINELAND UNIFIED LAND DEVELOPMENT CODE

GENERAL PROVISIONS

CHAPTER 1

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1.00.00 GENERALLY

1.00.01 Purpose and Intent

This Unified Land Development Code is hereby adopted and established as the Town of Marineland's official land development regulations in compliance and consistent with the Town of Marineland's Comprehensive Plan in order to accomplish the following purposes:

- A. To promote the general health, safety and welfare;
- B. To protect and conserve natural resources, including but not limited to the restoration and preservation of the vital beach and dune system, wetlands, and sea turtles and coastal marine life along Marineland's Atlantic coast and Intracoastal Waterway;
- C. To provide owners and occupants of residential homes, commercial buildings, offices, industrial buildings, and mixed use developments with energy and water savings, good indoor air quality, and healthy, pleasant, and productive surroundings.
- D. To benefit the community by having buildings constructed that are resource-efficient and conserve energy
- E. To avoid adverse effects of shadow, glare, noise, odor, traffic, drainage and utilities on properties within the Town;
- F. To provide facilities concurrent with the needs of development for all facilities for which concurrency is required under Florida law; and
- G. To conserve the value of real estate and encourage the most appropriate use of land within the Town.

1.01.00 TITLE

This code shall be known as and entitled the "Town of Marineland Unified Land Development Code" and shall be referred to herein as the "ULDC."

1.02.00 AUTHORITY

This ULDC is enacted pursuant to the requirements and authority of Chapter 163, Part II, *F.S.*, and Chapter 166, *F.S.*

1.03.00 APPLICABILITY

1.03.01 Generally

- A. The use of any parcel of land, or any structure, or any combination thereof, within the corporate limits of the Town shall be in conformance with the requirements of the ULDC.
- B. All development, which includes redevelopment, shall meet or exceed the standards, criteria, requirements, and procedures of this ULDC.
- C. A change of use shall conform to the standards, criteria, requirements, and procedures of this ULDC.
- D. Where a development permit that was lawfully issued prior to the effective date of this ULDC expires, any further additional development

on the site subject to the development permit shall conform to the standards, criteria, requirements, and procedures of this ULDC.

1.03.02 Exemptions and Exceptions

Previously approved projects that are identified as exempt from the provisions of this ULDC are exempt only to the extent of the previous approval and are exempt from the provisions of this ULDC only to the extent that such provisions and requirements are inconsistent with prior, unexpired approval. The following general conditions or circumstances are exempt from the provisions and requirements of the ULDC:

- A. Projects for which a development permit has been lawfully issued, provided:
 1. The development permit has not expired prior to the effective date of the ULDC or amendment of the ULDC;
 2. The development activity authorized by the development permit commenced on or before the effective date of this ULDC and continues in good faith; and
 3. The development activity authorized by the development permit is in accordance with all applicable development permits and applicable time limits.
- B. Work required for public facilities and services and undertaken by an authorized governmental entity or agency within the public right-of-way, as further described below:
 1. Work required for the installation of facilities for the distribution or transmission of gas, water, sewer, or telecommunications services;
 2. Work required for the purpose of inspecting, repairing, or replacing any existing water or sewer lines, mains, or pipes; and
 3. Work required for the purpose of inspecting, repairing, or replacing cables, power lines, utility poles, utility tunnels, or similar utilities.

1.04.00 TOWN ADMINISTRATOR

The Town Administrator is the chief administrative official of the Town of Marineland. For the purposes of this ULDC, the Town Administrator is assigned to administer, interpret, and implement the standards, criteria, and procedures of this ULDC. The Town Administrator may delegate such responsibilities in writing to Town staff. Throughout this ULDC, the term “Town Administrator” is used to indicate the responsibility for specified actions, except where specified actions are reserved or specifically delegated to the building official. In all instances, “Town Administrator” means the “Town Administrator or designee.”

1.05.00 DOCUMENTS ADOPTED BY REFERENCE

All documents referenced are on file in the Town Offices. The Town Council shall annually review these documents and readopt as necessary upon their amendment.

- A. The Future Land Use Map (FLUM) as adopted within the Town of Marineland Comprehensive Plan 2015 (Figure A-6) and designated the “Official Land Use Map” in Section 2.00.02.
- B. The Florida Building Code, published by the Florida Building Commission and adopted by the state of Florida.
- C. The Florida Yards and Neighborhoods Handbook, A Guide to Florida-Friendly Landscaping, 3rd Edition, Published 2006 (revised 2007), by University of Florida, Institute of Food and Agricultural Sciences (UF/IFAS), available at <http://fyn.ifas.ufl.edu/materials/handbook.pdf> and on file in the Town Offices.
- D. Guana Tolomato Matanzas National Estuarine Research Reserve Management Plan (2009 – 2019), available at <http://www.dep.state.fl.us/coastal/sites/gtm/management/plan.htm> and on file in the Town Offices.
- E. River to Sea Preserve Management Plan.
- F. Outstanding Florida Waters Standards, rule 62-302 F.A.C. (surface water quality standards).
- G. Florida Department of Environmental Protection Florida Clean Marina Program Action Plan, available at http://www.dep.state.fl.us/cleanmarina/files/Clean_Marina_Action_Plan.pdf and on file in the Town Offices.
- H. Illuminating Engineering Society of North America IES Lighting Handbook, 8th edition.
- I. The U.S. Green Building Council’s Leadership in Energy and Environmental Design, Version 2009 (“LEEDNC”).
- J. The U.S. Green Building Council’s Leadership in Energy and Environmental Design for Homes Rating System, Version 2009 (“LEEDHOMES”).

1.06.00 RULES OF INTERPRETATION

1.06.01 Generally

- A. Specific provisions of this ULDC shall be followed in lieu of general provisions that may be in conflict with the specific provision.
- B. In the interpretation and application of this ULDC, all standards, provisions, and requirements shall be liberally construed in favor of the objectives and purposes of the Town and shall not be construed to limit nor repeal any other powers granted under State statutes.
- C. Where provisions of this ULDC conflict with other regulations, the more stringent restrictions shall be applied.
- D. Where written text and illustrations are in conflict, the written text shall govern.

1.06.02 Responsibility for Interpretation

- A. In the event that any question arises concerning the application of regulations, standards, definitions, development criteria, or any other

provision of this ULDC, the Town Administrator shall be responsible for interpretation. In the interpretation of this ULDC, the Town Administrator shall seek guidance and shall be consistent with the comprehensive plan.

- B. Responsibility for interpretation by the Town Administrator shall be limited to standards, regulations, and requirements of this ULDC, and shall not be construed to include interpretation of any technical codes adopted by reference in this ULDC. Interpretation shall not be construed to override the responsibilities given to any commission, board, or official named in other sections or chapters of this ULDC.

1.06.03 Rules for Boundary Interpretation

- A. The boundaries of the several land use districts as shown on the map entitled, Official Land Use Map, approved and adopted by the Town Council, which map, together with such additions or changes as may be found necessary or advisable from time to time, is hereby made a part of this ULDC.
- B. All areas within the Town which are under water shall be subject to the same regulations as the land use districts which they adjoin.
- C. Boundary lines between districts adjoining water areas shall be extended in lines to the corporate limits or until they meet the extended lines of other districts.

1.06.04 Rules of Construction

The following rules of construction shall be applied in the interpretation of the provisions of this ULDC:

- A. The word "shall" is mandatory and the word "may" is discretionary;
- B. Words used in the present tense shall include other tenses;
- C. Words in the singular shall include the plural, and words in the plural shall include the singular;
- D. Words denoting the masculine gender shall be construed to include the feminine and neuter;
- E. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
- F. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land;
- G. The word "and" indicates that all the connected items, conditions, provisions, or events shall apply;
- H. The word "or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination; and
- I. The words "either ... or" indicate that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.

1.06.05 Computation of Time

- A. Whenever a notice is required to be given, an act to be done, or a certain length of time before any proceeding shall be provided, the day on which

- such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.
- B. The term “day” means a calendar day.
- C. The term “month” means a calendar month.

1.07.00 ACRONYMS

The following acronyms are used:

- AIA** – A1A Scenic Corridor overlay district
- CCCL**– Coastal Construction Control Line
- CONS**– Conservation land use district
- CPL**– Conservation Public Lands land use district
- CRA** – Community Redevelopment Agency, Community Redevelopment Area (when referring to the CRA Plan), or Community Redevelopment Area overlay district
- DBH**– diameter at breast height
- EPA** – Environmental Protection Agency
- ERP**– Environmental Resource Permit
- FAC**– Florida Administrative Code
- FBFM**– Flood Boundary and Floodway Map
- FCC**– Federal Communications Commission
- FDEP** – Florida Department of Environmental Protection
- FDOT**– Florida Department of Transportation
- FIRM**– Flood Insurance Rate Map
- FIS**– Flood Insurance Study
- FLUM**– Future Land Use Map
- FS**– Florida Statutes
- FYN**– Florida Yards and Neighborhoods
- GC**– General Commercial land use district
- IES or IESNA**– Illuminating Engineering Society of North America
- IR**– Institutional Research land use district
- MHC**– Maritime Hammock Community overlay district
- NEMA** – National Electrical Manufacturers Association
- NGVD** – National Geodetic Vertical Datum
- OFW**– Outstanding Florida Water
- PUD**– Planned Unit Development or Planned Unit Development overlay district
- RP**– Research Incubator Projects overlay district
- SMU**– Sustainable Mixed Use land use district
- TC**– Tourist Commercial land use district
- TRC**– Technical Review Committee
- TSM**– Technical Standards Manual
- ULDC**– Unified Land Development Code
- USACOE**– United States Army Corps of Engineers

UTL – Utilities land use district

1.08.00 DEFINITIONS

Words and phrases shall be construed according to the common and approved usage of the language. Words with specific meaning in this ULDC are defined below. The definitions are categorized by topic area, with the following topics included in the order in which they appear in the ULDC: land use districts and site design standards, protection of natural features and resources, flood damage prevention, landscaping and tree protection, lighting, energy efficiency and building performance standards, architectural and design guidelines, telecommunication towers, signs, and variations.

1.08.01 Land Use Districts and Site Design Standards

Accessory building or use means a subordinate structure or portion of the main structure, the use of which is incidental to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.

Alley means a public right-of-way thirty (30) feet or less in width and which affords only a secondary means of access to abutting property.

Basement means a story having a part but not more than one-half of its height below grade.

Building official means the person designated by the Town Council as the individual responsible for the administration of the Building Code.

Building height means the vertical distance from the mean grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building see “structure.”

Clinic means a building or portion of a building where patients are not lodged overnight, but are admitted for examination and treatment by a group of professionals licensed by the state to practice the healing arts.

Club, private means a building or portion thereof or premises owned and operated by a corporation, association, person or persons for a social, educational, recreational or fraternal purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Day Care Center or Nursery means a building or portion thereof or premises designated for or occupied for the purposes of providing supervised care and/or education for three or more pre-school age children. However, no overnight sleeping facilities are to be included.

Development permit means a permit approving with or without conditions an application for a building permit or other type of permit as specified in Chapter 10, a variance, or any other official action of the Town having the effect of permitting the development, use or occupancy of land or structure.

District means a section or sections of the Town for which the land use regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Dock means a structure built on pilings over the water which is designed or used to provide anchorage for and access to one or more boats at anchorage. Necessary services such as water and other utilities are considered a part of a dock. However, no cooking, sleeping or business activity shall be permitted or conducted on a dock.

Dwelling means a building or portion thereof designed or used exclusively for residential occupancy but not including campers, hotels, motels, motor lodges, boarding and lodging houses, tents, tourist courts, tourist homes, dormitory, fraternity or sorority houses, hospitals or nursing homes.

Dwelling, Mobile Home means a vehicle or movable dwelling structure, licensed as such by the State of Florida, which is designed to be used as a dwelling unit for one family and which stands on wheels, on rigid supports, or on a foundation, but excluding prefabricated homes or sections thereof and travel trailers as defined herein.

Dwelling, Multiple or Multi-Family (commonly referred to as an apartment building) means a building or portion thereof used or designed as a residence for three or more families living independently of each other within individual dwelling units.

Dwelling, Single-Family means a detached building designed for or occupied exclusively by one family.

Dwelling, Town House means a building designed or occupied exclusively by one family and attached to two or more other buildings or similar design and separated by one or more party walls. The attached town-houses, as defined, constitutes a building group.

Dwelling, Two-Family means a detached building designed for or occupied exclusively by two families living independently of each other.

Gross leasable area means the total floor area for which the tenant pays rent and which is designed for the tenant's occupancy and exclusive use.

Heritage Tree means any hardwood tree or cedar tree that is twenty-four (24) inches or larger DBH.

Home occupation means a use to be approved as a permitted use or special exception and any onsite business conducted entirely within a dwelling and carried on by residents thereof. Such use is to be clearly incidental and secondary to the residential uses and shall not change the residential character of the dwelling.

Hotel means a transient commercial lodging establishment consisting of one (1) or more buildings used only for this purpose, including accessory uses such as eating and drinking facilities, recreation facilities and parking. This category includes motels and motor hotels. Lodgings may consist of sleeping rooms only or may include cooking facilities also, but are not intended for long-term occupancy.

Institution means building and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling, or other correctional services.

Lot Coverage means that percentage of the lot area covered or occupied by the base of the buildings including attached accessory buildings.

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

Lot Lines means the lines abounding a lot as established by ownership.

Lot of Record means a lot which is part of a subdivision, or a parcel of land described by metes and bounds, the plat or description of which has been recorded in the office of the Flagler or St. Johns County Clerk of the Circuit Court. If a portion of a lot or parcel has been conveyed at the time of the adoption of this ULDC, the remaining portion of said lot or parcel shall be considered a lot of record.

Lot, Corner means a lot abutting upon two or more streets at their intersection.

Lot, Interior means a lot other than a corner lot having frontage on one street.

Lot, Through means an interior lot having frontage on two streets, other than a corner lot.

Nonconforming Use means a use that does not conform with the designated use shown on the Future Land Use Map or regulations of the use district, in which it is situated.

Nonconforming Use means a use that does not conform with the designated use shown on the Future Land Use Map or regulations of the use district, in which it is situated.

Parking means the term "parking" shall mean the temporary, transient storage of motor vehicles used for personal transportation, while their operators are engaged in other activities. It shall not include storage of new or used cars for sale, service, rental, or other purpose other than specified above. "Parking" as defined herein shall apply only to open air storage of motor vehicles.

Parking Lot means an open area or plot of land used exclusively for the storage or parking of motor vehicles, but no vehicles are equipped, repaired, rented or sold.

Places of public assembly means any area, building or structure where people assemble for a common purpose, such as social, cultural, recreational and/or religious purposes, whether owned and/or maintained by a for-profit or not-for-profit entity, and includes, but is not limited to, public assembly buildings such as auditoriums, theaters, halls, private clubs and fraternal lodges, assembly halls, exhibition halls, convention centers, and places of worship, or other areas, buildings or structures that are used for religious purposes or assembly by persons.

Planned Unit Development (PUD) means the development of land under unified control which is planned and developed as a whole in a single or programmed series of operations with uses and structures substantially

related to the character of the entire development. A PUD must also include a program for the provision, maintenance and operation of all areas, improvements, facilities, and necessary services for the common use of all occupants thereof.

Protected tree means all non-prohibited trees that are twelve (12) DBH or greater

Public Administrative and Service Facilities means any publicly owned property and structures necessary to provide services to the surrounding area such as fire and police protection or other normal community services.

Public use means the use of land, water or building by a municipality, public body or board, commission, or authority, county, state or the federal government or any agency thereof for a public service purpose.

Right-of-way means a strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.

Service Station, with Major Mechanical Repairs means a building or lot which may provide the sale of gasoline and normal accessories, provided in an enclosed structure major mechanical and body work, straightening of frames or body parts, steam cleaning, painting, minor welding and storage of automobiles not in operating condition.

Service Station, without Major Mechanical Repairs means a building or lot which has as its primary purpose the sale of gasoline and normal accessories, for passenger vehicles, and which may also provide not more than three work bays for minor repairs and maintenance to automobiles.

Sewers, public or community means an approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.

Story means that portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between each floor and the ceiling next above it.

Street means a facility, either public or private, which affords the primary access to abutting property and is intended for general traffic circulation whether existing in fee simple or by easement.

Street Line means the line between the street and abutting property. Also referred to as right-of-way line.

Structural Alterations means any change, except the repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders or the rearrangement of any interior partitions affecting more than five (5) percent of the floor area of the building.

Structure means anything constructed or erected, the use of which requires permanent location on the land, or attachment to something having permanent location on the land.

Townhouse means a single-family dwelling unit constructed in a series or group of attached units with property lines separating such units.

Travel Trailer or Recreational Vehicle means a vehicle less than forty (40) feet in length and used for temporary or recreational living or sleeping purposes, and standing on wheels, whether self-propelled or requiring a separate vehicle for power.

Vacant Land means any lot or parcel of land which is completely open, has no use associated with or upon it and is not utilized as the required yard area for any adjoining uses.

Variance means a modification from the literal interpretation of the provisions, other than those provisions relating to use requirements, subject to the procedures set forth in this ordinance.

Water dependent use means activities that can be carried out only on, in or adjacent to water areas because the use requires access to the water

Water related use means activities that are not directly dependent upon access to a water body, but which provide goods and services that are directly associated with water-dependent or waterway uses

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

1.08.02 Protection of Natural Features and Resources

Revetment means a sloped facing structure of an armoring material such as, but not limited to, guarrystone, concrete, or geotextile fabrics, built to protect a scarp, embankment, or shore structure against erosion by wave action or currents.

Beach means lands and waters lying seaward of the seawall or line of permanent vegetation.

1.08.03 Flood Damage Prevention

Accessory structure means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

Area of special flood hazard means the land in the floodplain within Marineland subject to a one- percent or greater chance of flooding in any given year. This term is synonymous with the phrase “special flood hazard area.”

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also called the “100-year flood” and the “regulatory flood”).

Base flood elevation means the water-surface elevation associated with the base flood.

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

Coastal Construction Control Line means the Coastal Construction Control Line as established under s.161.053, F.S.

Datum means reference surface used to ensure that all elevation records are properly related. Many communities have their own datum that was developed before there was a national standard. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction means, for the purposes of floodplain management, structures for which “the start of construction” commenced before the data of the initial Flood Insurance Rate Map (FIRM). Existing construction, means for the purposes of determining rates structures for which the “start of construction” commenced before the effective date of the first FIRM or before January 1, 1975, for FIRMs effective before that date. This term may also be referred to as “existing structures”.

Existing structure see “existing construction.”

Flood or flooding means:

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (b) The collapse or subsidence of land along a shore of a body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.

Flood Boundary and Floodway Map (FBFM) means the official map of the community on which the *Federal Emergency Management Agency* (FEMA) has delineated the areas of special flood hazard and regulatory floodways.

Flood Insurance Rate Map (FIRM) means an official map of Marineland, issued by FEMA, which delineated both the areas of special flood hazard and the risk premium zones applicable to Marineland.

Flood Insurance Study (FIS) is the official hydraulic & hydrologic report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM and other related data and information.

Floodplain means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain administrator is the individual appointed to administer and enforce the floodplain management regulations of the community. The floodplain administrator shall be the Town Administrator.

Floodplain management regulations means the regulations set forth in this ULDC, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes Federal, State of Florida, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway means the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Floodway fringe means that area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

Freeboard means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, bridge openings, and hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected frequency flood and floodway conditions.

Functionally dependent use means a use that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or

passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hardship as related to variances from the flood damage prevention regulations means the exceptional hardship associated with the land that would result from a failure to grant the requested variance.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structure means any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By the approved Florida program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior.

Lowest adjacent grade means the lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the nonelevation design standards of this ULDC.

Mangrove stand means an assemblage of mangrove trees which are mostly low trees noted for a copious development of interlacing adventitious roots above ground and which contain one or more of the following species: Black mangrove (*Avicennia Nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Languncularia Racemosa*); and buttonwood (*Conocarpus Erecta*).

Manufactured home means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on site (as agreed to between a willing buyer and seller) as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), Actual Cash Value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, or North American Vertical Datum (NAVD) of 1988.

National Geodetic Vertical Datum (NGVD) of 1929 means a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means, for floodplain management purposes, any structure for which the “start of construction” commenced on or after the effective date of this ULDC based upon specific technical base flood elevation data that establishes the area of special flood hazard. The term also includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ULDC.

North American Vertical Datum (NAVD) of 1988 means a vertical control used as a reference for establishing varying elevations within the floodplain.

Free of obstruction means any type of lower area enclosure or other construction element that will obstruct the flow of velocity water and wave action beneath the lowest horizontal structural member of the lowest floor of an elevated building during a base flood event is not allowed. This requirement applies to the structures in velocity zones (V-Zones).

Program deficiency means a defect in the Marineland floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards required by the National Flood Insurance Program.

Public safety and nuisance means anything which is injurious to safety or health of the entire community or a neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the

customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle that is:

- a) Built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projection;
- c) Designed to be self-propelled or permanently towable by a light duty truck; and
- d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Remedy a deficiency or violation means to bring the regulation, procedure, structure or other development into compliance with State of Florida, Federal or Marineland floodplain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dune means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Shallow flooding means the same as area of shallow flooding.

Special flood hazard area means the same as area of special flood hazard.

Start of construction means the following: For other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For

substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. *Structure* means, for floodplain management purposes, a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions.

Variance is a grant of relief from the requirements of this ULDC.

Violation means the failure of a structure or other development to be fully compliant with the requirements of this ULDC. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ULDC is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

1.08.04 Landscaping and Tree Protection

Certified or certification means official designation or certification by Florida Yards and Neighborhoods as a Florida-friendly Yard.

Florida Yards and Neighborhoods means the program established and administered by the University of Florida, Institute of Food and Agricultural Sciences (UF/IFAS), Florida’s water management districts, the Florida Department of Environmental Protection, and others to address the problems of pollution in stormwater runoff, water shortages, and disappearing habitats.

Florida-friendly Yard means a yard that meets the requirements of the Florida Yards and Neighborhoods Yard Certification Checklist for New Construction, available at <http://fyn.ifas.ufl.edu/materials/new%20construction%20checklist.pdf> and on file in the Town Offices.

Landscape means any combination of living plants and non-living landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials)

New construction landscape means the landscape associated with any development, redevelopment, or rehabilitation of a property that requires a building permit.

1.08.05 Lighting

Artificial lighting means any source of temporary, fixed or movable light emanating from a manmade device, including, but not limited to incandescent mercury vapor, metal halide, or sodium lamps, spotlights, streetlights, construction security lights or lights which illuminate signs. This definition shall not include handheld or vehicular lighting.

Beach means lands and waters lying seaward of the seawall or line of permanent vegetation.

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

Fixture means the device that holds, protects, shields, and provides the optical system and power connections for a lamp. Including but not limited to: security, flood, spot, wall, fascia, back, advertising, landscape, foot path, accent, outline, swivel, directional, movable, portable, yard, seawall, or dock light.

Footcandle means the unit for measurement of illumination received by a surface located at a distance from a source of visible light. Typically calculated for a lighting plan and measured with a light meter. Abbreviated as (fc).

Illuminating Engineering Society of North America (IES or IESNA) means the nonprofit professional society of lighting engineers and specialists that has established recommended design standards for various exterior lighting applications

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

Lamp means the source of light within a fixture.

Light source means the medium producing the visible light or changing the direction of the light. Such media may include bulbs, lenses, refractors, reflectors, diffusers, or any emitter of visible light either directly from the material discharging the visible radiant energy or indirectly from material that redirects the illuminating light.

Shield means the opaque barrier on the fixture to block the light from illuminating certain distant surfaces. No light escapes through a shield.

Tinted glass means any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of forty-five (45) percent or less. Such transmittance is limited to the visible spectrum (four hundred (400) to seven (700) nanometers) and is measured as the percentage of light that is transmitted through the glass.

1.08.06 Energy Efficiency and Building Performance Standards

LEEDNC means the version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating System currently adopted by the Town applying to a new construction project of any size that consists of a new commercial building, office building, industrial building, or mixed use building that combines residential use with commercial or industrial use. LEEDNC also applies to construction projects that consist of a multifamily residential building with four (4) or more stories. The LEEDNC system establishes several levels of environmental achievement from the certified rating to a platinum rating. The ratings are attained by earning LEED points in the categories of sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality, innovation and design process and regional priority.

LEEDHOMES means the version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Rating System currently adopted by the Town that applies to a new construction project that consists of a single family home, single family homes, or a multifamily residential building less than four stories. The LEEDHOMES system establishes several levels of environmental achievement from the certified rating to a platinum rating. The ratings are attained by earning LEED points in the categories of innovation and design process, location and linkages, sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality and awareness and education.

1.08.07 Architectural and Design Guidelines

Accessory Structure means a building or structure subordinate to the principal building and used for purposes customarily incidental to the main or principal building and located on the same lot or set of attached lots therewith.

Alley means a publicly- or privately-owned secondary way which affords access to the side or rear of abutting property.

Appurtenances means architectural features consisting of: spires, belfries, cupolas or dormers; silos; parapet walls, and cornices without windows; chimneys, ventilators, skylights, and antennas.

Awning means a roofed architectural projection with flexible material supported entirely from the exterior wall of a building.

Balcony means a porch connected to a building on upper stories supported by either a cantilever or brackets.

Block means an increment of land composed of an aggregate of lots, tracts and alleys circumscribed by thoroughfares.

Build-To-Line means a line parallel to the property line, along which a building shall be built.

Building Frontage means the vertical side of a building which faces the primary space or street and is built to the Build-To-Line.

Building Volume means the space displaced by the exterior walls and roof of a building; a product of building width, depth, and height. Building volume is regulated in order to shape public spaces that are human-scaled, well-ordered, and which maximize the amenity of shared public spaces.

Building Width means the distance from one side of a building frontage to the other. In conditions where buildings are attached, building width is the distinction between buildings which shall be expressed via a change in architectural expression.

Colonnade or Arcade means a covered, open-air walkway at standard sidewalk level attached to or integral with the building frontage; overhead structure is supported architecturally by columns or arches along the sidewalk.

Dwelling Area means the total internal useable space on all residential floors of a structure, excluding porches, balconies, terraces, stoops, patios, or garages.

Front Porch means a roofed area, attached at the ground floor level or first floor level, and to the front

Garden Wall means a freestanding wall along the property line dividing private areas from streets, alleys, and or adjacent lots.

Height means the vertical distance from the lowest point on the tallest side of the structure to the top of the parapet, cornice or eave.

Liner Building means a building built in front of a parking garage, cinema, supermarket etc., to conceal large expanses of blank wall area and to face the street space with a facade that has doors and windows opening onto the sidewalk (see diagrams pp.8 and 9). Parking garages and their Liners may be built at different times.

Lot means a single building plot; the smallest legal increment of land which may be bought and sold.

Lot Frontage means the property line adjacent to the frontage street.

Marquee means a permanently roofed architectural projection the sides of which are vertical and are intended for the display of signs; which provides protection against the weather for the pedestrian; and which is supported entirely from an exterior wall of a building.

Primary Space or Street means the space or street that a building fronts. At squares and street intersections the space or street highest in the hierarchy is the primary street.

Stoop means a small platform and / or entrance stairway at a house door, commonly covered by a secondary roof or awning.

Storefront means building frontage for the ground floor usually associated with retail uses.

Structured Parking means layers of parking stacked vertically.

1.08.08 Telecommunication Towers

Antenna means any exterior transmitting or receiving device mounted on a cell site, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals. The types include:

- (1) *Dish or parabolic* which is used for point-to-point communications.
- (2) *Dual-polarized (or cross-polarized)* which eliminates the 'top-hat' configuration of panel antennas by keeping the thin antennas very close to the mount.
- (3) *Panel* which is a sectorized antenna unit (pointed in three directions) commonly used in cellular and PCS systems and which can resemble plastic or glass light casings, such as seen on street lights, standing on their ends. Panel antennas are getting smaller, some appearing like florescent lights standing on their ends.
- (4) *Whip* which is an omni-directional antenna that is a very thin element pointing up or down from its mount

Backhaul network means the lines that connect a provider's cell sites to one or more cellular telephone switching office, and/or long distance providers, or the public switch telephone network

Cell site means any mount, structure or tower, greater than 15 feet in height, that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice cell sites, guyed cell sites, or monopole cell sites. The term includes radio and television transmission cell sites, microwave cell sites, common-carrier cell sites, cellular telephone cell sites, alternative tower structures, and the like. The term includes the structure and any support thereto

Collocation means the mounting or installation of an antenna on an existing tower, building, or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Mean building height means the vertical distance from the established grade at the center of the front of the building to the mean level between eaves and ridges for gable, hip and gambrel roofs.

Microcell means the shorter, smaller cell sites used to serve smaller areas and often located within rights-of-way

Monopole or monopole cell site means a communication cell site consisting of a single pole, constructed without guy wires and ground anchors.

Parent parcel means the entire parcel, whether platted or described by metes and bounds, which is under unified ownership. A portion of the parent

parcel may be defined as a telecommunications tower lot as described in section 94-131(f).

Stealth facility means any telecommunications tower that is designed to blend into the surrounding environment. Examples of stealth facilities include architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to look like trees.

Telecommunications tower means any structure designed and constructed for the purpose of supporting one or more communication antennas, including camouflaged towers, conventional wireless towers, and low impact or stealth towers. The term includes towers to support antennas for transmitting or receiving personal wireless services and cellular telephone communications towers. The term includes equipment fundamental to the operations of the tower. The term does not include broadcast towers, amateur radio towers, or those towers used solely for private use dispatch services.

Telecommunication tower lot means the leased parcel on which the telecommunications tower is installed. This definition does not mean the parent parcel.

Trim means railings, columns, door and window surrounds, soffits, shutters, gutters and downspouts, and other decorative elements affixed to the exterior of a building.

1.08.09 Signs

Abandoned or discontinued sign or sign structure means a sign or sign structure is considered abandoned or discontinued when its owner fails to operate or maintain a sign for a period of twelve months or longer. The following conditions shall be considered as abandonment: (1) a sign displaying a product or service which is no longer available or a business which is no longer licensed or pays a business tax; (2) a sign which is blank; or (3) the sign has not been maintained. Neither the intention of the owner nor that of any other person or entity to use the sign or sign structure for any nonconforming use shall be taken into consideration in interpreting and construing “discontinuance” as used in this definition.

Animated sign means a sign which includes action, motion, or color changes, or the optical illusion of action, motion, or color changes, including signs set in motion by movement of the atmosphere, or made up of a series of sections that turn.

Artwork means a two- or three-dimensional representation of a creative idea that is expressed in a form and manner as to provide aesthetic enjoyment for the viewer rather than to convey the name of the business, a product, or a commercial message about the products or services offered on the property upon which the artwork is displayed.

Attached sign means any sign attached to, on, or supported by any part of a building (e.g., walls, awning, windows, or canopy), which encloses or covers useable space.

Awning sign. See *canopy sign*.

Banner means a temporary sign made of wind and weather resistant cloth or other lightweight material, intended to hang either with or without frames or in some other manner as not to be wind activated, and possessing characters, letters, illustrations, or ornamentations applied to paper, plastic or fabric of any kind. Flags shall not be considered banners for the purpose of this definition.

Beacon means a stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which has the effect of attracting or diverting attention, except, however, this term does not include any kind of lighting device which is required or necessary under the safety regulations of the Federal Aviation Administration or other similar agency. This definition does not apply to any similar type of lighting device contained entirely within a structure and which does not project light to the exterior of the structure.

Bench sign means an advertising sign appearing on a bench or on or adjacent to a public right-of-way.

Billboard sign means a sign structure or stand-alone sign supported by posts or columns that is directed to and can be viewed from a road or highway.

Building frontage means, for the purposes of computation of number and area of signs permitted on buildings in cases where the lineal feet of building frontage is a determinant, the frontage of a building shall be computed as nearly at ground level as computation of horizontal distance permits. In no instance, other than that allowed in these regulations, shall more than one sign be allowed per building or per leased tenant space, in the case of a multiple tenant use building, such as a shopping plaza. Building frontage may be used in determining lot frontage.

Bus shelter sign means an advertising sign appearing on a bus shelter or on or adjacent to a public right-of-way.

Bus stop informational sign means a freestanding or attached sign located at a bus stop and providing information as to the route, hours or times of service.

Canopy sign means any sign that is a part of or printed, stamped, stitched or otherwise applied onto a protective awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Construction sign means a temporary on-premise sign during the time that a building permit is active and prior to completion of the work for which the permit was issued, and containing sign copy. Construction signs shall not exceed three square feet in sign area, and three feet in height for residential properties, and 16 square feet in sign area, and six feet in height for nonresidential properties.

Copy means the linguistic or graphic content of a sign.

Directional sign means an on-site non-commercial sign directing the movement of pedestrian or vehicular traffic on the premises where it is located. These signs may use words such as "entrance," "exit," "caution," "no parking," "one way only," "no trespassing," and the like, or arrows or similar graphics. These may be attached or freestanding.

Directory sign means a sign which lists the names and locations of occupants or the use of a building, limited to multi-tenant office buildings and complexes.

Display box sign means a fully enclosed or otherwise protected from the elements sign structure, including but not limited to a box, shadow box or cabinet, attached to a wall or freestanding. A menu display sign may be used for a restaurant without drive-through service and for transient lodging facilities which have restaurant facilities open to the general public in addition to the registered guests. Menu display sign structures shall be limited to one per establishment.

Double-faced sign means a sign that has two display surfaces backed against the same background, one face of which is designed to be seen from one direction and the other from the opposite direction, every point on which face being either in contact with the other face or in contact with the same background.

Election sign means a temporary sign erected or displayed for the purpose of expressing support for or opposition to a candidate or stating a position regarding an issue upon which the voters of the Town shall vote.

Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any way bring into being or establish; but it does not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance or repair of a sign.

Fixed aerial sign means any aerial medium that is tethered to the ground.

Flag means any fabric, or similar material, or bunting containing distinct colors, patterns or symbols, used as an ornamental flag or as a symbol of government, political subdivision, corporation or business or other entity and which is not a banner.

Flagpole means a pole on which to raise a flag.

Flashing sign means a sign that permits light to be turned on or off intermittently more frequently than once per minute.

Free expression sign means a sign, containing any content whatsoever, not in excess of three square feet in size (area) and the top of the sign is not more than three feet off the ground if freestanding that is otherwise lawful.

Freestanding sign means a sign supported by structures or supports that are placed on or anchored in the ground or at ground level and which are independent of any building or other structure.

Garage or yard sign means any on-site temporary sign in, at or upon any residentially-zoned property located in the Town.

Ground sign means any sign that is supported by structures or supports in or upon the ground and independent of support from any building; however, a ground sign shall include any sign which is partially supported by structures or supports in or upon the ground and independent of support from any building.

Holiday and seasonal decorations means temporary decorations that pertain to legal or other recognized holidays or to a season of the year.

Holographic display sign means an advertising display that creates a three-dimensional image through projection.

Identification sign means any structural device, display board, screen, surface, or wall with characters, letters or illustrations placed, by any method or means whatsoever. Identification signs are subject to the size and height restrictions delineated elsewhere in this ULDC. An identification sign is differentiated from a directory sign in that the identification sign identifies the occupant or use of an individual address or business premises. Individual addresses or business premises may have both an identification sign and a directory sign.

Illuminated sign means any sign or portion thereof that is illuminated by artificial light, either from an interior or exterior source, including outline, reflective or phosphorescent light, whether or not the source of light is directly affixed as part of the sign.

Internally illuminated sign means any sign that has the source of light entirely enclosed within the sign not visible to the eye.

Machinery and equipment signs means any sign that is integral to the machinery or equipment and that identifies the manufacturer of the machinery or equipment that is placed on the machinery or equipment at the factory at the time of manufacture.

Maintenance means the repairing or repainting of a portion of a sign or sign structure, periodically changing changeable copy, or renewing copy, which has been made unusable by ordinary wear.

Marquee means a structure projecting from and supported by a building which extends beyond the building line or property line and fully or partially covers a private sidewalk, public entrance or other pedestrian way.

Marquee sign means any sign attached to a marquee.

Monument sign means a freestanding sign whose ratio of width of sign to width of support is less than three to one and is subject to all other restrictions as applicable elsewhere in this ULDC.

Nameplate sign or occupant identification sign means an attached wall sign indicating the name and/or profession or address of a person or persons residing on the premises where the sign is located or legally occupying the premises where the sign is located.

Non-conforming sign means a sign that does not conform to the regulations contained in this ULDC.

Off-site permanent monument identification sign means a permanent monument identification sign, located within 100 feet of the location of such sign. This sign type shall not be considered a billboard.

On-premise sign or *on-site sign* means any sign on the premises on which it is located.

Pennant means any series of small flag-like or streamer-like pieces of cloth, plastic, paper or similar material attached in a row to any staff, cord, building, or at only one or two edges, the remainder hanging loosely.

Permanent sign means any sign which, when installed, is intended for permanent use. For the purposes of this division any sign with an intended use in excess of three months from the date of installation shall be deemed a permanent sign unless otherwise indicated elsewhere in this ULDC.

Pole sign means a freestanding sign whose ratio of width of sign to width of support is equal to or greater than three to one.

Portable sign means any sign, banner, or poster that is not permanently attached to the ground or to a structure that is attached to the ground. For purposes of this division, a cold air inflatable sign shall be considered to be a portable sign.

Projecting sign means any sign affixed perpendicular to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Revolving sign or *rotating sign*. Any sign that revolves or rotates.

Roof sign means any sign erected and constructed wholly on or over the roof of a building, and which is supported by the roof structure, or any sign that extends in whole or in part above the roofline of a building.

Safety sign. See Warning sign.

Sign means any surface, fabric, device or display which bears lettered, pictorial or sculptured matter, including forms shaped to resemble any human, animal or product, that conveys information and which is not artwork as defined herein or architectural detail as defined herein. For the purposes of these regulations, the term "sign" shall include all structural members. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered to be a single sign. In the case of a permanent sign made of any fabric or other non-rigid material the sign shall conform to each specification for such signs found elsewhere in the ULDC.

Signable area means the total surface area on a single plane of a wall or window, or similar structure, or a building facade where a sign may be located under this ULDC.

Signable area, wall means, for purposes of determining the maximum size (area) allowed for a wall sign, signable wall area is the continuous portion of

a single plane of wall surface that is unbroken by doors, windows, or openings.

Sign area means that area enclosed by one continuous line, connecting the extreme points or edges of a sign. This shall be determined by using the largest area of outline visible at any one time from any one point. This does not include the main supporting sign structure, but includes all other ornamental attachments, connecting links, etc., which are not a part of the main supports of the sign.

Sign, maintenance means the replacing, repairing, or repainting of a portion of a sign structure, periodically changing copy, or renewing copy which has been made unusable by ordinary wear or weather or accident. The replacing or repairing of a sign or sign structure of which 25 percent or more of the total areas has been damaged (as determined by the Town Administrator) shall not be considered maintenance.

Sign, traffic control device. See Traffic control device sign.

Snipe sign means any sign tacked, nailed, posted, pasted, glued or otherwise attached to telephone poles, utility poles, trees or fences. Specifically excluded are holiday and seasonal decorations attached to utility poles in the right of way when such decorations are authorized by the utility company and installed by the Town for the benefit of the citizens.

Statutory sign means a sign required by any statute of the State of Florida or the United States.

Street address sign means any sign denoting the street address of the premises on which it is attached or located.

Temporary sign means a sign that is not permanent. For the purposes of this division, a sign with an intended use of three months or less shall be deemed a temporary sign unless otherwise indicated elsewhere in this ULDC.

Traffic control device sign means any sign located within the right-of-way that is used as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard.

Umbrella sign means a sign printed on an umbrella or canopy used at a legally established outdoor eating and drinking establishment, push-cart, or sidewalk cafe and which is made of a lightweight fabric or similar material.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

Vehicle sign means any sign or signs where the total sign area covers more than ten square feet of the vehicle.

Wall sign means a sign which is fastened or affixed to the wall of a building with its face in a parallel plane with the plane of the building facade or wall.

Warning sign or safety sign means a sign which provides warning of a dangerous condition or situation that might not be readily apparent or that poses a threat of serious injury (e.g., gas line, high voltage, condemned

building, etc.) or that provides warning of a violation of law (e.g., no trespassing, no hunting allowed, etc.).

Window sign means any sign mounted or placed in any fashion on the interior or exterior of the surface of a window, and intended to be seen from the exterior.

Wind sign means a sign which uses objects or material fastened in such a manner as to move upon being subjected to pressure by wind, and shall include, pennants, ribbons, spinners, streamers or captive balloons, however, the term "wind sign" shall not include flags.

1.08.10 Deviations

Sustainability warrant means a preferred alternative performance standard that deviates from standards and criteria set forth the ULDC but furthers, promotes and is in harmony with the purpose and intent of the ULDC, and offers more protection of environmental and natural resources of the Town and the ability of the ecosystem to maintain ecological processes and functions, biodiversity and ecological productivity into the future..



CHAPTER 2

LAND USE DISTRICTS AND PERMITTED USES

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2.00.00 GENERALLY

2.00.01 Purpose and Intent

It is the purpose of this section to describe the uses of land that are allowable within the Town of Marineland in order to encourage and promote, in accordance with current and future needs, the public health, safety and welfare of both present and future citizens. In order to accomplish this purpose all land within the Town is divided into districts by the Town of Marineland Comprehensive Plan (Plan) and depicted on the Future Land Use Map (FLUM) contained within that Plan. The allowable uses are described generally within the Future Land Use Element of the Plan and more specifically in Section 2.03.00.

2.00.02 Official Land Use Map

Land use districts for the Town of Marineland are hereby established and declared to be in effect upon all land and water areas included within the boundaries of each district as shown on the “Town of Marineland Future Land Use Map.” This map is on file in the Town Offices and is Figure A-6 in the Town of Marineland Comprehensive Plan 2015. Marineland adopts the map as the official land use district map for the purpose of providing a residential environment free from incompatible uses, promoting sound commercial and tourist uses in appropriate locations, and providing for flexibility in land uses in order to encourage innovative uses which are compatible with the protection of natural resources and the environment.

2.01.00 ESTABLISHMENT OF LAND USE DISTRICTS

2.01.01 Sustainable Mixed Use (SMU) Land Use Districts

The SMU land use district is designed to provide for the majority of the permanent residential opportunities within the Town as well as provide commercial and public uses in close proximity to residential uses. In this land use upper-floor residential units over non-residential (commercial/retail) ground floor space shall be encouraged. A maximum of 241 residential units and a maximum of 50,000 square feet of commercial uses will be allowed within the SMU category. Residential uses will allow for a mix of residential uses including single-family and multi-family units. A range of 3 to 9 residential units will be located above first floor commercial uses. Uses identified in Tables 2.03.02 and 2.03.03 are allowable.

2.01.02 Institutional Research (IR) Land Use Districts

The IR land use district is designed to provide primarily for education and research activities associated with the Whitney Lab. Allowable uses include classrooms, research and lecture facilities and dormitory rooms for students and teachers associated with the Whitney Lab and for visiting researchers. Dormitory units will be designed to house a maximum of 72 occupants. Uses identified in Tables 2.03.02 and 2.03.03 are allowable.

2.01.03 General Commercial (GC) Land Use Districts

The GC land use district is designed to serve the general commercial needs of the Town, wherein a variety of retail, commercial, financial, professional office

services and other general commercial uses are allowable. Additional permitted uses include public buildings and grounds and the marina facility and associated uses. A maximum of 85 marina slips is allowed within the Town. Uses identified in Tables 2.03.02 and 2.03.03 are allowable.

2.01.04 Tourist Commercial (TC) Land Use Districts

The TC land use district is designed to allow for activities predominately associated with the delivery of goods and services to tourists. Uses are designed for the existing marine park and associated research activities, including parking, hotel use, resort residential units, dining establishments, beach club and associated facilities, public buildings and grounds and retail establishments which primarily serve tourists. The total number of resort residential units shall not exceed 35 units. Within this land use category 2 hotel units can be substituted for 1 resort residential unit. Clustering of unit density is allowed. Uses identified in Tables 2.03.02 and 2.03.03 are allowable.

2.01.05 Conservation (CONS) Land Use Districts

The CONS land use category includes those areas designated for the purpose of protecting natural resources. Conservation lands include the River to Sea Preserve as well as wetlands associated with the Intracoastal Waterway. Uses within the River to Sea Preserve will be consistent with those uses set forth in the adopted River to Sea Preserve Management Plan. Development may occur within upland portions of this area at a density of 1 dwelling unit per 84 acres. Uses identified in Tables 2.03.02 and 2.03.03 are allowable.

2.01.06 Conservation Public Lands (CPL) Land Use Districts

The CPL land use district is a subcategory within the Conservation (CONS) land use category. Uses within the CPL category are limited to two (2) residential units to be utilized by visiting researchers associated with the Guana Tolomato Matanzas National Estuarine Research Reserve (GTMNERR) as well as uses by the GTMNERR for research and education purposes consistent with the River to Sea Preserve Management Plan. Uses identified in Tables 2.03.02 and 2.03.03 are allowable.

2.01.07 Public Facilities (UTL) Land Use District

The UTL land use district is intended to provide for the provision of a wastewater treatment facility located on an out-parcel within the River to Sea Preserve. Other private or public utilities are also permitted in this category. The intensity of development permitted is measured by impervious surface, which may cover up to 90 percent of the land area. Uses identified in Tables 2.03.02 and 2.03.03 are allowable.

2.02.00 ESTABLISHMENT AND PURPOSE OF OVERLAY DISTRICTS

2.02.01 Generally

- A. The purpose of overlay districts is to provide a means of modifying the site design requirements applicable to the underlying land use district(s).
- B. The Town of Marineland hereby establishes the following overlay districts:

1. A1A Scenic Corridor (A1A)
 2. Community Redevelopment Area (CRA)
 3. Maritime Hammock Community (MHC)
 4. Research Incubator Projects (RP)
 5. Planned Unit Development (PUD)
- 2.02.02 A1A Scenic Corridor Overlay District (A1A)
- A. *Purpose and applicability.* The A1A Scenic Corridor overlay district is established to protect and enhance the natural and manmade environments of lands adjacent to State Road A1A within the Town, thereby preserving quality of life and property values within the district. The requirements of this section shall apply to all parcels or lots adjoining State Road A1A from the Northern border to the Southern border of the Town of Marineland, including its right-of-way and adjoining rights-of-way that lead to publicly owned parklands along the beach. The sum of this area shall be referred to as the A1A Scenic Corridor for purposes of this section. The requirements of this section are supplemental to existing land use regulations within the area defined above. All development must be in compliance with the standards of the underlying land use district and the additional requirements or relief of the overlay district. In the event of any conflict between the provisions of this section and other requirements of this article, the provisions of this section shall prevail.
- B. *Architectural standards.* This subsection applies to nonresidential development within the A1A corridor.
1. Commercial metal buildings shall be prohibited in the A1A Scenic Corridor.
 2. Building lengths along the front dimension of the property may not exceed two hundred (200) feet.
 3. For purposes of this section, a recognized architectural style shall be one which is recognized by design professionals as having a basis in classical, historical or academic architectural design philosophies. The following shall not be considered acceptable architectural styles within the A1A Scenic Corridor:
 - a. Corporate signature or commercial prototype architecture.
 - b. Any architecture that is exotic and clearly out of character with the A1A community character. Examples of exotic and unacceptable architecture include architecture that does not resemble a typical structure, but resembles out-of-place structures like igloos, tepees, medieval castles, caves and the like; or that resembles an exaggerated plant, animal, fish, edible food or other such item such as giant oranges, ice cream cones, dinosaurs and the like.
 4. *Accessory structures.* These structures shall be similar in style, color, and building material to their principal structures.

5. *Exterior walls.* All exterior walls shall be constructed of finished materials such as stucco, natural brick or stone, finished concrete, horizontal wood siding or other similar material including synthetic materials similar in appearance and durability. Exposed smooth concrete block or metal finishes shall not be permitted, except where determined to be an integral feature of a recognized architectural style. For any facade facing a street, parking lot or residential property line, wall planes need to be encouraged punctuated by two (2) or more of the following techniques:
 - a. Use of windows of style and proportions in keeping with the chosen architectural style. Retail establishments must incorporate store front windows at pedestrian level where adjacent to streets or interior sidewalks.
 - b. Use of ground level arcades or porches.
 - c. Use of protected or recessed entries.
 - d. Use of vertical elements (including architectural features such as pilasters, columns, canopies, porticos, arcades, colonnades and/or parapets) on or in front of expansive blank walls to interrupt facades into modules of less than sixty (60) feet.
 - e. Use of multiple wall plane offsets and projections of at least three (3) feet each.
 - f. Retaining a clear distinction between roof, body and base of a building.
 6. *Roofs:* The use of hip or gable roofs is highly encouraged. Pitches in excess of 6:12 are desirable. The use of dormers, metal roof material, or dimensional shingles help break large roof planes. Flat roofs shall include parapet or partial roofs to provide architectural interest and to screen rooftop equipment when viewed at the property lines from standing height.
- C. *Dumpster and waste containers.* Dumpster and waste containers shall be screened by a wall or a fence with vegetative screening around it. The vegetative screening shall be installed on at least three (3) sides of the utility equipment, and shall be located outside any wall or fence. Such vegetative screening shall include shrubs which will achieve a height of five (5) feet within one (1) year, planted with a spacing not exceeding five (5) feet on center, or as an alternative, another form of vegetative screening that creates an effective visual screen.
- D. *Loading docks.* Loading docks in the A1A Scenic Corridor shall be located or constructed at the rear of the building, and shall be oriented as much as possible as to be concealed from adjacent residential uses.
- E. *Access standards.* The Town shall strive to limit new access points to SR A1A through the use of shared access, secondary access between adjacent uses, and reasonable spacing between primary access points. The following standards shall be applied to reduce traffic congestion and

- safety issues, reduce the amount of pavement in driveways, as well as to reduce the visual impacts of strip development caused by multiple access points.
1. For corner parcels less than one (1) acre in size, access only from local streets shall be allowed.
 2. A single, multi-use driveway connection to A1A shall be required to serve adjacent commercial uses unless one (1) of the uses is an existing site with a driveway access not located along the joint property line. In cases where such multi-use driveway would result in the removal of a protected tree, it need not be located along the joint property line.
 3. Driveway pavement width for access ways shall not exceed twenty-four (24) feet, excluding landscape medians and appropriately designed aprons and needed turn lanes, unless it is determined by the county administrator or his/her designee that wider pavement width is needed to accommodate needed turning radii. Pavement width may exceed twenty-four (24) feet when a curbed median strip with shade trees spaced every twenty-five (25) feet are provided, but driveway lanes may not exceed twelve (12) feet in width excluding appropriately designed aprons and needed turn lanes.
 4. Cross-access. New nonresidential site plans must provide vehicular and pedestrian cross-access to existing and future adjacent development. Cross-access shall take the form of an interconnection between parking lot access aisles located at least fifty (50) feet from the r/w line of A1A for nonresidential sites and at least twenty-five (25) feet from the r/w line of A1A for residential developments. Residential subdivisions must provide vehicular cross-access with adjacent residential subdivisions and pedestrian access to commercial areas.
- F. *Parking standards.* The following standards shall help to reduce the amount of paved parking areas and visual blight associated with commercial parking needs.
1. During the site plan review process, the Town may allow minimum parking requirements to be reduced by up to twenty-five (25) percent for complementary uses (weekday and evening/weekend uses), when such uses can share their available parking areas, and such parking areas are convenient to the associated uses.
 2. Shell parking or similar approved porous surfaces shall be allowed for uses with less than ten (10) required parking spaces, if it is determined by the county engineering department that such an arrangement will not create significant erosion, drainage, or fugitive dust problems. For uses that require ten (10) or more parking spaces, up to twenty (20) percent of required minimum parking spaces may be porous. All development must pave required handicapped spaces as well as aisles and sidewalks to building entrances.

G. *Utility service drops.* Utility service drops shall be installed underground and shall be done in a manner that protects heritage trees.

H. *Variances.* Variances shall be available under the Town of Marineland ULDC, Section 9.02.00, Variances. However, in considering variance applications, consideration and flexibility shall be extended to adjust setbacks, structures and parking in order to preserve an index tree canopy. Further, the provisions of this section are not intended to deprive an applicant from seeking a variance where not otherwise in conflict with this section.

2.02.03 Community Redevelopment Area Overlay District (CRA)

The CRA overlay district is established to promote a sustainable community through preservation and enhancement of the Town's historic, scientific, educational, natural and recreational resources. The boundaries of the CRA overlay district are described in Exhibit A to the Town of Marineland Community Redevelopment Plan. All development shall abide by the regulations of the underlying land use district and shall comply with the provisions of the Community Redevelopment Plan.

2.02.04 Maritime Hammock Community Overlay District (MHC)

A. The MHC overlay district is established to protect the Maritime Hammock Vegetative Community within the Town boundaries. Within this overlay district the clearing of canopy trees shall be prohibited. "Canopy" or "canopy trees" shall mean those trees that constitute the highest layer of leaf cover in a forest or hammock. The canopy trees addressed here are those that are indigenous to the Maritime Hammock Vegetative Community. The boundaries of the MHC overlay district exist within the Sustainable Mixed Use land use district as depicted on the Official Land Use Map. All development shall abide by the regulations pertaining to the underlying land use district.

2.02.05 Research Incubator Projects Overlay District (RP)

A. *Purpose and applicability.* The RP overlay district is established to create opportunities for marine medical biotechnology and other technical research and production. A critical component of these efforts is to allow for research incubator projects to take conceptual ideas from research stage to development stage. As such it is recognized that the Town should allow research incubator projects to be allowed as a land use overlay for all land uses except conservation that currently exist in the Town. The Town Council may implement the RP overlay following review of proposals to ensure compatibility with adjacent land uses and consideration of the project criteria as outlined in Section 2.02.05(B). The RP overlay district consists of all land use districts in the Town with the exception of Conservation (CONS) land use districts and Conservation Public Lands (CPL) land use districts. All development shall abide by the regulations pertaining to the underlying land use district.

B. *Project criteria.* The Town Council may approve research incubator projects in all land use districts, except CONS and CPL, based upon the following criteria:

1. All applications for approval shall be supported by a written summary describing the nature of the project, traffic generated, number of employees, improvements to real property, the size of the operation and all required permits and approvals from governmental entities.
2. Projects shall have no more than 4 full-time and part-time employees on site on a daily basis.
3. The projects shall be of limited duration set forth in the requests for the approval. Time limitations can be expanded upon application to and approval from the Town Council.
4. The research incubator projects shall be operated only after all applicable state, federal and local regulations have been complied with and all required permits have been obtained.
5. Any research incubator projects shall not be nuisances to existing uses on adjacent properties.

2.02.06 Planned Unit Development Overlay District (PUD)

A. *Intent.* The PUD overlay district is established to provide an opportunity for innovative urban design techniques, improved use of land, protection of valuable natural features in the community, develop a desirable land use mix, provide open space, and more economical public services. Its purpose is to encourage the unified development of large tracts of land using creative and flexible concepts in site planning through clustering and other innovative site plans than would otherwise be possible through the strict application of minimum and maximum requirements of conventional land use districts established in this ULDC. The proposed PUD must be in harmony with the general purpose and intent of this ULDC and the Marineland Plan. The design and construction of a PUD project shall follow a carefully devised plan of development which must be prepared in accordance with the requirements, procedures and approvals prescribed in Section 10.01.00.

B. *Permissible Uses.* Any use which is permitted in the land use district may be included in a PUD.

2.02.07 (Reserved)

2.03.00 LAND USES PERMITTED IN EACH LAND USE DISTRICT

2.03.01 How to Read the Table of Permitted Uses

- A. Within the following table the letter "P" in Table 2.03.01 indicates that the land use is permissible, subject to compliance with the standards of the land use district.
- B. The letter "S" in Table 2.03.01 indicates that the use is permissible, subject to compliance with the standards of the land use district, and the

- supplemental standards specified for the use. Supplemental standards are contained in Section 5.03.00.
- C. An empty cell, row or column in Table 2.03.01 indicates the use is prohibited.
 - D. Any use that is not identified in Table 2.03.01 is prohibited unless it is found to be substantially similar to a permissible use by the Town Administrator.
 - 1. A requested use shall be considered substantially similar when the characteristics of the requested use are equivalent in type, intensity, degree, or impact when compared to a use named in Table 2.03.01. Characteristics to be considered include characteristics such as, but not limited to, the following:
 - a. Typical hours of operation;
 - b. Use of outdoor storage;
 - c. Trip generation rates;
 - d. Generation of noise, light pollution, odor, smoke, electromagnetic interference, or vibration; and
 - e. Customary activities associated with the use.
 - 2. The administrative interpretation shall be subject to appeal, as set forth in Section 9.03.00.
 - E. Within overlay districts, land uses shall abide by the regulations pertaining to the underlying land use district. Uses within a PUD overlay district shall be permitted as provided by the approved development plan, based on the underlying district.

Table 2.03.01 Table of Permitted Uses

<i>Uses</i>	<i>Land Use District</i>						
	SMU	IR	TC	GC	CONS	CPL	UTL
RESIDENTIAL							
Dormitories and residence halls		P					
Manufactured homes	S				S	S	
Multi-family dwellings	P						
Resort residential dwellings			P				
Single family residential dwellings	P				P	P	
Townhouse dwellings	P						
Two-family residential dwellings	P						
COMMERCIAL							
Commercial recreational entertainment facilities	P		P	P			
General office buildings	P		P	P			
Gift shops	P		P	P			
Motels and hotels			P				

<i>Uses</i>	<i>Land Use District</i>						
	SMU	IR	TC	GC	CONS	CPL	UTL
Regional shopping centers	P		P	P			
Restaurants	P		P	P			
Retail sales and service establishments	P		P	P			
PUBLIC / INSTITUTIONAL / OTHER							
Auditoriums, classrooms		P					
Daycare, preschool, nursery school	S	S	S	S			
Essential public services and facilities	P	P	P	P	P	P	P
Marina				P			
Marine attractions, aquaria and ecotourism facilities			P	P			
Mixed use development	S						
Parks and recreational areas	P	P	P	P			
Private, social, recreational, or fraternal clubs or organizations	S						
Public administrative facilities		P	P	P			
Public or private utility							P
Religious facilities	S						
Tanks and aquaria for wildlife and fishes, including marine mammals		P	P	P			

2.03.02 Accessory Uses in Each Land Use District

- A. The letter “P” in Table 2.03.02 indicates the use is permissible as an accessory use subject to compliance with the standards for accessory uses set forth in Section 5.01.00. These accessory uses are also subject to compliance with the design standards set forth in Chapter 4.
- B. The letter “S” indicates the use is permissible as an use subject to supplemental standards.
- C. Some uses are permitted by right as indicated in Table 2.03.02. Where a specified use in a specified land use district has an empty cell in both Table 2.03.01 and Table 2.03.02, the use is prohibited.
- D. Accessory uses also include any structure or use normally and customarily incidental to the permitted use.
- E. Accessory uses shall be included in the total impervious surface calculations for the lot or parcel.
- F. Within overlay districts, land uses shall abide by the regulations pertaining to the underlying land use district.
- G. Temporary garage, yard or outdoor sales are allowed with a Town permit issued by the Town Administrator, but shall not exceed two (2) days in any month.

Table 2.03.02. Accessory Structures and Uses.

<i>Uses</i>	<i>Land Use District</i>						
	SMU	IR	TC	GC	CONS	CPL	UTL
Automotive parking			P	P			
Cocktail lounges and bars which are accessory to and within a motel, hotel or restaurant			P	P			
Customary accessory uses and structures clearly incidental to one or more permitted uses and structures	P	P					
Docks, boathouses, boat ramps, boat lifts, or piers				P			
Dumpsters	P	P	P	P			
Home occupations	P	P					
Private garage	P						
Private swimming pool and cabana	P	P					
Residential uses accessory to principle use	P		P	P			
Temporary structures including carnivals, circuses and other temporary commercial amusement activities and religious gatherings for special events of a temporary nature with Town Council establishing the period for which such events shall begin and end	P	P	P	P			

2.04.00 WATER DEPENDENT USE RESTRICTIONS

2.04.01 Purpose and Intent

The purpose of water dependent use restrictions is to protect water dependent uses within the Town of Marineland from incompatible or preemptive uses and to ensure there is no net loss of public access to the shoreline within the Town of Marineland.

2.04.02 Applicability

Water dependent use restrictions shall apply to all lands within 150 feet of the shoreline within the Town. All lands within 150 feet of shoreline within the Town shall be referred to as water dependent use restricted areas.

2.04.03 Permissible Uses

A. New water dependent uses are permissible within water dependent use restricted areas, subject to compliance with the standards of the land use district. Water dependent uses are those activities that can be carried out only on, in or adjacent to water areas because the use requires access to the water. Water dependent uses include only the following uses:

1. Port facilities
2. Industrial marinas
3. Public use marinas
4. Boat ramps
5. Boat docks
6. Boat slips

7. Fishing piers
 8. Boat haul out facilities
 9. Industrial operations which require a dockside or berthing area
 10. Kayak/canoe launches
 11. Fish, shellfish, and marine resource production
 12. Waterborne transportation
 13. Ship berthing areas
 14. Water dependent utilities/electrical generating or water supply facilities
 15. Protection and conservation of coastal resources
 16. Facilities that provide actual physical public access to the water for fishing, boating, swimming, or water sports as a primary use
- B. New water related uses may be allowed by variance within water dependent use restricted areas. Water related uses are those activities that are not directly dependent upon access to a water body, but which provide goods and services that are directly associated with water dependent or waterway uses. Water related uses include only the following uses:
1. Commercial boat repair facilities
 2. Recreational boat repair facilities
 3. Commercial boat manufacturing facilities
 4. Recreational boat manufacturing facilities
 5. Boat sales facilities
 6. Dry boat storage facilities
 7. Bait and tackle stores
 8. Institutional or educational research centers
 9. Campgrounds
 10. Fish camps
 11. Dive shops
 12. Commercial and sport fishing facilities
 13. Fish and shellfish packaging facilities
 14. Administrative uses that support water dependent activities
 15. Uses that provide actual physical public access to the water for fishing, boating, swimming, or water sports as a secondary use
 16. Uses that provide public visual access to the water in the form of a boardwalk along or adjacent to the shoreline, a pedestrian promenade along or adjacent to the shoreline, or outdoor seating or dining areas adjacent to the shoreline or extending into the water as permissible by permitting agencies as a secondary use

2.04.04 Prohibited Uses

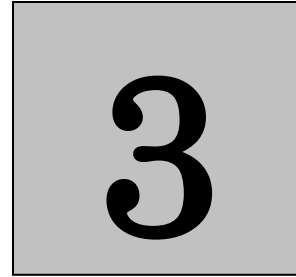
New waterfront uses that are non-water dependent and non-water related are prohibited within water dependent use restricted areas.

2.04.05 Substantially Similar Uses

Property owners may seek permission from the Town Council for new uses that are not included in the definitions for water dependent and water related uses as expressed in this sub-section, subject to compliance with the standards of the land use district. In determining whether to grant permission for the proposed new use, the Town Council shall consider the extent to which the proposed new use is substantially similar to the established definition and exclusive list of water dependent or water related uses, and the extent to which the proposed new use is consistent the purposes of water dependent use restrictions.

2.04.06 Public Access

- A. All development projects within water dependent use restricted areas shall maintain the pre-development level of actual physical public access to the water and public visual access to the water.
- B. Any notice of public hearing regarding the conversion of water dependent or water related uses to non-water dependent or non-water related uses within water dependent use restricted areas shall specifically state that such a conversion will be discussed.



CHAPTER 3

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3.00.00 GENERALLY

3.00.01 Purpose and Intent

The purpose of this chapter is to provide design standards applicable to all development activity within the Town.

- A. No building or other structure shall be constructed, installed, erected, or altered except in compliance with the site design and development standards set forth in this ULDC.
- B. Where an overlay district applies to a site, the standards for that district shall apply in addition to the standards of the underlying land use district.
- C. In addition to standards for all development within a land use district, supplemental standards for accessory and temporary uses are set forth in Chapter 4. Such supplemental standards shall apply in addition to the standards of the land use district and overlay district, if applicable, in which the development is located.
- D. Where conflict arises between standards required in a land use district, in an overlay district, by supplemental standards, or by other legally binding document, the following rules shall be used in the application of standards:
 1. Where an unexpired Town-approved site plan or unexpired Town-approved development agreement issued prior to the effective date of this ULDC, court order, or other legally binding document which authorizes development applies to the site, the standards in the legally binding document shall apply.
 2. In all other situations, the stricter standard shall apply.

3.00.02 Design principles

Development design shall first take into account the protection of natural resources. All development shall be designed to avoid unnecessary impervious surface cover; to provide adequate access to lots and sites; and to avoid adverse effects of shadow, glare, noise, odor, traffic, drainage, and utilities on surrounding properties.

3.01.00 PROTECTION OF NATURAL FEATURES AND RESOURCES

3.01.01 Purpose and Intent

It is the purpose of this regulation to promote restoration, connectivity, and preservation of the beach and dune system, maritime hammock, riparian zones, and wetlands within the Town of Marineland and to maintain ecological processes and functions and biodiversity in perpetuity.

3.01.02 Applicability

No approval for development shall be issued by the Town that is not consistent with the provisions of this chapter.

3.01.03 Standards for the Protection of Wetlands

1. There is hereby created a wetlands protection zone in which special restrictions on development apply.

2. The boundaries of this zone shall be the most landward extent of the following:
 - a. Areas delineated as wetlands by the FDEP or Water Management District;
 - b. Areas within the jurisdiction of the USACOE.
3. Activities within wetlands shall be consistent with the goals, objectives and policies protecting wetlands contained in the Comprehensive Plan.

3.01.04 Riparian/Littoral Setbacks

For the purpose of shoreline protection, development other than water dependent uses as listed in Section 2.04.03 shall occur at least fifty (50) feet landward of the mean high water line. All vegetation management within the riparian zone shall be consistent with Section 3.05.00.

3.01.05 Limitations on Armoring of Shorelines

Coastal armoring shall conform to the Florida Department of Environmental Protection's coastal armoring regulations and in addition shall comply with the following criteria:

1. All coastal armoring permits will be reviewed by Town for consistency with the Section 3.08 of this ordinance: Dark Sky Requirements, Lighting, and Sea Turtle Protection.
2. All new and restored dune systems shall be maintained in perpetuity by the property owner. Additional permits from DEP may be required.
3. Seawalls are prohibited. To avoid the use of structures that sever natural connections between riparian, intertidal and subaqueous areas soft living shoreline protection strategies shall be used. Designs to create a living shoreline include vegetation management, beach nourishment and dune restoration, tidal marsh enhancement and creation, bank grading to reduce the impact of erosion, marsh toe revetments and sills, beach sills, permeable offshore breakwater systems, and artificial reefs.
4. Each living shoreline protection strategy shall be constructed with habitat compatible materials, as determined by DEP, and shall be required in lieu of reconstruction or replacement of any existing coastal armoring.

3.02.00 FLOOD DAMAGE PREVENTION

3.02.01 Findings of Fact

- A. The flood hazard areas of Marineland are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous

to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

3.02.02 Purpose and Intent

It is the purpose of this section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights and velocities;
- B. Require that uses vulnerable to floods including facilities which serve such uses be protected against flood damage throughout their intended life span;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

3.02.03 Objectives

The objectives of this section are to:

- A. Protect human life, health and to eliminate or minimize property damage;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, roadways, and bridges and culverts located in floodplains;
- F. Maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- G. Ensure that potential homebuyers are notified that property is in a flood hazard area.

3.02.04 Applicability

The provisions of this section apply to all areas of special flood hazard within the jurisdiction of Marineland.

3.02.05 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for the Marineland, with an effective date of July 17, 2006, with the accompanying maps and other supporting data, are adopted by reference and declared to be a part of this

ULDC. The Flood Insurance Study and Flood Insurance Rate Map are on file in the Town Offices.

3.02.06 Designation of Floodplain Administrator

The Town of Marineland hereby appoints the Town Administrator to act as Floodplain Administrator and administer and implement the provisions of this section. In addition to any duties for the implementation of this ULDC, specific duties pertaining to implementation of flood damage prevention regulations of this section include the following:

- A. Advise applicants that additional Federal, State of Florida, or local permits may be required, and if such additional permits are necessary, especially as it relates to Chapters 161.053; 320.8249; 320.8359; 373.036, 380.05; 381.0065, and 553, Part IV, Florida Statutes;
- B. Require that copies of such permits be provided to the Town and maintain such permits on file with development orders or permits pertaining to the development site;
- C. Notify adjacent communities, the Department of Community Affairs, Division of Emergency Management, the St. Johns River Water Management District, the Federal Emergency Management Agency and other Federal and/or State of Florida agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;
- D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;
- E. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A-Zones) or bottom of the lowest horizontal structural member of the lowest floor (V-Zones) of all new or substantially improved buildings, in accordance with Section 3.02.08(A) and (B) and Section 3.02.09(B), respectively;
- F. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 3.02.08;
- G. Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Chapter 9;
- H. Coordinate all change requests to the FIS, FIRM and FBFM with the requester, State of Florida, and FEMA, and
- I. Where Base Flood Elevation is utilized or required, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements in accordance with Section 3.02.08(A) and (B), respectively.

3.02.07 General Standards

- A. In all areas of special flood hazard, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:
1. New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State of Florida requirements for resisting wind forces;
 3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. See the applicable Technical Bulletin or Bulletins from FEMA for guidance;
 4. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage. See the applicable Technical Bulletin or Bulletins from FEMA for guidance;
 5. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 7. New and replacement sanitary sewage systems shall be designed to prevent infiltration of flood waters into the systems and discharges from the systems into flood waters;
 8. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ULDC shall meet the requirements of “new construction” as contained in this section;
 9. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ULDC, shall be undertaken only if said non-conformity is not furthered, extended, or replaced; and
 10. All applicable additional Federal, State of Florida, and local permits shall be obtained and submitted to the Floodplain Administrator. Copies of such permits shall be maintained on file with the development permit.
- B. Standards for subdivisions and other development (including manufactured homes):
1. All subdivision proposals shall be consistent with the need to minimize flood damage;

2. All subdivision proposals shall demonstrate the availability of public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage; and
3. All subdivision proposals shall demonstrate that adequate drainage will be provided to reduce exposure to flood hazards.

3.02.08 Specific Standards in A-Zones

In all A-Zones where base flood elevation data have been provided (Zones AE, A1-30, and AH), as set forth in Section 3.02.07, the following provisions shall apply:

A. Residential construction

All new construction or substantial improvement of any residential building (including manufactured homes) shall have the lowest floor of habitable space, elevated to no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of Section 3.02.08(C). All conversions of non-habitable space to habitable space are considered substantial improvements and shall meet the requirements of this Section.

B. Non-residential construction

All new construction or substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the base flood elevation. All buildings located in A-Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one (1) foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Town Administrator.

C. Elevated buildings

New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 2. The bottom of all openings shall be no higher than one (1) foot above foundation adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and
 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions;
 4. Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and
 5. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.
- D. Standards for manufactured homes and recreational vehicles
All manufactured homes that are placed, or substantially improved within Zones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, the lowest floor be elevated on a permanent foundation to no lower than one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
All recreational vehicles placed on sites within Zones A1-30, AH, and AE must either:
1. Be on the site for fewer than 180 consecutive days,
 2. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions), or
 3. Meet all the requirements for new construction, including anchoring and elevation requirements in accordance with Section 3.02.08(D).
- Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.
- E. Floodways
Located within areas of special flood hazard established in Section 3.02.07, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry

debris, potential projectiles and have significant erosion potential, the following additional provisions shall also apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements and other developments within the regulatory floodway unless certification (with supporting technical data) by a registered professional engineer is provided through hydraulic and hydrologic analyses performed in accordance with standard engineering practice demonstrating that encroachments would not result in any increase in flood levels during occurrence of the base flood discharge.
2. Development activities including new construction and substantial improvements that increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the developer or applicant first applies – with the community’s endorsement – for a conditional FIRM revision, and receives the approval of FEMA.
3. When fill is proposed, in accordance with the permit issued by the Florida Department of Health, within the regulatory floodway, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood in accordance with Section 3.02.08(E)(1).
4. For all structures located seaward of the Coastal Construction Control Line (CCCL), the lowest floor of all new construction and substantial improvements shall be elevated to the regulatory flood elevation established by the Florida Department of Environmental Protection or by FEMA in accordance with Section 3.02.07, whichever is higher. All non-elevation design requirements of Section 3.02.09 shall apply.

3.02.09 Specific Standards in V-Zones

Located within areas of special flood hazard established in Section 3.02.07 are coastal high hazard areas, designated as Zones V1–30, VE, or V (with BFE). The following provisions shall apply for all development activities:

- A. Meet the requirements of Chapter 10 regarding submittal requirements and Section 3.02.07, and Section 3.02.08 except for 3.02.08(E).
- B. All new construction and substantial improvements in Zones V1– V30, VE, and V (with BFE) shall be elevated on pilings or columns so that:
 1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to no lower than one (1) foot above the base flood elevation whether or not the structure contains a basement; and
 2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading will be those values associated with the base flood. Wind loading values will be those required by applicable

State of Florida or local, if more stringent than those of the State of Florida, building standards.

- C. A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.
- D. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures. The Floodplain Administrator shall maintain a record of all such information.
- E. All new construction and substantial improvements shall be located landward of the reach of mean high tide.
- F. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - 1. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). The water loading shall be those values associated with the base flood. The wind loading values shall be those required by applicable Florida or local, if more stringent than those of the State of Florida, building standards.
- G. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be finished, partitioned into multiple rooms, or temperature-controlled.
- H. Prohibit the use of fill for structural support. No development permit shall be issued for development involving fill in V-Zones unless it has been demonstrated through appropriate engineering analyses that the subject fill does not cause any adverse impacts to the structure on site or adjacent structures. Placement of fill that would result in an increase in the base

- flood elevation or cause adverse impacts by wave ramping and deflection may be permitted, provided that the permit applicant first applies for and receives a conditional FIRM revision, fulfilling the requirements for such revisions as established by FEMA.
- I. Prohibit man-made alteration of sand dunes and mangrove stands that would increase potential flood damage.
 - J. Standards for Manufactured Homes
 - 1. All manufactured homes to be placed or substantially improved on sites: (i) outside a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or, (iv) in an existing manufactured home park or subdivision in which a manufactured home has incurred “substantial damage” as the result of a flood, must meet the standards of Section 3.02.09(B) through (H).
 - K. Recreational vehicles placed on sites within Zones VE, V1–V30, V (with base flood elevation) on the FIRM must:
 - 1. Be on the site for fewer than 180 consecutive days; and
 - 2. Be fully licensed and ready for highway use (on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - 3. Meet the requirements of Section 3.02.09(B) through (H).
 - 4. In addition, there shall also have a plan for removal in case of a threat.
 - L. For all structures located seaward of the Coastal Construction Control Line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection or the base flood elevation, whichever is the higher. All non-elevation design requirements Section 3.02.09(B) through (K) shall apply.
 - M. When fill is proposed, in accordance with the permit issued by the Florida Department of Health, in coastal high hazard area, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood nor cause any adverse impacts to adjacent properties by wave ramping and deflection.

3.03.00 SITE DESIGN STANDARDS FOR LAND USE DISTRICTS

3.03.01 Design Standards for Subdivisions

All subdivisions shall comply with F.S. § 177 regarding requirements for the subdivision of land, shall be approved by the Town Council, and shall comply with all requirements of this ULDC.

3.03.02 Maximum Dwelling Units and Housing Types

Residential development in the following land use districts shall comply with the standards set forth in Table 3.03.02 for maximum total dwelling units and housing type.

Table 3.03.02 Maximum Dwelling Units and Housing Types

LAND USE DISTRICT	MAXIMUM TOTAL DWELLING UNITS	PERMISSIBLE HOUSING TYPE
Sustainable Mixed Use (SMU)	241 units	Single-family detached Two-family (duplex) Townhouse Multiple-family
Institutional Research (IR)	36 units	Dormitory
Tourist Commercial (TC)*	35 units (resort residential)	Resort residential Hotel Motel
Conservation Public Lands (CPL)	2 units	Single-family detached
Conservation (CONS)	1 unit	Single-family detached
Planned Unit Development (PUD)	Based on the underlying land use district.	

*Within the Tourist Commercial land use category, 2 hotel units can be substituted for 1 resort residential unit.

3.03.03 Design Standards for Lots.

- A. Except as specifically provided in this ULDC, no lot existing at the time of adoption of this ULDC shall be reduced, divided, or changed so as to produce a lot or tract of land which does not comply with the dwelling unit requirement of Section 3.03.02.
- B. The standards for maximum impervious surface and floor area ratio (FAR) are set forth in Table 3.01.02(A).

Table 3.03.03 Standards for Impervious Surfaces.

Land Use District	Maximum Impervious Surface (%)			Floor Area Ratio
	Use	Lot size	Max %	
SMU	Single-family	<10,000 sq. ft.	50	N/A
	Single-family	>=10,000 sq. ft.	70	
	Multi-family	N/A	70	
	Use			

	Single use commercial	N/A	85	
	Mixed use	N/A	85	
IR	85			2.0
TC	85			2.0
GC	95			0.6
UTL	90			N/A

- C. Where cluster development is proposed under unified development control in a PUD, the calculation of impervious surface shall apply to the entire site and shall not be applied to individual lots within the development site.
- D. Lots in residential districts shall be designed to comply with the maximum density allowed in the Comprehensive Plan for each land use district, as presented in Section 3.03.02 of this ULDC.
- E. Height requirements are determined by association with a particular street type, as outlined in Section 4.01, with the exception of the Public Utilities land use category. The maximum height of structures in this land use category shall not exceed 35 feet.

3.04.00 SITE DESIGN STANDARDS FOR PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

3.04.01 Purpose and Intent

It is the purpose of the planned unit development overlay (PUD) to provide flexible land use and design regulations and to permit planned diversification and integration of uses and structures. The PUD is designed to:

- A. Promote more efficient and economic uses of land;
- B. Lower development and building costs by permitting smaller networks of utilities and streets and the use of more economical building types and shared facilities;
- C. Provide for open spaces and common areas and provide usable and suitably located recreation facilities within the development;
- D. Allow the controlled development of land uses most suitable to the proposed site and surrounding neighborhoods; and,
- E. Allow clustering or other innovative designs to protect sensitive environmental areas within the proposed site.

3.04.02 Applicability

Any use which is permitted or permissible by exception in any land use district may be included in a PUD.

3.04.03 Standards and Criteria

- A. *Density of development.* The total number of dwelling units and/or the total floor area shall not exceed that permitted in the equivalent land use district based on the uses proposed, or as approved by the Town Council.
- B. *Open space.* The open space area shall be recorded upon the final development plan of the PUD. The open space shall be utilized as a park, for either passive or active recreation or as a conservation area. The open space

shall either be dedicated to a public government entity or be maintained by a community association composed of residents of the PUD. Land recorded as open shall not be encroached upon by any residential, commercial or industrial primary or accessory use.

C. *Waiver of yard, dwelling unit, frontage criteria, and use restriction.*

Minimum yard, lot size, type of dwelling unit, height and frontage requirements and use restrictions are waived for the PUD, provided the spirit and intent of the Zoning Ordinance is complied within the total development of the PUD.

D. *Project size.* A PUD shall consist of a minimum of two (2) acres.

E. *Access.* Access to each single family dwelling unit shall be provided via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership with the residents of the PUD.

3.05.00 LANDSCAPING, BUFFERS, AND TREE PROTECTION

3.05.01 Purpose and Intent

It is the purpose of this section to promote the public health, safety and general welfare, conserve water resources, minimize the negative environmental impacts of landscape maintenance, provide an aesthetic balance to manmade urban settings, protect and preserve native tree species, and minimize loss of trees to development by:

- A. Establishing minimum standards for the design, installation, and maintenance of landscaped areas that are consistent with the water-efficient landscaping principles and practices of The Florida Yards and Neighborhoods Program;
- B. Providing specific guidelines for landscaping, fertilization, and use of pesticides;
- C. Establishing specific guidelines for landscape buffers that will improve the appearance of the Town, buffer adjacent incompatible uses, and screen vehicular movement from pedestrian and public view; and
- D. Establishing minimum standards for tree maintenance that will provide shade for ground surfaces, provide for protection and preservation of trees, and ensure a minimum number of trees on any lot or parcel.

3.05.02 Scope and Applicability

- A. *Applicability.* This ordinance shall be a minimum standard and shall apply:
 - 1. To all new construction landscape within the incorporated areas of the Town;
 - 2. To the expansion or renovation of any existing development when the expansion or renovation of the existing development is equal to twenty-five percent (25%) of the assessed value of the lot improvements according to the Property Appraiser or when the

total square footage of a structure is expanded by twenty-five percent (25%) or greater; and

3. To all existing landscape that is renovated, changed, or altered if the renovation, change, or alteration of the landscape involves twenty-five percent (25%) or more of the landscape.

B. *Exemptions.* This ordinance shall not apply to the following:

1. Non-invasive food plants on residential properties;
2. Licensed plant or tree nurseries or botanical gardens with respect to those plants and trees that are planted and grown for sale to the general public in the ordinary course of the licensed business or for public purposes;
3. The Town of Marineland or its authorized agents for the purpose of removal of a tree on Town-owned property that is dead or a hazard to the public;
4. Utility companies or their authorized agents for the purpose of removal of a tree that is a substantial hazard to overhead wires or for trimming that is necessary to establish or maintain service;
5. The trimming or pruning of trees;
6. The removal of underbrush and removal of trees less than four (4) inches DBH;
7. The removal of trees or plants identified as noxious, invasive, or ill-suited for the property in accordance with the Florida Yards & Neighborhoods Handbook; and
8. Removal of a dead or diseased tree, as attested to by the County forester or a certified arborist.

C. When an adjoining or abutting property is rezoned, the burden of providing a buffer during subsequent development shall be with the property being developed and not the property that has remained unchanged.

D. During a declared emergency, such as a hurricane, tropical storm, flood, severe windstorm or other act of God, the Town Administrator may temporarily waive the requirements of this section to allow for cleanup.

3.05.03 Specifications for Landscaping and Buffers

A. Landscaping installation

1. Canopy trees shall not be installed under any overhead utility line, over any buried utilities, or within any utility easement.
2. Trees shall be properly guyed, braced, or staked at the time of planting to ensure establishment and erect growth of the tree. Nail staking or other methods that cause cosmetic or biological damage to the tree are prohibited. Trees shall be re-staked within twenty-four (24) hours in the event of a failure in the staking or guying. Stakes shall be removed not later than twelve (12) months after installation.

B. Landscape area requirements

1. All lots shall have at least one (1) canopy tree per 3,000 square feet of land area within the lot or parcel, or fraction thereof.
2. Multifamily residential, office, commercial, or public land uses shall devote a minimum of fifteen (15) percent of the total developed area to pervious landscape areas.
3. Industrial land uses shall devote a minimum of ten (10) percent of the total developed area to landscape development.
4. Credit for existing trees. The requirement set forth in Section 3.05.03(B)(1) – (3) may be met, in part, through the preservation of existing trees in accordance with the following schedule:

DBH of existing tree	Credit
4 to 6.9	1
7 to 10.9	2
11 to 14.9	3
15 to 19.9	4
Over 20	1 credit for each 3.5 inches DBH

3.05.04 Tree Protection

A. Prohibitions

1. No authorization shall be granted to remove a protected tree where the developer or property owner has failed to take reasonable measures to design and locate the proposed improvements so that the number of protected trees to be removed is minimized.
2. In conjunction with any development, building or land clearing: It shall be unlawful for any person to cause, authorize, assist or permit the removal of or damage to any protected tree; or to root rake, grade or permit the movement or storage of equipment, material, debris or fill within the drip line of any protected tree which is not authorized or approved for removal in accordance with the provisions of this section.

B. Protected trees and any tree four (4) inches DBH or more that is proposed to be preserved shall be identified on a tree survey submitted with an application for site plan approval, application for a building permit where site plan approval is not required, or an application for a permit authorizing tree removal. Requirements for preparation and submittal of the tree survey and for application for a tree removal permit are set forth in Section 10.02.00.

C. In the event that authorization is granted to remove a protected tree, replacement trees shall be planted in accordance with the Florida Yards & Neighborhoods Handbook.

D. Heritage trees.

1. Generally

- a. All heritage trees (any hardwood tree or cedar tree that is twenty-four (24) inches or larger DBH) are protected.

- b. Removal of a heritage tree shall be subject to the permitting requirements and limitations of Section 10.02.03 and the additional permitting requirements of this section.
 - c. When a heritage tree is removed in accordance with a permit issued pursuant to the requirements and limitations of Section 10.02.03 and this section, the heritage tree shall be replaced on an inch-for-inch basis. (This means, for example, that removal of a twenty-four (24) inch DBH heritage trees requires the planting of replacement trees with a total DBH of twenty-four (24) inches.)
 - d. Any individual who removes a heritage tree without a permit shall be required to plant twice the otherwise-required replacement trees. If replacement trees cannot be planted and maintained on the site, they shall be planted and maintained on such public or authorized private land as directed by the Town Council.
 - e. Trees planted for replacement of a heritage tree shall be a minimum of six (6) inches DBH.
2. *Exemptions.* The following shall be exempt from the tree removal permitting requirements of Section 10.02.03 and this Section:
- a. The removal of any heritage tree during or following a declared emergency or an act of nature, when the Town Administrator determines that permitting requirements will hamper private or public work to restore order to the Town.
 - b. The removal of any heritage tree which the Town Administrator finds to be in such a hazardous or dangerous condition as to endanger the public health, welfare, or safety and therefore to require immediate removal.
 - c. The removal of any heritage tree from a utility easement or road right-of-way which the Town Administrator finds to be interfering with the safe and proper use of such easement or right-of-way
- E. Protective measures.
1. Protective are required during site development in order to assure the health and survival of protected trees and heritage trees. Protective measures are required to avoid:
 - a. Mechanical injuries to roots, trunk, and branches;
 - b. Injuries by chemical poisoning; injuries by grade changes;
 - c. Injuries by excavations; and
 - d. Injuries by paving.
 2. A circular tree protection zone shall be established around each protected tree and heritage tree as follows:
 - a. If the drip line is less than six (6) feet from the trunk of the tree, the zone shall be that area within a radius of six (6) feet around the tree.

- b. If the drip line is more than six (6) feet from the trunk of the tree, but less than twenty (20) feet, the zone shall be that area within a radius of the full drip line around the tree.
 - c. If the drip line is twenty (20) feet or more from the trunk of the tree, the zone shall be that area within a radius of twenty (20) feet around the tree.
3. All development activities shall be prohibited within the tree protection zone, including any construction of buildings, structures, paving surfaces, stormwater retention or detention ponds, and temporary construction activities, including all digging, storage of construction material, and parking of construction vehicles.
 4. Prior to the commencement of construction, the tree protection zone shall be enclosed within a fence or similar barrier as follows:
 - a. Wooden posts, at least 1.5 by 3.5 inches, shall be implanted in the ground deep enough to be stable and with at least three (3) feet visible above ground.
 - b. The wooden posts shall be placed not more than six (6) feet apart, and shall be linked together by a rope or chain.
 5. Permitted activities within the tree protection zone:
 - a. Excavating or trenching by utilities service providers for installation of underground utilities. Underground utilities shall be no closer to the tree than ten (10) feet.
 - b. Placement of ground covers, and the preparation of the ground surface for such covers.

3.05.05 Florida Yards and Neighborhoods Requirements

- A. *Irrigation.* Installed in-ground irrigation systems are prohibited. All landscapes shall be designed to exist predominantly on rainfall once plants are established.
- B. *Fertilization.* No synthetic fertilizer shall be used on the landscape. Non-synthetic fertilizer may only be used in accordance with the Florida Yards & Neighborhoods Handbook.
- C. *Pesticides.* Only biological and biorational pesticides (such as horticultural oils and insecticidal soaps) may be used on the landscape. Products that contain both herbicides and fertilizer together are prohibited and shall not be used on the landscape.
- D. *Soil.* To provide healthy soils able to support minimal input landscapes, existing soils and vegetation shall be preserved to the greatest extent practical and compaction of soils shall be minimized during construction. Any compaction of landscape areas occurring during construction activities shall be mitigated before planting by tillage, aeration, and/or application of organic soil amendments.
- E. All landscaping materials, including trees, shrubs, and ground cover shall be consistent with the “Right Plant, Right Place” principles in accordance with the Florida Yards & Neighborhoods Handbook.

- F. All new construction landscape shall meet the requirements for certification as a Florida-friendly Yard.
- G. Before a Certificate of Occupancy may be issued, the property owner or their representative shall submit documentation that the landscape for the property is certified as a Florida-friendly Yard.
- H. Upon sale or transfer of title to property certified as a Florida-friendly Yard, the new property owner shall obtain recognition of the landscape at the Golden Oak recognition level within one (1) year of the date of sale or transfer of title.

3.06.00 STORMWATER MANAGEMENT REQUIREMENTS

- A. The applicant shall demonstrate compliance with the rules of the St Johns River Water Management District governing the discharge of stormwater from the site.
- B. Additionally, the applicant shall demonstrate that the post-development load for total nitrogen and total phosphorus discharged from the project area will not exceed the undeveloped natural load for total nitrogen and total phosphorus discharged from the project area.
- C. If compliance with this requirement cannot be met through compliance with the rules of the SJRWMD, then the applicant shall provide additional stormwater treatment.
- D. In providing any additional stormwater treatment necessary, the applicant shall utilize low impact development practices and technologies, including but not limited to rain gardens, green roofs, exfiltration systems, bioretention swales, cisterns, and pervious pavement, which may be interconnected in treatment trains flowing from one low impact development practice or technology into the next to increase nutrient removal efficiencies.
- E. If low impact development practices and technologies are inadequate or infeasible, the applicant may meet this requirement by increasing capacity in the centralized stormwater treatment system.

3.07.00 SITE DESIGN STANDARDS FOR CLEAN MARINAS

3.07.01 Clean Marina Designation Requirement

Within 1 year of the commencement of operations, all applicants for land use approval to construct or operate a marina within the Town of Marineland shall initiate and achieve designation through the State of Florida Department of Environmental Protection "Clean Marina" Program.

3.07.02 Alternative Clean Marina Designation Option

In lieu of designation by the Department, the marina operator may demonstrate that it has met the requirements for designation as a Clean Marina by submitting a letter from a qualified professional stating that the requirements have been met, along with supporting documentation.

3.07.03 Continuing Duty to Maintain Clean Marina Designation

On an annual basis following designation as a clean marina under either option above, the owner/operator shall submit to the Town a letter from the Department or a qualified professional stating that the marina continues to maintain its status as a clean marina.

3.07.04 Duty to Provide Public Access

All marinas operated within the Town of Marineland shall make at least __% of the available slips open to the boating public on a first come/first serve basis at prevailing market rates.

3.08.00 DARK SKY REQUIREMENTS, LIGHTING, AND SEA TURTLE PROTECTION

3.08.01 Purpose and Intent

The purpose of these outdoor lighting regulations is to protect sea turtles and coastal marine life from harms associated with excessive outdoor lighting. In addition, these regulations are intended to protect people and property values within the Town of Marineland from the nuisance and harm of excessive outdoor lighting that may hinder or decrease night time visibility, create a hazardous glare that may affect automobile and vehicle drivers ability to optimally operate their vehicle in a safe manner, create blinding brightness that leaves unsafely dark shadowed areas, or create an artificial atmospheric glow that prevents residents of the Town from enjoying the night sky above their homes.

3.08.02 Scope and Applicability

A. Relation to Endangered Species Act.

Nothing in this article shall be construed to authorize or license any act prohibited by federal or state law, including the Endangered Species Act. Artificial lighting not otherwise regulated by this Section that may be in violation of the Endangered Species Act shall be reported to the United States Department of Interior, Fish and Wildlife Service, for resolution and enforcement under federal law.

B. Exemptions.

Specifically exempted from the regulations of this ordinance are temporary emergency lighting fixtures and public owned lighting fixtures that are aids to navigation, motion sensors and traffic control devices.

3.08.03 Regulations

A. General Requirements (All Uses).

1. All light fixtures shall be designed, positioned, shielded, or otherwise modified such that the source of light and any reflective surfaces of the fixture shall not be directly visible by a person who is in a standing position on the beach.
2. Lights shall not directly or indirectly illuminate the beach.
3. Tinted glass, or any window film applied to window glass that meets the shading criteria for tinted glass, shall be installed on all exterior windows of all buildings within the Town.

4. Lights illuminating signs shall be shielded or screened such that they do not illuminate the beach and the source of the light shall not be visible by a person who is in a standing position on the beach.
 5. To provide cohesiveness and uniformity, a lighting plan prepared by an architect or engineer licensed to practice in the state of Florida shall be submitted to the Town as part of an application for site plan or subdivision approval, and said professional shall:
 - a. certify that the lighting plans are compliant with the requirements of the design standards and regulations provided for herein; or
 - b. so certify to the extent said lighting plans are compliant with the requirements of the design standards and regulations provided for herein and provide a written explanation for any deviations.
- B. Commercial Uses.
1. All lighting levels shall comply with IESNA illuminance regulations.
 2. Commercial buildings and projects, including outparcels, shall be designed to provide safe, convenient and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire project. Lighting shall be used to accent key architectural elements and/or to emphasize landscape features, and shall be designed and installed to avoid the creation of hot spots, glare, or a nuisance.
 3. All light fixtures shall be designed as dark skies lighting and shall be an integral design element that complements the design of the project through style, material or color. All light poles and fixtures shall be black, dark green or some similarly dark color that is consistent with the architectural design scheme of the property. Lighting of on-site buildings shall be limited to wall-washer type fixtures or up-lights, which do not produce spillover lighting or glare. Site lighting shall not incorporate floodlight fixtures mounted on building walls, roofs, or poles. Light fixtures shall be full cut off with zero light above 90 degrees.
 4. A light fixture (the pole and light source/fixture) shall be a maximum of 30 feet in height within any parking lot, and a maximum of 16 feet in height within any non-vehicular pedestrian area (with height being measured from the finished grade to the top of the light fixture).
 5. At service stations and convenience centers, lighting under awnings, canopies, porte-cocheres, etcetera, should be recessed. If not recessed, the box type or other lighting fixture shall be opaque on all sides (no light shall emanate from any side of the fixture). Additionally, the following lighting standards shall apply:
 - a. The light source shall be metal halide (a maximum of 250 watts) or fluorescent;

- b. The metal halide shall be phosphor coated when used with a clear flat glass lens, or may be clear when used with a diffused flat glass lens; and
 - c. The maximum foot-candle level shall be 30 fc (average maintained maximum) - see the IES Lighting Handbook, 8th edition, at Chapter 11, Figure 11-1, Part IV, Outdoor Facilities, Service Stations (lighting level at grade).
6. Illumination levels at the property line shall range between a minimum of 0.0 fc and a maximum of 1.0 fc, with as close to 0.0 fc as reasonably feasible when lighting is located next to residential. To keep light rays and glare from encroaching onto adjacent properties, illumination shall be installed with house-side shields and reflectors, and shall be maintained in such a manner as to confine light rays to the premises. The applicant shall submit a photometric plan prepared by an engineer licensed to practice in the State of Florida to the Town as part of an application for site plan approval, and said professional shall certify that the lighting plans are complementary with landscaping plans and compliant with the requirements of this guideline.

C. Commercial Parking Areas.

Except for areas of service stations and convenience centers located under an awning, canopy, porte-cochere, etcetera, as noted in Section 3.08.03(B)(5) above, parking areas shall be illuminated as follows, with horizontal lamps highly recommended:

1. Parking area lighting shall be shielded from adjacent properties by utilizing flat glass lenses, houseside shields, and "NEMA" type II, III, and IV reflectors.
2. The lamp source shall be metal halide. Wattage shall not exceed 400 watts per bulb. Illumination levels shall range between a minimum of 0.6 fc to a maximum (outside a 20-foot radius from the pole) of 3.6 fc, not including overflow lighting in a transition zone adjacent to a service station and convenience center canopy.
3. Phosphor coated lamps shall be utilized in all fixtures where the lamp source is not hidden by the fixture housing or equipped with a diffused lens.

D. Pedestrian Walkways and Bikeways.

Pedestrian walkways and bikeways shall be illuminated as follows:

1. The lamp shall be decorative in appearance, style and finish and shall be consistent with the architectural standards of the surrounding area. Fixtures shall have the lamp source shielded from view. Translucent diffusers may be an acceptable substitute to avoid visual glare and brightness.

2. The lamp source shall be metal halide. Wattage shall not exceed 150 watts. Illumination levels shall range between a minimum of 0.5 fc to a maximum of 2.5 fc.
 3. Phosphor coated lamps shall be utilized in all fixtures where the lamp source is not hidden by the fixture housing or equipped with a diffused lens.
- E. Residential Uses.
1. No insufficiently shielded outdoor light fixture shall be installed.
 2. Any insufficiently shielded outdoor light fixtures shall be adapted to comply with this ordinance by adding a properly designed hood or shield, or by re-aiming the fixture.
 3. Outdoor light fixtures shall not be located within the side yard setbacks or within the rear yard setbacks or 20 feet of the rear property line, whichever is less. The total number of exterior lamps located in front of the house (defined as including the front facade of the main house and extending outward to the front property line) shall be no more than 10 lamps, and the total number on the entire property shall be less than 15.
 4. Security Lighting.
Security lighting shall be controlled and activated by infrared sensors, motion sensors, a security alarm system or a panic button.
 5. Decorative Lighting.
 - a. Whenever practicable, accent, architectural or building lighting shall be directed downward onto the building or object and not toward the sky or onto adjacent properties. Direct light emissions shall not be visible above the roof line or beyond the building/object edge.
 - b. Any accent, architectural or building lighting that is not regularly turned off by 10 p.m. shall be equipped with an automatic timer to ensure that it is off by 11 p.m.
 - c. Spotlighting on landscaping and foliage shall be sufficiently shielded and confined to the target landscaping.
 6. Enforcement.
Residential Lighting may be enforced on the basis of a valid, formal complaint filed in writing to the Town Administrator or his designee.

3.08.04 Appeals

Any applicant aggrieved by any order, requirement, decision or determination of the enforcement official in the enforcement of this article, shall have the right to appeal the order to the Town Administrator or his designee.

3.09.00 GREEN BUILDING REQUIREMENTS

3.09.01 Purpose and Intent

The Town of Marineland is committed to minimizing the short term and long term negative impacts construction has on the environment. The intent of this

section is enhance the public welfare by incorporating green building measures into the design, construction, and maintenance of buildings in order to provide owners and occupants of residential homes, commercial buildings, offices, industrial buildings, and mixed use developments with energy and water savings, good indoor air quality, and healthy, pleasant, and productive surroundings. A further intent of this section is to benefit the community by having buildings constructed that are resource-efficient and conserve energy.

3.09.02 Findings

The Town of Marineland finds that:

- A. Green building practices recognize the relationship between natural and built environments. Green building design, siting, construction, and operation can have a significant positive effect on energy and resource efficiency, reduction of waste and pollution generation, and the health and productivity of a building's occupants over the life of the building. This is a critical component of sustainable development that meets the needs of the present without compromising the ability of future generations to meet their own needs.
- B. Green building benefits are spread throughout the systems and features of the building. Green buildings may use recycled content building materials, consume less energy and water, have better indoor air quality, and use less wood fiber than conventional buildings. Construction waste is often recycled and remanufactured into other building products, resulting in reduced landfill impacts.
- C. Design, siting, and construction decisions made by the Town in the construction and remodeling of Town buildings can result in significant energy cost savings to the Town over the life of the buildings.
- D. Green building design, siting, construction, and operational techniques have become increasingly widespread in commercial and residential building construction. National and regional systems have been established to serve as guides and objective standards for green building practices. The U.S. Green Building Council has established the Leadership in Energy and Environmental Design (LEED) rating systems for construction projects.

3.09.03 LEED Requirements for New Construction

All new construction projects within the Town of Marineland shall achieve a minimum of LEED certified status under the appropriate version of LEED unless exempted under the procedures established by this section. New construction projects shall strive for LEED platinum certification under the appropriate version of LEED.

A. Applicable Version of LEED.

1. A construction project of any size consisting of a new commercial building, office building, industrial building, or mixed used building that combines residential use with commercial or industrial use shall proceed for LEED certification under the version of LEEDNC presently adopted by the Town.

2. A construction project consisting of a multifamily residential building with four (4) or more stories shall proceed for LEED certification under the version of LEEDNC presently adopted by the Town.
3. A construction project that consists of a single family home, single family homes, or a multifamily residential building less than four stories shall proceed for LEED certification under the version of LEEDHOMES presently adopted by the Town.

B. LEED Checklist.

1. Every applicant who files a building permit application for construction of a new building shall provide to the Town Administrator:
 - a. a completed LEED checklist demonstrating which credits the project will complete; and
 - b. the registration of the proposed project with the United States Green Building Council.
2. The Town shall not issue either a land development permit or a building permit unless the LEED checklist demonstrates that the proposed building will achieve enough points to attain at a minimum LEED certified status.
3. The Town will not issue a permanent certificate of occupancy unless and until the applicant produces verifiable documentation from USGBC affirming that the project is at minimum LEED certified. However, upon completion of construction, satisfactory inspection by the Town building inspector or his designee and confirmation that all documentation has been submitted for required certification, the Town building inspector or his designee may issue a temporary certificate of occupancy. Upon issuance of a temporary certificate of occupancy, the applicant shall pay a fee to ensure successful completion of the certification as set forth below. If the developer achieves certification status, the fee paid shall be refunded to the applicant. The fee is defined in the table below:

Table 3.09.03 Fee Schedule

Refundable Certification Fee	Less than 50,000 square feet	More than 50,000 square feet
	\$0.26/square foot	\$17,500.00

C. Green Building Certification.

1. Compliance and enforcement.

The building inspector or his designee shall determine whether the requirements listed on the LEED checklist are implemented at each stage of construction, including at the foundation inspection, framing inspection, and prior to issuance of a final certificate of occupancy. The building inspector or his designee may conduct other inspections, as needed, to ensure compliance with this chapter. The building inspector or his designee shall review the information submitted by the applicant and determine whether the applicant will achieve the required certification as set forth herein. If the building inspector or his designee finds that the

applicant is not reasonably expected to achieve LEED certification, the building inspector or his designee shall make the following findings:

- a. If the covered project has not met the requirements for certification as set forth herein, whether the applicant has made a good faith effort to comply with the ordinance;
- b. If the applicant has not made a good faith effort to comply, or if the applicant fails to submit the documentation within the time period as set forth in the regulations, or fails to submit such documentation within a reasonable time period as determined by the building inspector or his designee, whether the final building permit approval or certificate of occupancy should be withheld;
- c. If the applicant has not complied with this section, whether the applicant should be required to undertake further actions to mitigate this noncompliance.

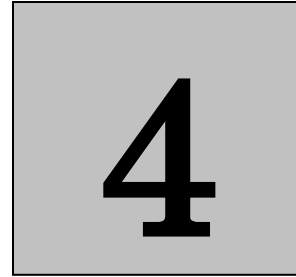
3.09.04 Infeasibility Exemption

The building inspector or his designee may issue an exemption from any of the requirements of this section upon finding that circumstances exist that make it a hardship or infeasible for the applicant to meet those requirements. The burden shall be on the applicant to show circumstances to establish infeasibility. These circumstances may include, but are not limited to:

- A. The availability of markets for materials to be recycled;
- B. The availability of green building materials and technologies; and
- C. The compatibility of green building requirements with existing building standards.

3.09.05 Appeals.

Any applicant may appeal to the Town council the determination of noncompliance



CHAPTER 4

ARCHITECTURAL AND DESIGN GUIDELINES

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4.00.00 GENERALLY

To provide a built environment that works to moderate the tropical climate, define public space, create a relationship to the street at human scale and clearly establish an identity for the neighborhood, development shall conform to Florida vernacular architectural styles. Elements of Florida vernacular architectural style presented here were selected among historic design features of the Florida building traditions, such as pastel colors, porches and multi-pitched roof lines, and elements intended to moderate the Town's subtropical climate. These criteria are presented as a set of minimum standards and are not intended to limit innovative and creative adaptations of the Florida vernacular style.

4.01.00 PALETTE OF STREET TYPES

Development under this ULDC is regulated by street type. The three street types – Scenic Highway, Town Center Street and Neighborhood Street – are related to each other in a hierarchical manner. When these spaces intersect, the primary street frontage is determined by its higher order in the hierarchy. The front of a building and its main entrance must face the primary street frontage.

4.01.01 Scenic Highway

This category of street type shall consist solely of that portion of State Road A1A existing within the Town.

A. Building Placement

Build-to-line location: 0-10 ft. from property line

B. Building Volume

1. Building width: 16 ft. minimum, 160 ft. maximum
2. Building depth: 125 ft. maximum
3. Building height: 2 stories minimum, 3 stories maximum above parking. Height must not exceed 55 feet. The first floor shall be a minimum of 12 ft. in height.

C. Other Standards

1. Appurtenances may extend beyond the height limit.
2. Building fronts are required to provide shelter to the sidewalk by means of at least one of the following: arcade, colonnade, marquee, awning or second-floor balcony.
3. Sidewalk may be a maximum of 12 ft. wide including tree wells. 6 ft. wide sidewalks with 6 ft. wide xeriscaped strips are also acceptable. If the latter option is implemented, trees should be located within the xeriscaped strip rather than within sidewalk tree wells.

Table 4.01.01: Scenic Highway

	6'	6'	12'	12'	6'	6'	
Building	Sidewalk	Optional Xeriscaped Strip	⇓	⇑	Optional Xeriscaped Strip	Sidewalk	Building

4.01.02 Town Center Street

This category of street type shall feature parallel or diagonal parking and wide sidewalks on both sides of the street in order to create a safe, inviting place for pedestrians and motorists.

A. Building Placement

1. Build-to-line location: 0 ft. from property line
2. Space between buildings: 0 ft. if attached, 6-10 ft. if detached

B. Building Volume

1. Building width: 16 ft. minimum, 160 ft. maximum
2. Building depth: 125 ft. maximum
3. Building height: 2 stories minimum, 3 stories maximum. Height must not exceed 55 feet. The first floor shall be a minimum of 12 ft. in height.

C. Other Standards

1. Appurtenances may extend beyond the height limit.
2. Building fronts are required to provide shelter to the sidewalk by means of at least one of the following: arcade, colonnade, marquee, awning or second-floor balcony.
3. Sidewalk may be a maximum of 12 ft. wide including tree wells. 6 ft. wide sidewalks with 6 ft. wide xeriscaped strips are also acceptable. If the latter option is implemented, trees should be located within the xeriscaped strip rather than within sidewalk tree wells.

Table 4.01.02(a): Town Center Street Option No. 1 with Parallel Parking

	6'	6'	7'	10'	10'	7'	6'	6'	
Building	Sidewalk	Optional Xeriscaped Strip	Parking	⇓	⇑	Parking	Optional Xeriscaped Strip	Sidewalk	Building

Table 4.01.02(b): Town Center Street Option No. 2 with Diagonal Parking

	6'	6'	18'	12'	12'	18'	6'	6'	
Building	Sidewalk	Optional Xeriscaped Strip	Parking	⇓	⇑	Parking	Optional Xeriscaped Strip	Sidewalk	Building

4.01.03 Neighborhood Street

The neighborhood street is used primarily in residential areas. On-street parking is located on one side.

A. Building Placement

1. Build-to-line location: 10 ft. from property line
2. Space between buildings: 0 ft. if attached, 6-15 ft. if detached

B. Building Volume

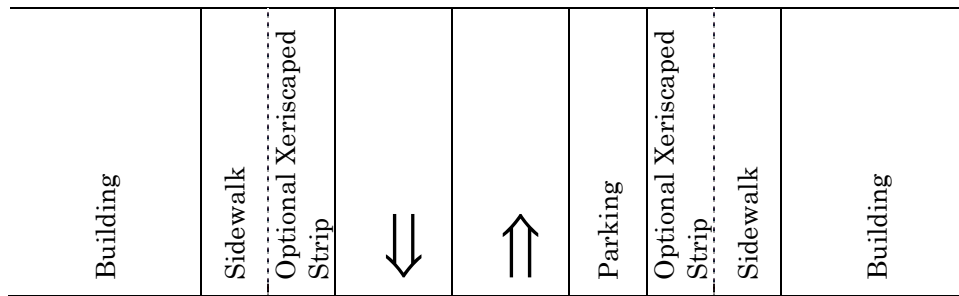
1. Building width: 16 ft. minimum, 160 ft. maximum
2. Building depth: 125 ft. maximum
3. Building height: 2 stories minimum, 3 stories maximum above parking. Height must not exceed 55 feet.

C. Other Standards

1. Appurtenances may extend beyond the height limit.
2. Parallel parking is permitted on one side of the street.
3. Sidewalk may be a maximum of 12 ft. wide including tree wells. 6 ft. wide sidewalks with 6 ft. wide xeriscaped strips are also acceptable. If the latter option is implemented, trees should be located within the xeriscaped strip rather than within sidewalk tree wells.

Table 4.01.03: Neighborhood Street (note parking may be on either side)

	6'	6'	10'	10'	7'	6'	6'	
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4.01.04 Other Requirements

A. Maximum Block Size.

The maximum perimeter of any block shall be no more than 1,600 ft. The minimum dimension of each block face shall be no more than 500 ft. Pedestrian passages leading from the street to the middle of the block shall be provided at intervals no greater than 250 ft.

B. Alleys.

Alleys are required to minimize curb cuts and to provide access to parking and service areas behind buildings. Alley locations and dimensions are not fixed but shall be designed to accommodate the alley’s purpose.

C. Side and Rear Setbacks.

No side or rear setbacks are required by the ULDC with the exception of riparian/littoral setbacks (see Section 3.01.04). See Section 4.01, Palette of Street Types, in this ULDC for rules regarding spacing between buildings.

D. First Floor Height for Residential.

Residential uses on the first story shall have finished floor height raised a minimum of two (2) feet above sidewalk grade.

E. Mixed Use Development Projects

1. Maximum building height shall be as provided in Section 4.01, Palette of Street Types. Taller buildings within any project shall provide a step-down from taller buildings to shorter buildings to provide height transition between buildings on-site and adjacent land uses as applicable.

- a. Structures along the boundary of a project shall not exceed one and a half (1½) times the height of any single-family detached unit within twenty-five (25) feet of the mixed use project site.
- b. Structures along the boundary of a project shall not exceed two and a half (2½) times the height of any other single-family detached unit within fifty (50) feet of the mixed use project site.

2. Massing.

- a. All buildings over 50,000 square feet shall be multi-story buildings.
- b. Buildings over 50,000 square feet in area shall use architectural features to create a sense of scale that is compatible with adjacent land uses. These features shall include:
 - c. Clear, un-tinted windows along the building façade located at intervals of not more than (twenty) 20 feet;

- d. Covered entrances; and
- e. Use of building materials and architectural details to create visual interest for each 100 feet of building frontage.
- f. Visual interest may also be created through the use of:
- g. Staggered frontage of the building
- h. Recessed doors and windows
- i. Awnings or canopies
- j. Varied facades from building to building along the street frontage

4.02.00 SPECIFIC OUTDOOR APPLIANCES AND ARCHITECTURAL ELEMENTS

4.02.01 Elements to be Located to the Side or Rear of Buildings

The following shall be located to the side or rear of buildings, not facing the street:

- A. Window and wall air conditioners
- B. Electrical utility meters
- C. Air conditioning compressors
- D. Irrigation and pool pumps
- E. Antennas
- F. Permanent barbecues
- G. Satellite dish antennas

4.02.02 Prohibited Elements

The following are prohibited:

- A. Undersized shutters (the shutter or shutters must be sized so as to equal the width that would be required to cover the window opening)
- B. Plastic or inoperable shutters
- C. Clotheslines
- D. Clothes-drying yards
- E. Reflective and/or bronze-tint glass
- F. Plastic or PVC roof tiles
- G. Backlit awnings
- H. Glossy-finish awnings
- I. Fences made of chain link, barbed wire or plain wire mesh

4.03.00 BUILDING WALLS

4.03.01 Permitted Finish Materials

- A. Cedar or cypress wood siding (termite resistant), or material that gives the appearance of wood siding.
- B. Material that gives the appearance of coquina.
- C. Brick or materials that have the appearance of brick.
- D. Horizontally struck stucco.
- E. Exterior insulated finish system stucco panels, board and batten.

4.03.02 Exterior Coloring

- A. The predominant exterior color shall be pastel shades or white. Earth tones are not acceptable except in brick or wood, which may be left unpainted. The predominant exterior color shall be applied to all sides of the structure.
- B. Trim colors shall be white or light pastels. Trim finishes shall be of a contrasting lighter color than that of the primary building color with the exception of white as a primary building color.

4.04.00 FAÇADES AND OPACITY

The following requirements apply to facades and opacity:

- A. There shall exist no area greater than 400 square feet of contiguous blank wall area on any front façade that remains unadorned by architectural features that include, but are not limited to, windows, doors, lights, banding trim or porch element. Any unadorned area over 400 square feet in size must have design elements to relieve the area such as porches, pilasters, exterior lighting, material or elevation changes, planters and/or spandrel glass windows.
- B. Each floor of any building façade facing a park, square or street shall contain transparent windows covering from 15% to 70% of the wall area.
- C. Retail storefront areas only: In order to provide clear views of merchandise in stores and to provide natural surveillance of exterior street spaces, the ground floor along the building frontage shall have transparent storefront windows covering no less than 50% of the wall area. Storefronts facing the Town Center Street, parks and squares shall remain unshuttered at night and shall use transparent glazing material, and shall provide view of interior spaces lit from within. Doors or entrances with public access shall be provided at intervals no greater than 50 feet, unless otherwise approved by staff.
- D. Loading docks, overhead doors and service entries are prohibited on street façades.

4.05.00 PROJECTING FAÇADE ELEMENTS

4.05.01 Generally

- A. Gingerbread trim and/or porch railings, columns or posts shall have the appearance of light frame wood construction.
- B. Columns shall be spaced no farther apart than they are tall.
- C. Porches shall have wood or the appearance of light framed wood columns and railings. Vinyl or metal elements are acceptable provided these materials are appropriately scaled to give the appearance of a wood structure. Exposed lookout beams shall also have suitable finishes compatible with the porch and other building elements.
- D. Railings and balustrades shall have the appearance of wood pickets or ornamental turned or sawn posts and be secured to vertical support columns made from suitable materials such as wood, metal or other

structural materials. The design, ornamentation and finish color of the railing shall be sympathetic to the overall design of the structure. Lattice as a railing element is not acceptable.

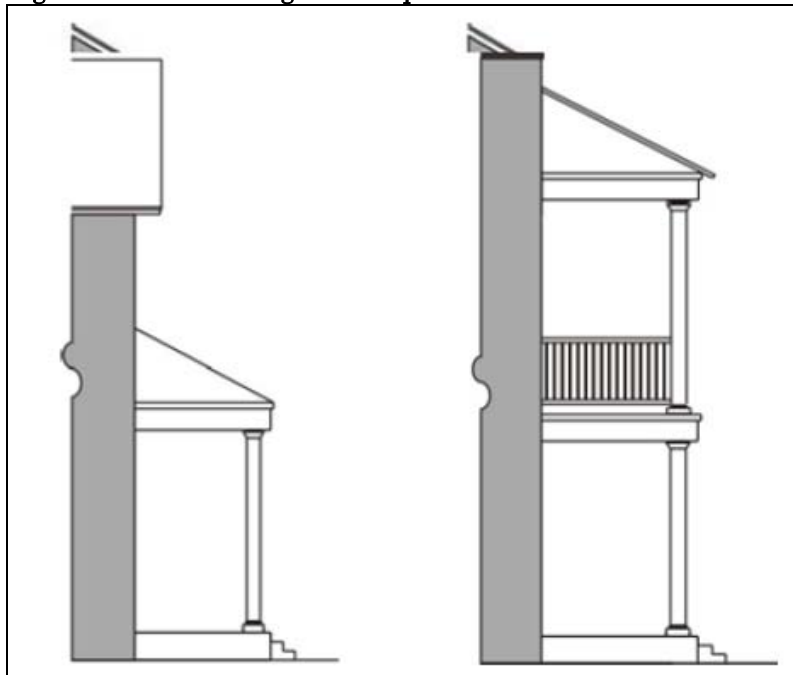
- E. Trim is required for all porch facades. The trim shall have the appearance of decorative wood elements and shall be secured to the support beams and/or columns. Trim shall be constructed from wood, metal or other suitable materials. The design and finish color shall be sympathetic to the overall design of the structure. Decorative trim work shall have a color that differs from the main color of the structure.

4.05.02 Awnings and Marquees

The following requirements apply to first-floor awnings. There are no minimum requirements for awnings above the first floor.

- A. Dimensional requirements:
1. Depth = 5 ft. minimum
 2. Height = 10 ft. minimum clear
 3. Length = 25% - 100% of building front
- B. Marquees and awnings shall occur forward of the build-to line and may encroach within the right-of-way, but shall not extend past the curb line.
- C. Awnings shall be made of fabric. High-gloss or plasticized fabrics are prohibited.

Figure 4.05.02: Awnings & Marquees

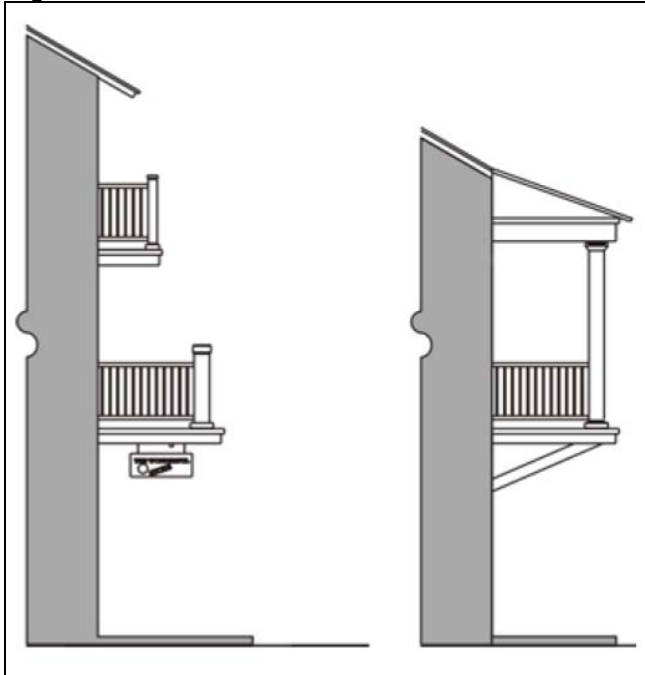


4.05.03 Balconies

- A. Dimensional requirements:
1. Depth = 6 ft minimum for second-floor balconies
 2. Height = 10 ft. minimum clear
 3. Length = 25% - 100% of building front

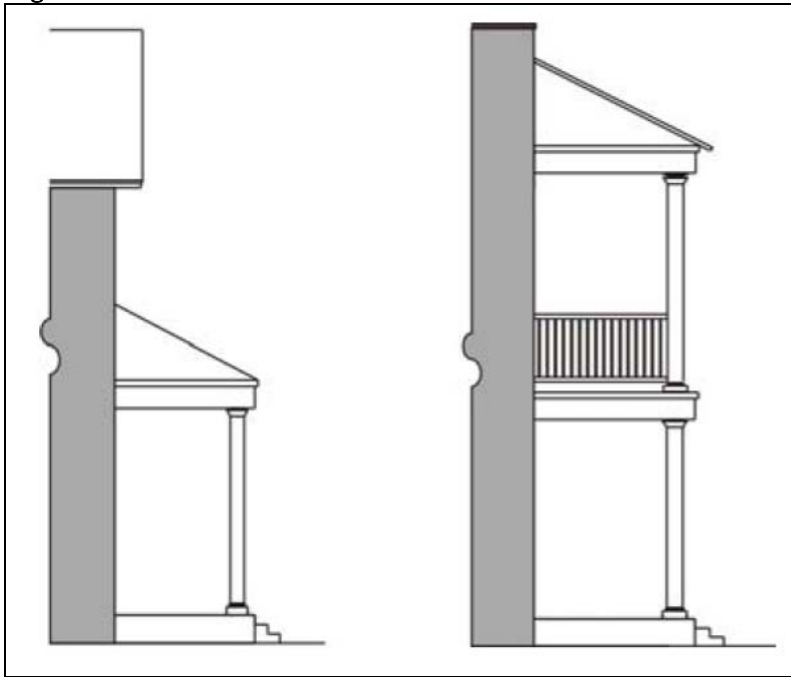
- B. Balconies shall occur forward of the build-to line and may encroach within the right-of-way, but shall not extend past the curb line.
- C. Balconies may have roofs, but must be open, un-air-conditioned parts of the buildings.
- D. On corners, balconies may wrap around the side of the building facing the side street.

Figure 4.05.03: Balconies

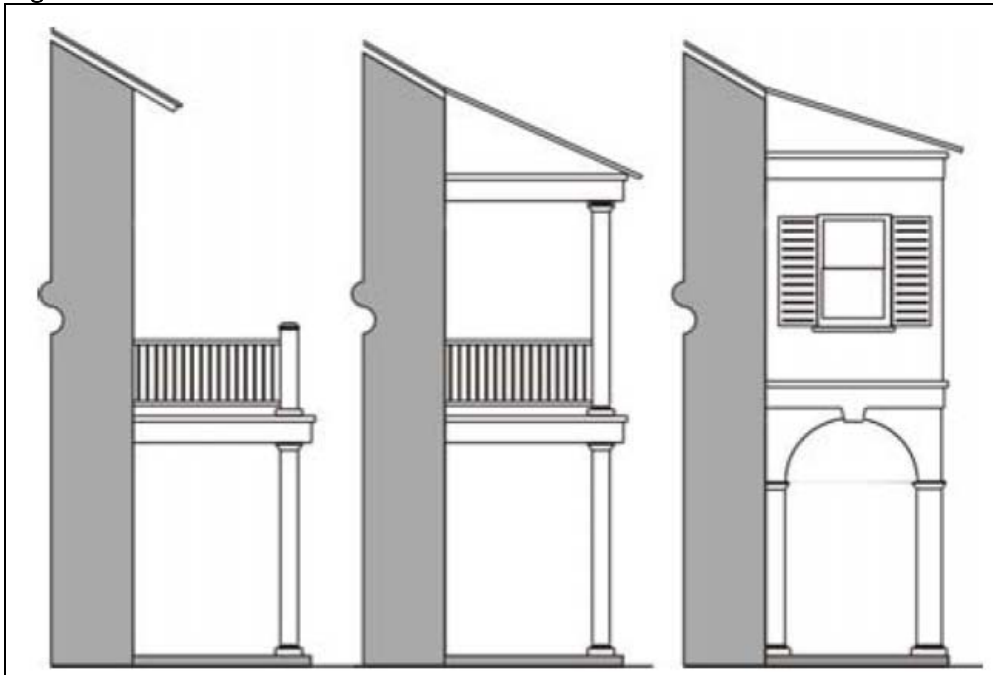


4.05.04 Front Porches

- A. Dimensional requirements:
 - 1. Depth = 5 ft minimum
 - 2. Length = 51% - 100% of building front
- B. Front porches may have multi-story verandas and/or balconies above.
- C. Front porches shall be forward of the build-to line but shall not extend into the right-of-way.
- D. Front porches must be open, un-air-conditioned parts of the buildings. No more than 75% of the floor area of a porch shall be screened if the porch extends forward of the build-to line.

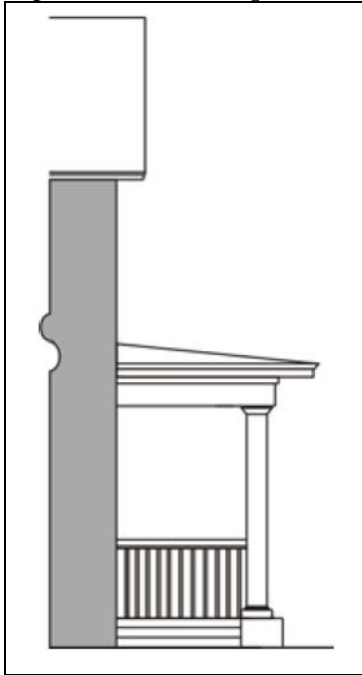
Figure 4.05.04: Front Porches**4.05.05 Colonnades/Arcades**

- A. Dimensional requirements:
1. Depth = 8 ft. minimum from the build-to line to the inside column fence
 2. Height = 10 ft. minimum clear
 3. Length = 75% - 100% of building front
- B. Columns shall be a maximum of 6-inch wide in front of shop-front windows.
- C. Open multi-story verandas, awnings, balconies and enclosed useable space shall be permitted above the colonnade.
- D. Colonnades shall only be constructed where the minimum depth can be obtained. Colonnades shall occur forward of the build-to line and may encroach within the right-of-way, but shall not extend past the curb line.
- E. On corners, colonnades may wrap around the side of the building facing the side street.

Figure 4.05.05: Colonnades/Arcades**4.05.06 Stoops****A. Dimensional requirements:**

1. Depth = 6 ft. minimum
2. Length = 5 ft. minimum

B. Stoops are permitted and may occur forward of the build-to line. Stoops may encroach within the right-of-way with approval from staff. Sidewalks shall have clear access for pedestrians. Stoops may be covered or uncovered.

Figure 4.05.06: Stoops

4.06.00 ROOFS, WINDOWS AND SKYLIGHTS

4.06.01 Roofs

- A. A metal panel 5-seam or metal shake roof is acceptable. A 5-tab twenty-five (25) year dimensional shingle roof or manufactured equivalent of a wood shake roof is acceptable. 3-tab shingles, barrel vaulted tiles or corrugated roof systems are not permissible.
- B. Pitch of main roof, hipped or gable, shall be no greater than 5:12; mansard roof shall be no greater than 9:12; porch roof shall be a lower pitch than main roof.
- C. A minimum 6" overhang is required for any roof structure.
- D. All structures must have a minimum 3:12 slope roof.
- E. Multiple roof systems with matching roof slopes are permissible. Multiple sloped roofs shall be designed so that the upper slope(s) shall be greater than or equal to the lower slope(s).
- F. Low slopes ("Flat") roof systems are permissible when screened by a mansard roof.
- G. A parapet wall, where part of the exterior wall is exposed above the front porch roof line, is not a typical design element used in Florida Vernacular construction and is thus prohibited. Suitable solutions for a parapet wall are a wall cap or a mansard roof. The cap or roof shall be complementary to the overall design intent of the building.
- H. Metal roof finishes shall have a Galvalume, Kynar 500 or equivalent finish.

4.06.02 Windows

- A. Each floor of any building façade facing a park, square or street shall contain transparent windows covering from 15% to 70% of the wall area.
- B. Windows must be rectangular or square in shape.

4.06.03 Skylights

Skylights should be flat to the pitch of the roof.

4.07.00 GARDEN WALLS, FENCES AND HEDGES

4.07.01 CPTED Requirement

Any fences, garden walls or hedges must be minimum 30% opaque and compliant with the principles of Crime Prevention Through Environmental Design (CPTED) as set forth in Section 5.01.04(H).

4.07.02 Maximum and Minimum Height

All fences, hedges or walls erected, placed or altered shall conform to the following regulations.

Table 4.07.02: Fences, Hedges, and Walls.

	Residential	Non-Residential
Yards:	Maximum Height	Maximum Height
Front	4 ft.	4 ft.
Rear and side	8 ft.	8 ft.
Materials	<ul style="list-style-type: none"> ▪ Open wire fabric ▪ Wood, open picket design ▪ Rot & termite resistive 	Open weave construction

4.08.00 STREET FURNITURE

Street furniture includes benches, trash receptacles, street signs and traffic lights. Benches and trash receptacles shall be provided on Town Center Street at intervals no greater than 200 feet. Street furniture shall be located so as to maintain a clear pedestrian path and shall be placed within 6 feet of the curb. Benches may also be placed at the rear of the sidewalk within 3 feet of the right-of-way line. Benches with backs shall be oriented to face the street. Street furniture shall be made of metal painted with a black finish and/or wood with a natural finish. Street furniture shall be consistent in color and style along both sides of any street.

4.09.00 REQUIREMENTS FOR UTILITIES, POTABLE WATER, SANITARY SEWER, AND RECLAIMED WATER

All new utilities shall be placed underground in all streets within the Town or in rear service alleys.

4.09.01 Requirements for Potable Water

- A. All development shall be properly connected with a community or public water supply system that is adequate for both domestic use and fire protection.

B. Water supply systems

1. The sizes of water mains, the location and types of valves and hydrants, the amount of soil cover over the pipes, and other features of the installation shall conform to the specifications of the American Water Works Association.
2. The size of water mains may be enlarged to provide future service for other development. The initial cost of oversizing will be borne by the applicant.
3. Crossing of existing paved streets shall be bored, unless otherwise directed by the Town.

4.09.02 Requirements for Sanitary Sewer

- A. All development shall be connected to a public sanitary sewer system.
- B. If a sanitary sewer pumping station exists in an area to be developed, the developer will be charged the prorated cost of the pumping station or will defray the cost of enlarging the station as required to handle the additional sewage flow.

4.09.03 Requirements for Reclaimed Water Systems

All subdivisions shall include reclaimed water irrigation systems including storage, pumping, and distribution improvements in compliance with FDEP regulations.

4.10.00 PARKING**4.10.01 Generally**

- A. The intent of these parking regulations is to encourage a balance between compact pedestrian-oriented development and necessary car storage. The goal is to construct neither more nor less parking than is needed.
- B. Parking need not be contiguous with the building or the use it serves.
- C. Parking shall be provided as necessary to meet the requirements of the Americans with Disabilities Act.
- D. Parking shall not be provided in excess of 115% of the minimum requirements.

4.10.02 Minimum Requirements

- A. Minimum parking requirements are as follows:
 1. Single and two-family dwellings: 1.5 spaces / dwelling unit
 2. Multifamily dwellings: 1 space / dwelling unit
 3. Retail: 1 space / 400 sf gross leasable floor area
 4. Office: 1 space / 300 sf of gross floor area
 5. Institutional uses such as rest homes and nursing homes: 1 space / two beds
 6. Place of public assembly such as auditoriums and theaters: 1 space / each 5 seats
 7. Clubs, lodges, dance, art and music studios and other similar semi-public uses: 1 space / 300 sf gross floor area.
 8. Hotels and motels: 1 space / sleeping room

- 9. Restaurant/bar uses: 1 space / 150 sf seating area
- 10. All other commercial uses: 1 space / 300 sf gross floor area
- B. Minimum parking space dimensions for head-in or diagonal parking shall be 9 ft. x 18 ft. with 12-ft drive lanes (20 ft. for two-way traffic) and parallel parking spaces shall be 6 ft. x 20 ft. minimum with 10-foot drive lanes (20 ft. for two-way traffic).
- C. Shared parking solutions are encouraged. Required parking minimums can be reduced by up to 50% with a shared parking solution approved by the Local Planning Agency. The applicant shall provide a parking analysis justifying the proposed parking solution.

4.10.03 On-Street Parking

On-street parking should be provided for along town center streets and neighborhood streets. The selection of diagonal or parallel parking along any section of road shall be determined in consultation with the Mayor.

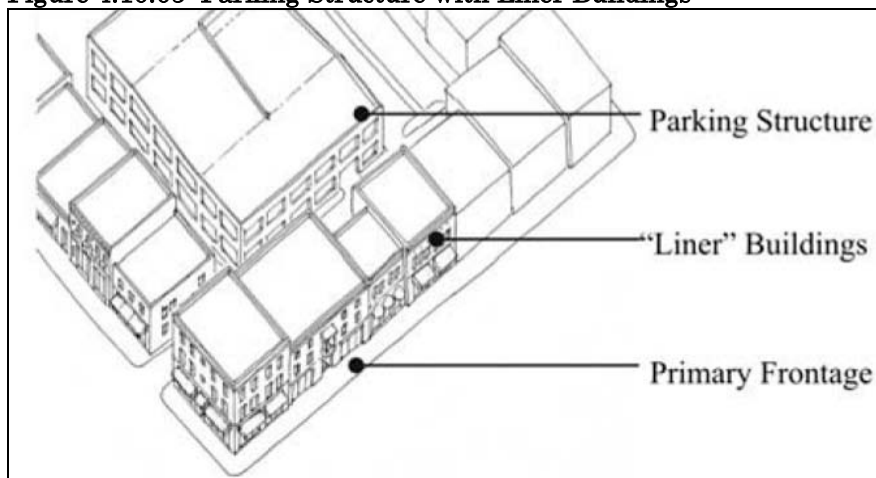
4.10.04 Off-Street Surface Parking Lot Placement

Off-street surface parking lots shall be set back a minimum of 50 feet from the property line along all streets. The Local Planning Agency shall have discretion to make this requirement applicable elsewhere on prominent frontages, such as along key pedestrian connections, within significant vistas, and within important public spaces. Outbuildings serving as garages facing alleys shall be permitted within this setback. Surface parking lots may be built up to the property line on all other street frontages.

4.10.05 Structured Parking Lot Placement

Parking structures shall be set back a minimum of 50 feet from the property lines of all adjacent streets to reserve room for Liner Buildings between parking structures and the lot frontage. The Liner Building shall be no less than two stories in height. Liner Buildings may be detached from or attached to parking structures.

Figure 4.10.05: Parking Structure with Liner Buildings



4.10.06 Access to Off-Street Parking

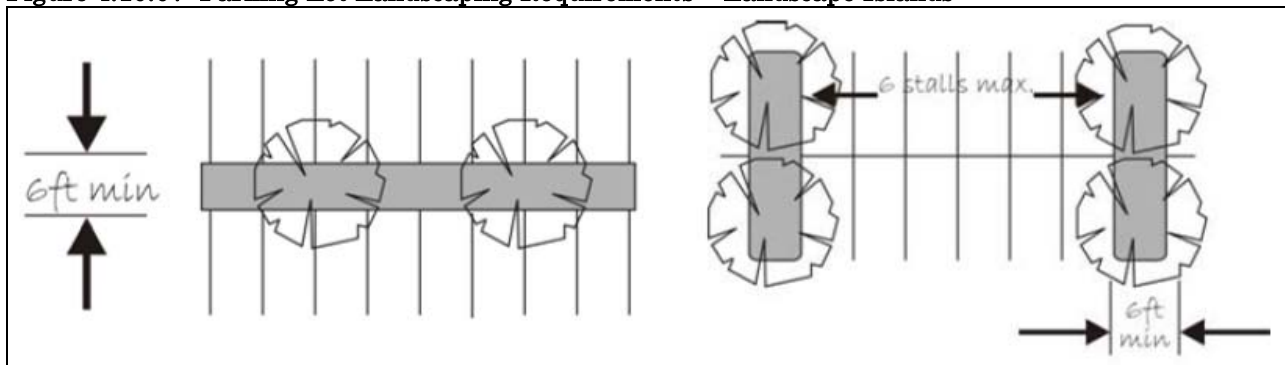
- A. Alleys shall be the primary source of access to off-street parking. Parking along alleys may be head-in, diagonal, or parallel.

- B. Alleys may be incorporated into parking lots as standard drive aisles. Access to all properties adjacent to the alley shall be maintained. Access between parking lots across property lines is also encouraged.
- C. Circular drives are prohibited except for civic buildings.
- D. Garage door(s) shall be positioned no closer to streets, squares, or parks than 20 feet behind the principal plane of the building frontage. Garage doors facing streets, squares, or parks shall not exceed 10 feet in width. When possible, garage doors will face alleys.

4.10.07 Parking Lot Landscaping Requirements

- A. Landscape strips of at least six feet in width shall be provided between parking aisles of either head-in or diagonal parking. Tree spacing, shrubs, and groundcover in parking lots shall be consistent with the provisions of Section 3.05 of this ULDC. The objective is to maximize shade canopy.
- B. Low impact development techniques should be employed, such as porous pavement materials.
- C. In lieu of landscape strips, landscape islands can be provided. No more than six (6) consecutive parking stalls are permitted without a landscape island at least six (6) feet wide and extending the entire length of the parking stall. A minimum of one tree and a combination of shrubs and/or ground cover shall be planted in each landscape island.

Figure 4.10.07: Parking Lot Landscaping Requirements – Landscape Islands



4.10.08 Temporary/Special Event Parking

Outdoor Special Events that will involve Town property and rights of way shall be approved by the Town and based on the anticipated attendance at the event shall include provisions for adequate traffic control, temporary parking, temporary toilet facilities, management of litter, garbage and recycling, on-site security, and special event insurance coverage naming the Town as a co-insured.

4.11.00 EXCEPTIONS FROM BUILD-TO LINES

4.11.01 Trees

Exceptions from Build-to Lines may be granted by the Local Planning Authority to avoid trees with calipers greater than eight (8) inches.

4.11.02 (Reserved)



CHAPTER 5

STANDARDS FOR ACCESSORY AND TEMPORARY USES

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5.00.00 GENERALLY

5.00.01 Purpose

It is the purpose of this section to regulate the installation, configuration, and use of accessory structures, and the conduct of accessory uses, in order to ensure that they are not harmful either aesthetically or physically to residents and surrounding areas.

5.01.00 ACCESSORY USES AND STRUCTURES

5.01.01 Home Occupations

It shall be unlawful to operate, conduct, or maintain any business or trade in any area whatsoever within the corporate limits of the City which has been or may hereafter be used for residential purposes except home occupations as provided in this section. A home occupation is a business occupation conducted entirely in a dwelling unit. All home occupations shall comply with the following standards:

- A. Employees of the home occupation shall be limited to the residents of the dwelling in which the occupation is located.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes, and shall not change the residential character of the structure.
- C. Not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- D. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation.
- E. No home occupation shall be conducted in any accessory building.
- F. No internal or external alterations which are inconsistent with the residential use or character of the dwelling shall be permitted.
- G. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. The basis for evaluating traffic generated shall be the Institute of Transportation Engineers *Trip Generation Handbook*.
- H. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front yard, except for the driveway.
- I. Parking of commercial vehicles used in the conduct of the home occupation shall be limited to one (1) such vehicle. This limitation shall include any vehicle necessary to the business conducted as a home occupation. Notwithstanding this provision, the following vehicles are prohibited from parking: a vehicle with a motorized cooling unit; and vehicles with a gross vehicle weight exceeding 10,000 pounds.
- J. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference

detectable to the normal senses at the property line. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in a line voltage off the premises.

- K. A home occupation shall be subject to all applicable city occupational licenses and other business taxes.

5.01.02 Accessory Structures in All Land Use Districts

Accessory structures may be located on a parcel, provided that the following requirements are met:

- A. There shall be a permitted principal structure or use on the parcel, located in full compliance with all standards and requirements of this ULDC.
- B. Accessory structures shall be included in all calculations of impervious surface and stormwater runoff.
- C. Accessory buildings shall be permitted only in side and rear yards.

5.01.03 Accessory Dwellings in Residential Land Use Districts

Accessory apartments, including guesthouses and helper quarters, shall be permissible in compliance with the following standards:

- A. An accessory dwelling inside the principal residential building shall comply with the following standards:
1. An accessory dwelling shall not be construed to be located within a principal building when it is connected to the principal residential building only by a breezeway or roofed passageway;
 2. No more than one (1) accessory dwelling shall be permitted;
 3. An accessory dwelling shall not be permissible within a nonconforming principal residential building;
 4. An accessory dwelling shall not be permissible where a variance or waiver is necessary in order to allow the accessory dwelling;
 5. An accessory dwelling inside a principal residential building shall not have a separate exterior entrance; and
 6. An accessory dwelling shall not occupy more than twenty-five (25) percent of the total livable floor area of the principal residential building.
- B. One (1) free-standing accessory dwelling unit may be built in the rear of the principal building or combined with a garage.
- C. A free-standing accessory structure shall not exceed one-half ($\frac{1}{2}$) the total square footage of the primary structure.

5.01.04 Dumpsters

- A. All placement and use of dumpsters and garbage containers shall fully comply with the requirements of this section.
- B. A dumpster shall be required for all multi-family development of eight (8) or more units.
- C. A dumpster shall be required for the following specific uses regardless of gross floor area: restaurants, grocery stores, and convenience stores.

- D. A dumpster shall be required for all development within SMU, IR, TC, or GC where the total gross floor area of all buildings on the site is 2,000 or more square feet.
- E. Multi-family development of less than eight (8) units or development in SMU, IR, TC, or GC that is less than 2,000 square feet of gross floor area may provide either a dumpster or individual garbage containers.
- F. Dumpsters shall meet the following standards:
1. Dumpsters shall be located on a paved surface of sufficient size to accommodate the dumpster.
 2. The dumpster location shall be easily accessible for pick-up.
 3. Dumpsters shall be located to the rear or side of the principal building.
 4. Dumpsters shall not be located within any required buffer area; landscaped area, including parking lot landscaping; or stormwater management area.
 5. Dumpsters shall be screened as follows:
 - a. All four (4) sides shall be screened.
 - b. Screening shall be in the form of evergreen trees and shrubs, or a solid wooden or masonry fence. Plants shall be planted in a double-staggered row to form a continuous hedge, and shall be planted to allow the installation of a gate for access.
 - c. Trees and shrubs shall comply with the specifications for landscaping materials set forth in Section 3.05, except that shrubs shall be a minimum of four (4) feet in height at the time of planting. Trees shall be selected from the list of understory trees and shall be planted a maximum of eight (8) feet apart, on center, in a double-staggered row. Trees and shrubs shall be maintained as required in Section 3.05.
 - d. A gate shall be provided for access.
 - e. Dumpsters shall be set back from any adjacent property designated or used for residential purposes a minimum of thirty (30) feet.
 - f. Dumpsters shall be located a minimum of twenty (20) feet from the exterior wall of a building, unless a closer distance is acceptable based on the fire rating of the wall and approved by the Town.
- G. Garbage containers shall meet the following standards:
1. Containers shall be of a size and type approved by the Town.
 2. A stable, firm, and level surface shall be provided, both in the permanent location and the pick-up location.
 3. Containers shall be located to the rear or side of the principal building, except when moved to the front for pick-up.
 4. Containers shall be screened from view from adjacent properties and the public right-of-way. Screening may be provided by shrubs planted in a double-staggered row on three (3) sides or by a wooden or masonry enclosure on three (3) sides.

5. Containers shall not be located in any required buffer area; landscaped area, including landscaping parking lots; or stormwater management area.
- H. The design of dumpster sites, screening around dumpster, and screening around garbage containers shall be compliant with the principles of Crime Prevention Through Environmental Design (CPTED), set forth below.
 1. *Provision of natural surveillance.*
 - a. The placement and design of physical features to maximize visibility. This will include building orientation, windows, entrances and exits, parking lots, walkways, guard gates, landscape trees and shrubs, fences or walls signage and other physical obstructions.
 - b. The placement of persons and/or activities to maximize surveillance possibilities.
 - c. Lighting that provides for nighttime illumination of parking lots, walkways, entrances and exits.
 2. *Provision for natural access control.*
 - a. The use of sidewalks, pavement, lighting and landscaping to clearly guide the public to and from entrances and exits.
 - b. The use of fences, walls or landscaping to prevent and or discourage public access to or from dark and/or unmonitored areas.
 3. *Provision of territorial reinforcement.* The use of pavement treatments, landscaping, art, signage, screening and fences to define and outline ownership of property.
 4. *Maintenance.* The use of low maintenance landscaping and lighting treatment to facilitate the CPTED principles of natural surveillance, natural access control and territorial reinforcement.

5.02.00 TEMPORARY USES AND STRUCTURES

This section establishes the regulations regarding temporary uses and structures.

5.02.01 Temporary Dwellings

No garage or outbuilding shall be erected for residence purposes in any residential district, except during the course of construction on the same site, a tent, temporary building, recreational vehicle, or mobile home may be allowed.

A temporary dwelling shall comply with the following standards:

- A. A temporary use permit shall be obtained for a temporary dwelling.
 1. Such permit shall be valid for ninety (90) days;
 2. The ninety (90) day permit may be renewed every ninety (90) days up to a total of one (1) year, provided that the permittee is actively constructing a residential dwelling unit on the same lot for which the permit is acquired.
- B. The temporary dwelling shall include separate sanitary facilities and separate electric service from the principal structure that is under construction.

- C. The temporary dwelling shall be placed to comply with required setbacks applicable to the district in which the permit is granted.

5.02.02 (Reserved)

5.03.00 SUPPLEMENTAL STANDARDS FOR SPECIFIC USES

5.03.01 Generally

- A. This section sets forth standards for specific uses that are permissible subject to supplemental standards. Uses permissible subject to these supplemental standards are identified by the letter “S” in Table 2.03.01.
- B. Where there is a conflict between a standard applicable to the land use district in which the use is located or an applicable overlay district and the supplemental standards set forth below, the more restrictive standard shall apply.

5.03.02 Manufactured Homes

Manufactured homes shall meet all federal and state requirements and shall comply with the land development code.

5.03.03 Places of Assembly

- A. Places of Assembly are permissible in the SMU land use district, subject to the standards of that district.
- B. The primary use of such a site shall be as a place of assembly.
- C. Uses and activities other than assembly shall be considered accessory uses and shall be clearly ancillary to the primary use. Uses and activities other than assembly shall be limited to instruction or study typically associated with the assembly; offices to support the establishment; child or adult day care; playgrounds; recreational facility; a kitchen; and individual or break out halls or meeting spaces.
- D. All accessory uses for places of assembly are subject to the following requirements:
 - 1. The accessory use shall be owned and operated only by the owner of the place of assembly.
 - 2. The facility housing the accessory use shall meet all local, State, or federal standards.
 - 3. The owner of the place of assembly shall obtain any licenses required to conduct the accessory use. Any approval of the accessory use shall be contingent upon receipt of all licenses.
 - 4. Audio amplification systems, including, but not limited to, telephone loudspeakers or paging systems, shall be located to ensure that they cannot be heard on adjacent properties.
 - 5. All outdoor activities shall occur no earlier than 8:00 a.m. and no later than 10:00 p.m.
 - 6. Outdoor play or activity areas shall be no closer than fifty (50) feet from property designated for residential use, as measured to the nearest residential property line.

- E. The following activities shall be prohibited in association with places of assembly: overnight lodging facilities or other temporary sleeping quarters; and any use not specifically identified as an allowable accessory use. Notwithstanding the prohibition of overnight lodging, one (1) residential dwelling unit may be provided, subject to the standards of Section 5.03.03(J).
- F. Child day care, adult day care, preschool, or child nursery uses are allowable accessory uses subject to the following standards:
1. The total floor area allocated to the child day care, adult day care, preschool, or nursery uses shall not exceed ten (10) percent of the total gross floor area on the site. The calculation of total floor area allocated to the uses shall be cumulative and shall include all child day care, adult day care, preschool, nursery facilities, and related mechanical and support facilities.
 2. An off-street drop-off area for persons served by the facility shall be provided.
- G. A kitchen and dining hall is an allowable accessory use subject to the following standards:
1. Dining, including dining open to the public as a charitable “soup kitchen,” is permitted between the hours of 8:00 a.m. and 10:00 p.m., provided:
 - a. The owner of the use ensures that meal recipients remain on the site except during travel to and from the place of assembly or kitchen and dining hall; and
 - b. No consideration or value of any kind is given, directly or indirectly, in exchange for the meal.
 2. The total floor area allocated to the kitchen and dining hall, including related mechanical and support facilities, shall not exceed twenty (20) percent of the total floor area on the site.
- H. One (1) residential dwelling unit is allowable, subject to the following standards:
1. The minimum lot area for the dwelling unit (“parsonage lot”) shall be 7,500 square feet. The residential lot shall be used exclusively for the dwelling unit, and shall not include any primary or other accessory use allowable on the site. The residential lot shall not be used for any support activity to the primary or accessory uses, such as outdoor play areas, storage, or parking, other than as specifically provided in Section 5.03.03(H)(5) and (6) below.
 2. The maximum lot coverage for the residential lot shall be thirty-five (35) percent.
 3. Two (2) parking spaces shall be provided within the residential lot.
 4. The maximum building height on the residential lot shall be thirty-five (35) feet.

5. The residential lot may contain children's outdoor play equipment, in a size and quantity typical of a single-family residential use.
6. The residential lot may contain a residential swimming pool, fully enclosed, and attached to the dwelling.
- I. A specific parking plan shall be provided. This plan shall identify the primary use and each accessory use proposed on the site. The parking plan shall indicate the hours of operation and peak times of use (parking demand) for the primary use and each accessory use on the site. The parking standards for the primary use and each accessory use shall be identified, based upon Section 4.10. The parking plan may include reduced or shared parking. If reduced or shared parking is proposed, the parking plan and supporting data shall clearly indicate that differing peak use and associated parking requirements shall not result in a parking deficiency on the site. The parking plan shall indicate areas designated for overflow parking during times of extraordinary use (such as festival or holiday periods).
- J. For places of assembly structures or uses that exceed 10,000 square feet in total floor area, excluding the residential structure, if any, the minimum setback from any residential property line that is otherwise required shall increase five (5) feet for each 2,000 square feet, or portion thereof, over 10,000 square feet.

5.03.04 Daycare, Preschool, and Nursery School

- A. Day care centers shall provide proof of compliance with State standards.
- B. Playgrounds shall be provided in a size and type required by State standards. The following additional standards shall apply:
 1. The playground shall be located in the rear yard. Where site characteristics prevent location of a playground in the rear yard, and adequate space is available in the side yard, a playground may be located in the side yard. Location of a playground in the front yard is prohibited.
 2. The playground shall be fully fenced. The fence shall meet the standards set forth in Section 4.07.
 3. The playground shall be located no closer than fifty (50) feet to any adjacent property designated as a residential land use district.

5.03.05 Compatibility Operational Criteria

All primary and accessory uses in all districts shall comply with the following operational criteria:

- A. Audio amplification systems, including, but not limited to, amplified music, telephones, loudspeakers or paging systems, shall be located to ensure that they cannot be heard on adjacent properties.
- B. All outdoor activities that generate noise or other adverse impacts to adjacent or nearby residential uses shall occur no earlier than 8:00 a.m. and no later than 10:00 p.m.

- C. Outdoor playground equipment, ball fields, or recreational activity areas shall be no closer than fifty (50) feet from property designated for residential use, as measured to the nearest residential property line.
- D. No primary or accessory use shall operate in any district in such a manner as to have a detrimental effect on the Whitney Lab or any research being conducted or contemplated at the Whitney Lab.

5.04.00 TELECOMMUNICATION TOWERS

5.04.01 Generally

A. Purpose and Intent

It is the intent of the Town to allow telecommunications towers and/or antennas in compliance with state and federal regulations. It is further the intent of the Town to protect the public health, safety, and welfare through regulating the placement and design of allowable telecommunications towers. The regulations in this section are designed to meet the following purposes:

1. To protect residentially zoned areas and residential development from potential adverse impacts of telecommunications towers that are placed in inappropriate locations;
2. To minimize visual impacts of telecommunications towers through site design requirements, location requirements, and innovative camouflage techniques, in accordance with acceptable engineering and planning principles; and
3. To allow telecommunications towers that meet state, federal, and local requirements for location, site design, and appearance.

B. Collocation

Telecommunications towers proposed within the Town shall provide for collocation consistent with state and federal regulations.

C. Consistency with Comprehensive Plan

Applications for telecommunications towers and antennas shall be consistent with all provisions of the Town of Marineland Comprehensive Plan.

5.04.02 Applicability

The following shall be subject to the regulations presented in this section:

1. All new telecommunications towers or antennas in the Town
2. Modifications to existing telecommunication towers/antennas that result in change to, addition of, or removal of more than 25% of the structure.

5.04.03 Allowable Locations for Telecommunication Towers

Telecommunications towers and/or antennas are permissible in the following land use district: Public Facilities (UTL).

5.04.04 Requirements for Telecommunication Towers and Antennas

- A. All telecommunication towers and antennas shall be maintained in good condition and in accordance with all standards in this section. No

additions, changes, or modifications shall be made except in conformity with the standards and procedures of this section.

- B. At all times each telecommunications tower shall be insured for liability in an amount of not less than \$5,000,000.00.
- C. In the event that a telecommunications tower or antenna is abandoned, the owner of the telecommunications tower or antenna shall restore the property to its condition prior to the installation of the tower or antenna. For each telecommunications tower or antenna, the owner shall provide to the Town a bond or other security in an amount sufficient to ensure that the telecommunications tower lot and parent parcel, or the structure on which an antenna is mounted, are restored to the condition existing prior to installation. Restoration shall be complete not later than six months after abandonment.

5.04.05 Design Requirements for Telecommunication Towers

The following site design and appearance regulations apply to telecommunications towers that are installed on the ground. Where the provisions of the underlying zoning district differ from the following provisions, the following provisions apply.

- A. Location.
All telecommunications towers shall be located in a manner that minimizes the effect on environmental resources.
- B. Collocation.
A new telecommunications tower shall be permissible only if the applicant demonstrates that collocation is not available.
- C. Lot size.
The minimum area devoted to the telecommunications tower lot and the equipment essential to the operation of one telecommunications tower shall be 50 feet by fifty 50 feet. The maximum area shall be 100 feet by 100 feet.
- D. Measurement of required setbacks.
Setbacks required by this section shall be measured from the base of the tower to the property line of the parent parcel on which it is located.
- E. Setbacks from property lines.
Telecommunications towers shall be setback a minimum of 50 feet from front, side, and rear property lines of the parent parcel.
- F. Separation.
A new telecommunications tower shall be located a minimum of 1,500 feet from any existing telecommunications tower.
- G. Height limitations.
The maximum height of telecommunications towers shall not exceed 150 feet. The measurement of telecommunications tower height shall include the tower, antennas, and base pad, and shall be measured from the finished grade at the tower pad location.
- H. Illumination.

Telecommunications towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration.

I. Structural design.

1. Telecommunications towers shall be monopole structures.
2. Telecommunications towers shall be designed to accommodate collocators. The number of collocators shall be included in the design specifications.
3. Telecommunications towers shall include one emergency generator of sufficient size to accommodate the needs of all collocated antennas. The application for the tower shall include documentation to ensure that future collocators shall be required to use the existing generator.
4. Telecommunications towers shall be constructed in accordance with the standards in the latest edition of the following publications:
 - a. Construction standards for telecommunications towers, published by the Electronic Industries Association.
 - b. "Minimum Design Load for Buildings and Structures," published by the American Society of Civil Engineers.
 - c. "Guide to the Use of Wind Load Provisions," published by the American Society of Civil Engineers.
 - d. Florida Building Code.

J. Fences.

A fence, not to exceed eight feet in height, shall be installed on the perimeter of the telecommunications tower lot. The fence may be installed inside the perimeter of the telecommunications tower lot in order to accommodate landscaping located at the perimeter of the telecommunications tower lot. The fence may be wood, masonry, or vinyl. Wood or masonry fences shall be painted to blend with the surrounding environment. Vinyl fences shall be of a color to blend with the surrounding environment. Barbed wire or other materials shall be installed at the top of the fence to prevent unauthorized access to the tower. Such materials shall not exceed two feet in height above the fence.

K. Vegetation protection.

Existing vegetation shall be retained to the maximum extent possible, except for exotic invasive vegetation. Exotic invasive vegetation shall be removed and replaced with landscape materials that comply with Section 3.05.

L. Landscaping required.

1. All landscaping shall comply with the standards set forth in Section 3.05.
2. Telecommunications towers shall be required to provide landscaping outside the fence enclosing the tower and at the property line of the parent parcel. Perimeter landscaping shall be required only on property lines that are within 150 feet of the telecommunications tower lot line. Where landscaping is provided at the property line of the

parent parcel, a recorded easement shall be provided to ensure the continued provision and maintenance of the landscaping so long as the telecommunications tower is in operation.

3. Perimeter landscaping is intended to provide an opaque screen between adjacent properties and the telecommunications tower. Trees shall be planted in a double staggered row and placed in an irregular pattern so as to appear more natural. Tree spacing may vary, but shall not exceed an average of 15 feet, center to center.
4. The minimum tree size shall be 12 feet high at the time of installation. Tree trunk caliper shall be appropriate to the selected species natural growth habits.
5. There shall be no irrigation system installed. However, a watering plan shall be provided to ensure that all installed vegetation will thrive and will be well established one year after installation. Any materials that die shall be replaced within six months.

M. Access.

An access driveway shall meet the following standards:

1. A recorded easement shall be provided to ensure continuing availability of access.
2. The access driveway may be either paved or unpaved. The driveway shall be stabilized and have a structural value of two or greater.
3. The access drive shall be a maximum of 12 feet in width.
4. The access drive shall be designed to provide adequate turn-around space, and may be designed as a hammerhead or T-type turn-around.

N. Parking.

One parking space shall be provided.

1. The space may be paved or unpaved, shall be stabilized, and shall have a structural value of two or greater.
2. The space shall be a minimum of ten feet wide and eighteen (18) feet long.
3. The space may be located on the parent parcel. An easement or recorded agreement shall be required to ensure that the parking space is provided and maintained as long as the telecommunications tower is in operation.
4. Where parking for other purposes exists on the parent parcel, one space may be dedicated to use by the telecommunications tower. The availability of this parking space shall be ensured through a recorded agreement.

O. Stealth techniques required.

The telecommunications tower shall be designed and painted to resemble natural objects, such as trees that are typical of the surrounding area.

5.04.06 Design Requirements for Antennas Installed on Existing Above-Ground Structures

The following site design and appearance regulations apply to one or more antennas that are installed on existing buildings or structures. Where the provisions of the underlying zoning district differ from the following provisions, the following provisions apply.

A. Height limitations.

The measurement of height shall include the existing building or structure, any structure to support the antennas, and the antennas. Height shall be measured from the finished grade of the building or structure on which the antennas are located to the uppermost point of the building or structures, support structure, or antenna. The maximum height shall not exceed 150 feet.

B. Structural design.

Antennas attached to, or supported by, an existing building or structure shall not impose any undue stress on the building or structure. Structures to support antennas on existing buildings shall be constructed in accordance with the standards in the latest edition of the following publications:

1. Construction standards for telecommunications towers, published by the Electronic Industries Association.
2. "Minimum Design Load for Buildings and Structures," published by the American Society of Civil Engineers.
3. "Guide to the Use of Wind Load Provisions," published by the American Society of Civil Engineers.
4. Florida Building Code.

C. Stealth techniques required.

The structure and antennas shall be screened with architectural elements or integrated into architectural elements. Examples of appropriate stealth techniques include elements such as chimneys, spires, steeples, or cupolas. Screening or other elements may be proposed, so long as the result is an integration of the antenna and any supporting structure into the existing building design features.

5.04.07 Abandonment

- A. In the event all legally approved use of a telecommunications tower and/or antenna has been discontinued for a period of 180 consecutive days, the telecommunications tower and/or antenna shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Town administrator, who shall have the right to request documentation and/or affidavits from the owner of the telecommunications tower and/or antenna regarding the issue of usage.
- B. At such time as the Town administrator reasonably determines that a telecommunications tower and/or antenna is abandoned, the Town administrator shall provide the owner of the telecommunications tower and/or antenna with written notice of an abandonment determination by certified mail. Failure or refusal by the owner to respond, within 60 days

- of receipt of such notice, shall constitute prima facie evidence that the telecommunications tower and/or antenna has been abandoned.
- C. If the owner of the telecommunications tower and/or antenna fails to respond or fails to demonstrate that the telecommunications tower and/or antenna is not abandoned, the telecommunications tower and/or antenna shall be considered abandoned and the owner of the telecommunications tower and/or antenna shall have an additional 120 days within which to:
1. Reactivate the use of the telecommunications tower and/or antenna;
 2. Transfer the telecommunications tower and/or antenna to another owner who makes actual use of the telecommunications tower and/or antenna within the 120-day period; or
 3. Dismantle and remove the telecommunications tower and/or antenna.

5.05.00 PUBLIC, SEMI-PUBLIC USES AND SPECIAL USES

5.05.01 Application

All uses of land and buildings not specifically provided for in any land use district or in other provisions of this ULDC shall be subject to the regulations of this ULDC.

5.05.02 Public and Semi-Public Uses

Public and semi-public uses excluding utilities as defined by this ULDC, and not listed in Table 2.03.01 shall be permitted as follows:

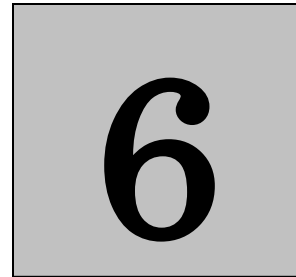
- A. Any public or semi-public uses may be permitted in any district providing that the request for such use is officially made to the Town Council in public hearing by the public body, or semi-public body desiring such use. The Town Council shall determine whether or not such requested use is necessary and if the necessity is established, there shall be further established conditional requirements to be met concerning such use.
- B. Public and semi-public uses existing at the time of the effective date of this ULDC and as indicated on the Future Land Use Map or Text are hereby legally established as conforming public and semi-public uses.
- C. Civic buildings. Civic buildings are of special public importance. Civic buildings include, but are not limited to, municipal buildings, churches, libraries, schools, recreation facilities, and places of assembly. Civic buildings do not include retail buildings, residential buildings, or privately owned office buildings. In order to provide greater flexibility to create a special architectural statement, civic buildings may not be subject to Build-to Line requirements or Building Orientation requirements set forth in Chapter 4. The design of civic buildings shall be subject to review and approval by the Local Planning Agency.

5.05.03 Special Uses

- A. Essential public and private utility services shall be permitted in any zoning district. Essential utility services are hereby defined as installations for water, sewer, gas, telephone, electrical line, drainage systems, and other similar installations, but excluding major installations such as electrical or

gas generating plants, water and sewage treatment plans, and other similar major installations.

- B. Major utility installations including telephone and telegraph, electricity, natural and artificial gas, radio and television stations, water and sewer treatment plans, electronic transmission towers, may be permitted in any district, provided that such application is made to the Town Council for its review and recommendations. The Town Council shall hold a public hearing prior to approval.
- C. Transportation terminals may be permitted in any non-residential district, provided that such application is made to the Town Council for its review and recommendations. The Town Council shall hold a public hearing prior to approval.



CHAPTER 6

SIGNS

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6.00.00 PURPOSE AND INTENT

The purpose of this chapter is to promote the public health, safety, and general welfare of the citizens and visitors of the Town of Marineland through reasonable, consistent, and non-discriminatory content neutral sign regulations. The sign regulations within this ULDC are not intended to censor speech or to regulate viewpoints. Rather these regulations have been created to regulate adverse secondary effects caused by signs. The sign regulations are especially intended to reach the secondary effects that may adversely impact aesthetics and safety. In order to preserve and promote the Town as a desirable community in which to live and do business, a safe and visually attractive environment compatible with the Town is of foremost importance. The regulation of signs within the Town is a highly contributive means by which to achieve this desired end.

6.01.00 SCOPE

These sign regulations have been designed to enhance the visual environment of the Town, promote its continued well-being, and are intended to:

- A. Enhance the aesthetic environment and the Town's ability to attract sources of economic development and growth;
- B. Minimize the possible adverse effect of signs on nearby public and private property;
- C. Foster the integration of signage with architectural and landscape designs;
- D. Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;
- E. Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;
- F. Curtail the size and number of signs to the minimum reasonably necessary;
- G. Establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;
- H. Categorize signs based upon the type of sign and function that they serve and tailor the regulation of signs based upon their type and function;
- I. Preclude signs from conflicting with the principal permitted use of the site and adjoining sites;
- J. Regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;
- K. Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;
- L. Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of the Town;

- M. Protect property values by precluding, to the maximum extent possible, sign-types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;
- N. Protect property values by ensuring that sign-types, as well as the number of signs, are in harmony with buildings, neighborhoods, and conforming signs in the area;
- O. Enable the fair and consistent enforcement of these sign regulations.

6.01.01 Computation of Sign Size (Area) and Sign Height

The following principles shall control the computation of sign size (area) and sign height:

- A. Computation of size (area) of individual signs.

The size (area) of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, color, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or wall when such wall otherwise meets these or other ordinances or regulations and is clearly incidental to the display itself.
- B. Computation of size (area) of multi-faced signs.

The sign size (area) for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one (1) point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than twenty-four (24) inches apart, the sign size (area) shall be computed by the measurement of one (1) of the sign faces.
- C. Computation of sign height.

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction of the sign or (2) the newly established grade after construction of the sign, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.
- D. Computation of maximum permitted sign area.

See definition of *sign area* under Section 1.08.09 of this ULDC.

6.01.02 Prohibited Signs.

The following signs and sign-types are prohibited within the Town limits and shall not be erected.

- A. Billboards.
- B. Flashing signs.
- C. Animated signs.

- D. Signs which revolve, rotate, move, swirl or swing, including multi-prism and tri-vision signs.
- E. Electronic signs, except when required as traffic control device signs.
- F. Floodlights and beacon lights, except when required by the Federal Aviation Agency.
- G. Wind signs.
- H. Portable signs.
- I. Roof signs.
- J. Abandoned and discontinued signs.
- K. Snipe signs.
- L. Projecting signs, other than projecting signs as allowed within certain locations within certain land use districts pursuant to this Chapter.
- M. Bench advertising signs
- N. Signs that emit sound, vapor, smoke, odor, particles or gaseous matter.
- O. Signs that have unshielded illuminating devices.
- P. Signs that obstruct, conceal, hide or otherwise obscure from view any traffic control device sign or official traffic signal.
- Q. Umbrella signs.
- R. Any attached sign that exceeds one hundred fifty (150) square feet in sign area.
- S. Pole signs.
- T. Any freestanding sign that is higher than twenty-five (25) feet, other than flagpoles as allowed in certain land use districts pursuant to this chapter which have a height limit of thirty-five (35) feet.
- U. Any freestanding sign that exceeds one hundred (100) square feet in sign area.
- V. Any sign within a sight visibility triangle that obstructs a clear view of pedestrian or vehicular traffic.
- W. Any sign in or over the public right of way, other than traffic control device signs, bus stop informational signs, warning signs or safety signs, except as may be allowed by Town Council resolution that sets forth specific criteria not based on the speaker's viewpoint and not allowing undue discretion on the part of any Town official.
- X. Any sign attached to a seawall, dock, tie pole or pier, other than a warning sign or safety sign.
- Y. Signs in or upon any river, bay, lake, or other body of water within the limits of the Town, except official regulatory or warning signs.
- Z. Any sign other than a traffic control device sign that uses the word "stop" or "danger," or presents or implies the need or requirement of stopping or the existence of danger, or which is a copy or imitation of a traffic control device sign and which is adjacent to the right-of-way of any road, street, or highway.
- AA. Any sign nailed, fastened, affixed to, or painted on any tree (living or dead), or other vegetation.

- BB. Any sign prohibited by state or federal law.
- CC. Vehicle sign or signs with a total sign area on any vehicle in excess of ten (10) square feet, when the vehicle is not "regularly used in the conduct of the business" advertised on the vehicle, and (a) is visible from a street right-of-way within one hundred (100) feet of the vehicle, and (b) is parked for more than two consecutive hours within one hundred (100) feet of any street right-of-way. A vehicle shall not be considered "regularly used in the conduct of the business" if the vehicle is used primarily (i) for advertising, or (ii) for the purpose of advertising. This provision is not to be construed as prohibiting the identification of a firm or its principal products on a vehicle operating during the normal hours of business and which is currently licensed, insured and operable; provided, however, that no such vehicle shall be parked on public or private property with signs attached or placed on such vehicle primarily for the purpose of advertising a business establishment or firm or calling attention to the location of a business establishment or firm.
- DD. Any sign located on real property without the permission of the property owner.
- EE. Holographic display signs.
- FF. Pavement markings, except for official traffic control markings and building address markings required by law.
- GG. Pennants, streamers, balloons, wind activated banners, cold air inflatable and other fixed aerial signage, except where specifically provided elsewhere in this chapter.

6.01.03 Exemptions

This chapter does not pertain to the following:

- A. A sign (except a window sign which shall be subject to the provisions of this chapter) located entirely inside the premises of a building or enclosed space.
- B. A sign on a car, other than a prohibited vehicle sign or signs.
- C. A statutory sign or legal notice or instrument required by law.
- D. A traffic control device sign.
- E. A sign intended to be carried, and carried, by a person.

6.01.04 Building Permits.

It shall be unlawful to erect, construct, alter or maintain an outdoor advertising display sign, as defined in the Florida Building Code, without first obtaining a building permit from the Town in accordance with the provisions of the Florida Building Code and applicable law. Permit fees for a building permit shall be paid in accordance with the applicable Town fee schedules. The requirement of a building permit under the Florida Building Code is separate and independent of the requirement for a sign permit under this chapter.

6.01.05 Substitution of Non-Commercial Speech for Commercial Speech.

Notwithstanding anything contained in this chapter or ULDC to the contrary, any sign erected pursuant to the provisions of this chapter or ULDC may, at the

option of the owner, contain a non-commercial message in lieu of a commercial message and the non-commercial copy may be substituted at any time in place of the commercial copy. The non-commercial message (copy) may occupy the entire sign face or any portion thereof. The sign face may be changed from commercial to non-commercial messages, or from one non-commercial message to another non-commercial message, as frequently as desired by the owner of the sign, provided that the size, height, setback and other dimensional criteria contained in this chapter and ULDC have been satisfied.

6.01.06 Content Neutrality as to Sign Message.

Notwithstanding anything in this chapter or ULDC to the contrary, no sign or sign structure shall be subject to any limitation based upon the content of the message contained on such sign or displayed on such sign structure.

6.01.07 Illegal Signs on Public Property.

Any sign installed or placed on public property, except in conformance with the requirements of this chapter, shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the Town shall have the right to recover from the owner or person placing such sign the cost of removal and disposal of such sign.

6.02.00 ADMINISTRATION AND ENFORCEMENT

6.02.01 Sign Permits

- A. Unless exempt from permitting, no permanent sign shall be erected, altered, relocated, maintained or displayed until a sign permit is obtained from and the appropriate fee paid to the Town. The sign permit is in addition to any building permit required to be obtained pursuant to the provisions of the Florida Building Code.
- B. No sign permit shall be issued for the erection of a prohibited sign.
- C. A sign lawfully erected may be repainted or have ordinary and customary repairs performed, including replacement of plastic or glass panels, without a new sign permit; however, if such sign is to be structurally altered in any manner, a new sign permit shall be required and the altered sign must meet all requirements of this chapter and this ULDC.

6.02.02 Exceptions from Permitting

The following types of signs, while they may be covered by the general provisions of this chapter, shall be exempt from all sign permit requirements of this chapter:

- A. Any sign of the type described in Section 6.01.03.
- B. Allowed temporary and allowed permanent signs of the type described in Section 6.05.02.

However, these exemptions in no way waive requirements of the Florida Building Code or any limitation or restriction on the number, size, height, setback, placement or duration of such signs under this chapter, or any limitation or restriction under any other applicable law or regulation.

6.02.03 Permits Not Required for Change of Sign Copy.

No permit or permit fee shall be required for changing the copy of a sign, as long as no changes are made to the sign's height, size, location, or structure. This exemption shall also apply to any change of copy on a changeable copy sign.

6.02.04 Sign Permit Applications.

A sign permit application for permanent and certain temporary signs as may be required by this chapter, or separate Town Council resolution, shall be prepared and submitted on forms available from the Town. The sign permit application is in addition to any building permit application required by the Florida Building Code. The applicant shall furnish the following information on or with the sign permit application form:

- A. Name, address, telephone number, and signature of the person making application for the permit. If the applicant is anyone other than the property owner, the applicant shall provide notarized authorization from the property owner permitting the installation of the sign.
- B. Name, address and telephone number of the property owner. If the owner is an entity other than an individual, list the contact person's name.
- C. Name, address and telephone number of the business tenant, if applicable. If the tenant is an entity other than an individual, list the contact person's name.
- D. Name, address, telephone and license number of the contractor, if applicable. If the contractor is an entity other than an individual, list the contact person's name.
- E. Address and legal description of the property upon which the sign is to be located. The legal address may be located on a certified boundary survey.
- F. Lot frontage on all streets and public rights-of-way.
- G. Indicate in feet and inches the location of the sign in relation to property lines, public rights-of-way, easements, buildings and other signs on the property.
- H. Freestanding signs shall require a boundary survey prepared within the last twenty-four (24) months of the permit application date, and signed and sealed by a land surveyor or engineer licensed in Florida showing the proposed location of the sign.
- I. For all wall mounted signs, the facade elevation with dimensions, drawn to scale. Windows and doors and other openings shall be delineated and their dimensions given.
- J. Sign dimensions and elevation, drawn to scale.
- K. Maximum and minimum height of the sign measured from finished grade.
- L. Dimensions of the sign's supporting members.
- M. Sign illumination, specifying illumination type, placement, intensity and hours of illumination.
- N. Three (3) copies of the plans, specifications, calculations and details, signed and sealed by an engineer licensed in Florida, specifications documenting the applicable wind load, and electrical specifications, if

applicable, meeting the minimum requirements of the applicable Electric Code.

- O. Number, type, location and surface area of all existing signs on the same property.
- P. Landscape plan, as applicable.

6.02.05 Sign Permit Application Review.

- A. An applicant shall deliver a sign permit application for a permanent sign to the department of community development, or such other office as may be designated by the Town. The sign permit application shall be reviewed for a determination of whether the proposed sign meets the applicable requirements of this chapter. The review of the sign permit application shall be completed within forty-five (45) days following receipt of a completed application, and any applicable fees, not counting the day of receipt and not counting any Saturday, Sunday, or legal holiday which falls upon the first or the forty-fifth (45th) day after the date of receipt. A sign permit shall either be approved, approved with conditions (meaning legal conditions existing in the ULDC such as dimensional requirements), or denied, and the decision shall be reduced to writing. A denial shall include or be accompanied by a statement of the reason(s) for the denial. In the event that no decision is rendered within forty-five (45) calendar days following submission, the application shall be deemed denied and the applicant may immediately appeal the denial to the Town Council. Any appeal shall be heard and a decision rendered within the time frames specified in 6.03.00 for appeals.
- B. An approval, an approval with conditions, or denial by the Town Administrator shall be deemed the final decision of the Town upon the application.
- C. In the case of an approval with conditions or disapproval, including disapproval by lapse of time as described herein, an applicant may ask for reconsideration of the decision on the grounds that the Town Administrator may have overlooked or failed to consider any fact(s) that would support a different decision. A written request for reconsideration accompanied by such additional fact(s) as the applicant may wish the Town Administrator to consider, shall be filed with the Town Administrator within ten calendar days after receipt of the decision. No fee shall be required for a request for reconsideration. Upon the timely filing of a request for reconsideration, the decision of the Town Administrator shall be deemed stayed and not a final decision, until the request for reconsideration is decided. The request for reconsideration shall be decided within seven days of receipt by the Town, not counting any intervening Saturday, Sunday, or legal Town holiday. Such decision shall be in writing and shall include a statement of the reason(s) for the decision. If the disapproval of the request for reconsideration was a consequence of a failure to decide upon the application within the deadline

set forth herein, the Town Administrator shall verify upon request that any applicable fee was refunded even if the Town Administrator approves the application upon reconsideration.

- D. All decisions shall be mailed, transmitted electronically, or hand delivered to the applicant. A record shall be kept of the date of mailing, electronic transmittal, or hand delivery. For the purposes of calculating compliance with the forty-five-day deadline for a decision upon an application or the seven-day deadline for a decision upon request for reconsideration, the decision shall be deemed made when deposited in the mail, transmitted electronically, or hand delivered to the applicant.
- E. As exceptions to the foregoing, the 45-day deadline for approval and the seven-day deadline for a decision upon receipt of a request for a reconsideration shall not apply (that is, the time shall be suspended):
1. In any case in which the application requires a variance from any provision of the ULDC or an amendment to the comprehensive plan of the Town. In such cases, the time shall be suspended until a final decision is made upon the application for the variance or comprehensive plan amendment.
 2. If the applicant is required to make any change to the application in order to obtain an unconditional approval, the time shall be suspended while the applicant makes such change.
 3. If an applicant is required to obtain an approval from any other governmental agency, the time shall be suspended until such approval is obtained.
 4. In any of the foregoing cases, the applicant may elect not to seek a variance, make no change to the application, or obtain no approval that may be required by another governmental agency, and may instead demand a decision upon the sign permit application as filed. In such event, the Town Administrator shall make a decision on the application as appropriate within five (5) business days after receiving such demand. If a decision is not made in such a time, the application shall be deemed denied and the Town Administrator shall verify that any applicable fee was refunded to the person who paid the fee.
 5. An application which is materially incomplete or which is not accompanied by the required fee shall not be deemed accepted and the time for review of the application shall not commence until a complete application accompanied by the required fee is filed with the Town Administrator or designee. However, the Town Administrator shall keep the record of incomplete application or any application not accompanied by the correct fee, as required by applicable public record laws. In addition, the Town Administrator shall within forty-five (45) days of receipt of such an application send the applicant a written explanation of the deficiencies in the application and ask that the deficiencies be remedied, explaining that the application can not

proceed forward otherwise and the review will be suspended pending receipt of the required information or documentation. The applicant must then submit a new application with the deficiencies corrected in order for it to be considered by the Town Administrator or designee.

6. Any person aggrieved by the decision of the Town Administrator upon his or her sign permit application shall have the right to seek judicial review by the Circuit Court for Flagler County, Florida, or any other court of competent jurisdiction, filed in accordance with the requirements of law, seeking such appropriate remedy as may be available.

6.02.06 Sign Permit Fees.

Before issuance of a permit, the Town Administrator shall collect the necessary sign permit fees. The sign permit fees shall be as designated by resolution of the Town Council.

6.02.07 Inspection.

The Town Administrator may make or require any inspections to ascertain compliance with the provisions of this chapter, other land development regulations of the Town, and other law.

6.02.08 Revocation of Sign Permit.

If the work under any sign permit is proceeding in violation of this chapter, any other ordinance of the Town, or should it be found that there has been any false statement or misrepresentation of a material fact in the application or plans on which the permit was based, the permit holder shall be notified of the violation. If the permit holder fails or refuses to make corrections within ten (10) days, it shall be the duty of the Town Administrator to revoke such permit and serve notice upon such permit holder. Such notice shall be in writing and signed by the Town Administrator. It shall be unlawful for any person to proceed with any part of work after such notice is issued.

6.02.09 Miscellaneous Safety Requirements.

In addition to any requirement of this chapter, ULDC, or other law or regulatory provision, signs shall be erected and maintained to conform to the following safety requirements:

- A. No sign shall be erected so as to obstruct any fire escape, required exit, window, or door opening intended as a means of egress.
- B. No sign shall be erected which interferes with any opening required for ventilation.
- C. Signs shall maintain a minimum of six (6) feet horizontal and twelve (12) feet vertical clearance from electrical conductors and from all communications equipment or lines located within the Town.
- D. Signs and their supporting structures shall maintain clearance and noninterference with all surface and underground facilities and conduits for water, sewage, electricity, or communications equipment or lines. Furthermore, placement shall not interfere with natural or artificial drainage or surface or underground water.

- E. No sign shall be attached to a standpipe, gutter, drain, or fire escape, nor shall any sign be installed so as to impair access to a roof.
- F. Electrical systems, fasteners, and the sign and structure as a whole shall be maintained at all times in a safe condition.

6.03.00 APPEALS

6.03.01 Appeals to Town Council.

- A. Whenever it is alleged that there has been an error in any order, action, decision, determination, or requirement by an administrative official in the enforcement and application of any provision contained within this chapter or any other provision of this ULDC pertaining to sign permits (including any allegation that an administrative official has failed to act within applicable time frames), the aggrieved party may file a written appeal with the Town Council.
- B. The written appeal, together with any appeal fee set by resolution, shall be filed with the Town Council within thirty (30) days of the date of the alleged error. The written appeal shall describe the alleged error and the applicable provisions of the ULDC pertaining to the administrative official's order, action, decision, determination, requirement, or failure to act.
- C. The Town Council shall hold a hearing within forty-five (45) days following receipt of the written appeal, not counting the day of receipt and not counting any Saturday, Sunday, or legal holiday which falls upon the first or the forty-fifth (45th) day after the date of receipt.
- D. The Town Council shall render a written decision within ten (10) days following the hearing.
- E. If the Town Council does not render a decision within ten (10) days following the hearing, the sign permit shall be deemed denied.
- F. Failure to appeal the decision regarding a sign application by the Town Administrator shall not be deemed a failure to exhaust administrative remedies. The applicant may choose to proceed directly to a judicial action once the sign application has been denied by the Town Administrator or designee.
- G. If an appeal is filed by the applicant, and the Town Council fails to meet within the prescribed time the appeal will be deemed denied and the decision of the Town Administrator regarding the sign application will be deemed a final decision subject to immediate appeal to a court of competent jurisdiction.
- H. Once a decision is appealed to the Town Council, the Town Administrator shall take no further action on the matter pending the Council's decision, except for unsafe signs which shall present an immediate and serious danger to the public in which case the Town may pursue any proper legal remedy available to it.

6.04.00 SIGN REGULATIONS**6.04.01 In General.**

The following general provisions apply to signs and sign types described in these sign regulations, except where otherwise noted in this Chapter.

- A. **Setbacks.** Except as otherwise provided for herein, all freestanding signs must be set back at least ten (10) feet from any property line adjacent to a public right-of-way. The setback shall be measured from the nearest protrusion of the sign or sign face to the property line. However, if due to the physical characteristics of the property, this requirement should prohibit the placement of a freestanding sign then the setback provisions shall be waived.
- B. **Identification labels of signs.** With each new sign permit issued, the Town shall provide a weatherproof identification label or decal for each permitted sign bearing the permit number, which number shall correspond to the Town's records of the names of manufacturer and installer, date of installation, and the electric permit number (if any) with the input VA (volt amperes) at full load for electric. This label shall be attached to the sign or sign structure, so as to be clearly visible from the ground, without the use of ladders or other devices.
- C. **Landscaping.** Permanent ground signs requiring a sign permit must be landscaped at their base. The landscaped area shall have a minimum area of one (1) square foot for each square foot of sign area. Existing signs shall be subject to these landscaping requirements if there is a change in use of the property or a site plan modification submitted to the Town for review and approval. For purposes of this regulation, landscaping includes only vegetation.
- D. **Window and wall signs.** No more than one exterior window or wall sign on any street it faces shall be allowed. No portion of any wall sign shall be painted directly onto the surface of a wall. Wall signs may not project more than eighteen (18) inches from a wall. Any wall sign that projects more than 2.5 inches from a wall shall be mounted so that the bottom of the sign is no closer than nine (9) feet to the ground at grade level.
- E. **Projecting signs.** Projecting signs, where permitted, shall be located in such a manner so that the bottom of the sign shall be no closer than nine (9) feet to the ground at grade level. The thickness of the principal faces of any projecting sign shall not exceed twenty-four (24) inches when such sign is of solid construction. No business shall have both a projecting sign and a wall sign on the same street frontage; and no business shall have more than one (1) projecting sign along the same street frontage.
- F. **Marquee signs.** Marquee signs, where permitted, shall be located in such a manner so that the bottom of the sign shall be no closer than nine (9) feet to the ground at grade level. No part of a marquee sign shall extend beyond the marquee itself. Subject to such additional size (area)

restriction as are applicable, a marquee sign shall in no event take up more than eighty (80) percent of the face of the marquee.

- G. Off-site permanent monument identification signs. Off-site permanent monument identification signs, where permitted, shall be located at the corner of the intersection of two (2) streets, one (1) of which is the primary ingress and egress to the development. The monument sign must be located on property which is owned by the same person or entity that owns the development identified by the sign, and the aforesaid development must consist of a lot or parcel complying with the requirements of the applicable land use district; and such monument sign shall be removed in the event the lot and sign no longer remain under the same ownership. The monument sign shall not exceed twenty-four (24) square feet in size (area) and shall not exceed four (4) feet in height. The monument sign shall be set back a minimum of thirty (30) feet from the intersection of the right-of-way lines and fifteen (15) feet from all front and side right-of-way lines.
- H. Multiple Frontage Properties.
 - 1. For corner or through lots, additional sign use shall be allowed for the secondary frontage under the same section of this chapter that governs the primary frontage. The sign area allowed shall be based on the following:

Table 6.04.01: Multiple Frontage Properties

Secondary Frontage Classification	Percent of Primary Frontage Sign Area
Scenic Highway	100%
Town Center Street	50%
Neighborhood Street	10%

- 2. All setbacks and spacing requirements shall be measured around corners at the right-of-way line. Sign area may not be transferred between frontages.
 - 3. Only one (1) freestanding sign shall be allowed within seventy-five (75) feet of intersections and may be of a maximum size based on the largest street frontage.
- I. Construction and Maintenance Standards. All signs shall be constructed and maintained in accordance with the Florida Building Code and this ULDC. For new developments, no certificate of occupancy will be issued for a building unless signs have conformed to these standards. Damaged signs shall be repaired or replaced in a timely manner. Electrical systems, fasteners, and the sign and structure as a whole shall be maintained at all times in a safe condition.
- J. Exterior Finishes. Sign posts, frames, and stanchions shall be finished. Concrete will be finished with stucco and painted, or finished in an equivalent decorative texture and color. Wood shall be painted or stained

to a uniform finish. Metal shall be finished in powder coating, paint or brushed textured. Brick and stone are also encouraged. The sign base and general appearance of the sign frame shall be of an architectural style similar to that of the principal building.

- K. Property Owners' Association. If a development or subdivision shall have a property owners' association, the association will be responsible for ownership and maintenance of the signs. The signs shall be located on commonly owned property.

6.04.02 Exceptions from Permitting.

Sign permits are not required for signs and sign-types described and identified below in this subsection.

- A. Street address signs and residential mailboxes. For each parcel within the Town, one (1) attached wall street address sign may be displayed. For parcels in residential use, the street address sign shall not exceed two (2) square feet in sign area. For each parcel in nonresidential use, the street address sign shall not exceed four (4) square feet in sign area. In addition to street address signs, a residential mailbox with the address of the property affixed to it such that the address is no larger than one (1) side of the mailbox shall be allowed for each residence in the Town.
- B. Nameplate or occupant identification signs. For each residence, business or other occupancy within the Town, one (1) attached wall nameplate sign may be displayed. For residences the nameplate or occupant identification signs shall not exceed two (2) square feet in sign area. For any nonresidential use, the nameplate or occupant identification sign shall not exceed four (4) square feet in sign area.
- C. Onsite parking space signs. On-site parking space number or identification signs, not exceeding one (1) square foot of sign face per sign, shall be allowed on each parcel having multiple parking spaces onsite. One (1) such sign shall be allowed for each parking space. The maximum height for a freestanding or attached wall sign shall be six (6) feet unless otherwise required by applicable law.
- D. Free expression signs. For each parcel within the Town, one free expression sign containing any content whatsoever not exceeding three (3) square feet in sign area may be displayed on each frontage per parcel of land. The free expression sign may be displayed as an attached sign, window sign, or as a freestanding sign; if displayed as a freestanding sign, the freestanding sign shall not exceed three (3) feet in height. A free expression sign is in addition to any other sign permitted under this ULDC and is permitted in any land use district.
- E. Election signs. For each parcel within the Town, one election sign for each candidate and each issue may be displayed on each frontage per parcel of land. An election sign may be displayed as an attached sign or as a freestanding sign. The election sign shall not exceed three (3) square feet in sign area; and, if the election sign is displayed as a freestanding sign on

- the parcel, the election sign shall not exceed three (3) feet in height. An election sign shall be removed within seven (7) calendar days following the election to which it pertains.
- F. Artwork. Artwork is allowed in all districts, and the same is not considered a sign as defined by this ULDC.
- G. Flagpoles. Except as set forth in subsection (H)(2) below, one (1) flagpole is allowed for each parcel in the Town. Flagpoles in residential districts shall not exceed twenty-five (25) feet in height. Flagpoles in nonresidential districts shall not exceed thirty-five (35) feet in height.
- H. Flags.
1. For each detached dwelling unit, one (1) flag not greater than fifteen (15) square feet in sign area may be displayed.
 2. For each parcel in a multi-family residential district and in a nonresidential land use district, four (4) flags not greater than twenty-four (24) square feet in sign area (each) may be displayed.
- I. Warning Signs and Safety Signs. Warning signs and safety signs, not exceeding four (4) square feet in sign area, shall be allowed in all districts. The maximum height for these signs shall be six (6) feet unless otherwise required by applicable law.
- J. Machinery and Equipment Signs. Machinery and equipment signs that are integral to the machinery or equipment and that identifies the manufacturer of the machinery or equipment that is placed on the machinery or equipment at the factory at the time of manufacture shall be allowed in all districts.
- K. Temporary Construction Signs. One temporary construction sign shall be allowed on each parcel within the Town. Temporary construction signs shall not exceed three (3) square feet in sign area, and three (3) feet in height for residential properties, and sixteen (16) square feet in sign area, and six (6) feet in height for nonresidential properties.
- L. Temporary Signs. For each parcel within the Town, one (1) temporary sign may be displayed on each frontage per parcel of land. Where there is more than one (1) dwelling unit or nonresidential space on a parcel of land there shall only be one (1) temporary window or attached sign for each such unit or space that is separately owned. Temporary signs shall not exceed three (3) square feet in sign area, and three (3) feet in height in residential districts, and sixteen (16) square feet in sign area, and six (6) feet in height in nonresidential districts. The temporary sign shall be removed when the sign is no longer needed.
- M. Temporary Garage-Yard Signs. For each parcel within the Town, one (1) on-site temporary garage-yard sign may be displayed on each frontage per parcel of land. A temporary garage-yard sign shall not exceed three (3) square feet in sign area, and three (3) feet in height and shall be removed when the sign is no longer needed. .

- N. Temporary window signs. For each parcel within the Town, one (1) or more temporary window signs may be displayed on the inside of the window. On parcels that are in residential use, the temporary window sign(s) shall not exceed an aggregate of three (3) square feet in sign area. On parcels that are in nonresidential use, the temporary window sign(s) shall not exceed an aggregate of twenty-four (24) square feet in sign area. Temporary window signs shall not cover more than twenty-five (25) percent of any window surface.
- O. Temporary holiday and seasonal decorations. Temporary holiday and seasonal decorations are not signs and shall be allowed in all districts.
- P. Temporary valet station identification signs. One (1) temporary valet station identification sign no more than three (3) square feet in sign area, and not more than three (3) feet in height, shall be allowed on each parcel where the valet station is located. The temporary valet station sign shall only be placed on the parcel during hours that the valet is operating, and shall be located on the same parcel as the valet station.
- Q. Bus stop informational signs. Bus stop information signs up to three (3) square feet in area shall be allowed in all districts. These signs shall have a maximum height of six (6) feet unless otherwise required by applicable law.

6.04.03 Multi-family residential developments.

For the purposes of this section, the term "multi-family residential development" shall include apartments, duplexes, triplexes, condominiums, or other residential classifications where more than one (1) family occupies a building. Multi-family residential developments can be either stand alone projects, or part of an overall planned unit development. Except for those signs and sign-types allowed in accordance with section 6.05.02, above, no additional signs or sign-types shall be permitted in any multi-family residential or residentially-zoned districts, except for the following sign-types:

- A. Each multi-family residential development shall be allowed one (1) permanent wall or monument sign for each primary street frontage; however, such sign shall not exceed twenty-four (24) square feet in size (area), except that developments with twenty-five (25) units or less shall have a permanent wall or monument sign which is a maximum of sixteen (16) square feet in total size.
- B. One (1) off-site permanent monument identification sign located within one hundred (100) feet of a residential development to which it pertains is allowed. For applicable size, height and other restrictions see section 6.04.01(G) above.
- C. On-site interior road directional signs. On-site interior road directional signs, not exceeding three (3) square feet in sign area, and three (3) feet in height shall be allowed on each parcel or lot. These signs may not exceed fifteen (15) square feet in the aggregate.

- D. For new multi-family developments, all signs will be approved as part of the Final Site or Subdivision Plan process.
- E. Design criteria and development review.
 - 1. Sign colors and materials should match or coordinate with the primary building facade.
 - 2. A rendering of the sign will be required for all signs associated with new site or subdivision plans during the Final Construction Plan process. The size, location and relationship of all permanent signs and sign structures shall be included in the required site plan or subdivision plans. Any subsequent change to an approved site or subdivision plan must meet all restrictions, limitations and provisions of this Chapter.
 - 3. For signs associated with new site or subdivision plans, the Final Construction Plans shall include detailed landscaping and irrigation plans associated with the sign as well as details on any lighting associated with the sign.

6.04.04 Single Family Subdivisions.

For the purposes of this section, the term "single family subdivisions" shall include those projects where one (1) family occupies one (1) building, and the property is either owned by that same homeowner, or owned by a common property owners' association.

- A. Entrance Signs. Permanent single-faced wall or monument signs shall be permitted in equal size and located on each side of the subdivision entrance roadway. Each sign structure shall be a maximum of thirty-two (32) square feet in size and the height shall not exceed eight (8) feet.
- B. A subdivision may instead have one (1) double-faced sign facing perpendicular to the entrance road. The sign structure shall be a maximum of thirty-two (32) square feet in size and the height shall not exceed eight (8) feet.
- C. Internal Signs. For those larger single family subdivisions that may have different villages or areas within them, wall or monument signs may be permitted at one (1) main entrance to each internal development subject to the following:
 - 1. Two (2) single-faced signs equal in size and located on each side of the entrance roadway, which sign structures shall not exceed sixteen (16) square feet in size with a maximum of six (6) feet in height, or
 - 2. One (1) double-faced sign perpendicular to the entrance road, which sign structure shall not exceed sixteen (16) square feet in size with a maximum of six (6) feet in height.
- D. For new single family subdivisions, all signs will be reviewed in conjunction with the Final Construction Plan process. The size, location and relationship of all permanent signs and sign structures shall be included in the required site plan or subdivision plans. The Final Construction Plans shall include detailed landscaping and irrigation plans

associated with the sign as well as details on any lighting associated with the sign. Any subsequent change to an approved site or subdivision plan must meet all restrictions, limitations and provisions of this Chapter.

6.04.05 Signs Where Primary Use is Non-residential.

Except for those signs and sign-types allowed in accordance with section 6.05.02, above, no additional signs or sign-types shall be permitted on any lot or parcel in developments or districts whose primary use is nonresidential, except the following sign-types shall be allowed for each lot or parcel with primarily a nonresidential use:

A. Area, Height, Setbacks, and Sizes:

Table 6.04.05: Area, Height, Setbacks, and Sizes

Gross Floor Area of Building	Max. Copy Area for Sign	Max. Height for SR 50 or CR 33 Frontage	Max. Height for all other Street Frontages	Min. Setback from R-O-W	Wall Sign Area Per Tenant in Building
Under 40,000 sq.ft.	32 square feet	8 feet	8 feet	10 feet	1 sq.ft. per business frontage Not to Exceed 32 sq.ft.
40,000 sq.ft. to 125,000 sq.ft.	48 square feet	12 feet	8 feet	10 feet	1.5 sq. ft. per business frontage Not to Exceed 60 square feet
Over 125,000 sq.ft.	60 square feet	12 feet	8 feet	10 feet	2 square feet per business frontage Not to Exceed 100 square feet

B. One (1) attached sign (i.e., a permanent wall sign or window sign) shall be allowed on the ground level; however, such sign (a) shall not exceed sixteen (16) feet in height, and (b) shall not exceed the lesser of: (i) forty (40) percent of the signable area, or (ii) one hundred fifty (150) square feet. In the event the parcel contains a multi-tenant development, each individual unit or space may have one (1) attached sign.

- C. One (1) permanent wall or window sign shall be allowed on the second floor level; however, such sign (a) shall not exceed twenty-five (25) feet in height, and (b) shall not exceed the lesser of: (i) forty (40) percent of the signable area, or (ii) one hundred (100) square feet, whichever is less. In the event the parcel contains a multi-tenant development on the second floor level, each individual unit or space may have one (1) attached sign.
- D. One (1) permanent monument sign shall be allowed on the parcel; however, any such sign shall not exceed the limitations set forth in subsection (A) above, unless the limitations in subsection 6.04.01(G) above apply.
- E. One (1) permanent marquee sign or one (1) projecting sign shall be allowed. However, any such sign shall not exceed the limitations set forth in subsection (A) above. These signs are in lieu of the sign(s) in subsections (B), (C), and (D) above and are not in addition to the signs described in subsections (B), (C) and (D) above.
- F. One (1) off-site permanent monument identification sign located within one hundred (100) feet of a commercial subdivision, office park, or shopping center to which it pertains shall be allowed. This sign shall be in lieu of the sign allowed in subsection (A) above, and shall not be in addition to the sign allowed under subsection (A) above. The size, height and other restrictions for this sign shall be as in subsection 6.04.01(G) above.
- G. Each restaurant shall be allowed one (1) attached display box sign of no more than six (6) square feet of sign face area, located at the entrance, or service window of a restaurant, and one (1) freestanding drive-through menu sign. The drive-through sign shall be placed so as to be viewed from the drive-through lane and may provide a speaker mechanism for ordering products while viewing the drive-through menu sign and shall not violate the dark skies or lighting provisions of this land development code. The drive-through menu sign shall have a copy area not exceeding thirty-two (32) square feet. The top of the sign and its surrounding or supporting framing/structure shall not exceed eight (8) feet above ground level. The drive-through sign lettering will be no larger than necessary in order to be read from a vehicle located in the drive-through lane. Drive-in restaurants may have one (1) additional attached sign, not exceeding six (6) square feet in total sign area, per drive-in stall or bay.
- H. Motor vehicle service stations and convenience stores with fuel operations, corporate stripes, logos, designs, and colors proposed for the principal structure or the canopy over the fuel operations, shall be counted as part of the overall permitted sign area. No additional sign area is permitted for canopies over fuel operations; however, permitted wall sign area for the principal structure may be transferred to the canopy.
- I. No more than twenty (20) percent of the total window area on the front facade of any building shall be used for sign copy of a window sign. This is

- to allow window signs, while still maintaining visibility. This is not to prevent window displays with items that are not directly affixed to the windows, as long as visibility into the structure is maintained at the ground level.
- J. In any nonresidential district, a canopy or awing sign may be permitted in lieu of a wall sign at an individual, single-occupant, premises. Such canopy or awning and signage square footage combined shall not exceed the total permissible square footage for a wall sign. The height of the canopy or awning shall not exceed sixteen (16) feet (first floor), or twenty-five (25) feet (second floor), or the height of the structure on which it is attached, whichever is less. Awnings may be non-illuminated or externally illuminated only by down-directed and shielded fixtures. Individual storefront canopies or awnings are not permitted in shopping centers unless the canopy or awning is an integral architectural element of the entire center storefront.
- K. One (1) permanent directory sign shall be allowed on each parcel or lot. This sign shall not exceed six (6) feet in height and shall not exceed eighteen (18) square feet in area.
- L. Noncommercial onsite directional signs. Noncommercial on-site directional signs, not exceeding three (3) square feet in sign area, and three (3) feet in height shall be allowed on each parcel or lot. These signs may not exceed fifteen (15) square feet in the aggregate.

6.05.00 SEVERABILITY

6.05.01 In General.

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter, this ULDC, or any adopting ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ordinance.

6.05.02 Severability Where Less or More Speech Results.

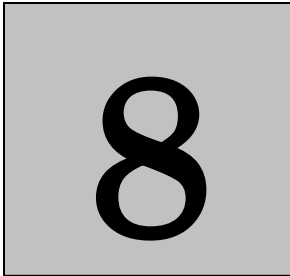
Without diminishing or limiting in any way the declaration of severability set forth above in section 6.04.01, or elsewhere in this chapter, this ULDC, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter, even if such severability would result in a situation where there would be less or more speech, whether by subjecting previously exempt signs to permitting or otherwise.

6.05.03 Severability of Provisions Pertaining to Prohibited Signs.

Without diminishing or limiting in any way the declaration of severability set forth above in section 6.05, or elsewhere in this chapter, this ULDC, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter that pertains to prohibited signs, including specifically those signs and sign-types prohibited and not allowed under section 6.01.04 of this chapter. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 6.01.04 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 6.01.04.

6.05.04 Severability of prohibition on billboards.

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter and/or any other ULDC provisions and/or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on billboard signs exceeding the size and other limitations as contained in this chapter and ULDC.



CHAPTER 8

COMMITTEES AND AGENCIES

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8.00.00 GENERALLY

- A. The Town Council has established the committees and agencies identified in this chapter for the purpose of implementing the provisions of the ULDC.
- B. Procedures pertaining to matters addressable by the committees and agencies are set forth in Chapters 9 and 10 of this ULDC.

8.01.00 LOCAL PLANNING AGENCY**8.01.01 Creation and Duties**

There is hereby created a local planning agency (LPA) charged with all the duties and responsibilities as provided in Section 163.3174, *F.S.* The LPA shall hold at least one (1) noticed public hearing to consider, propose, or make recommendation(s) as appropriate to the Town Council regarding amendments to the Town Comprehensive Plan or this ULDC.

8.01.02 Membership

The Town Council shall appoint the members of the LPA, and may appoint themselves as the members of the local planning agency.

8.01.03 Rules of Procedure

The local planning agency shall adopt rules of procedure to be approved by the Town Council.

8.02.00 TECHNICAL REVIEW COMMITTEE**8.02.01 Creation**

There is hereby created a Technical Review Committee (TRC) that shall review development proposals as described in Chapter 10 and make recommendations to the Town Council.

8.02.02 Membership

- A. Regular membership
 - 1. The TRC shall consist of three (3) members to be appointed by the Town Council.
 - 2. The members of the TRC shall be qualified and experienced in development review and may be members of Town, county, or regional district staff, consultants, or officials, building officials, fire or other district personnel.
 - 3. No member of the Town Council may serve on the TRC.
- B. Terms of office, Vacancy, Removal
 - 1. The Town Council shall appoint each member to a four (4) year term. A member shall not serve more than two (2) consecutive terms.
 - 2. The Town Council shall fill any vacancy in membership for the unexpired term of the vacancy pursuant to the same procedure followed in the appointment of the previous member.
 - 3. The Town Council shall have the authority to remove any member of the TRC at will.
- C. Officers

1. The TRC shall elect its chairman from among the regular members.
 2. The term of the chairman shall be one (1) year.
 3. The TRC shall determine the schedule and time of meetings. The Technical Review Committee shall provide this meeting schedule to the Town Council with no less than seven calendar days notice.
- D. The Town may reimburse members for actual expenses incurred in connection with their official duties.

8.02.03 Rules of Procedure

- A. The TRC shall adopt rules of procedure to be approved by the Town Council.

8.02.04 Roles and Responsibilities

The TRC shall have all the powers, duties, and responsibilities as follows:

- A. Those powers, duties and responsibilities as set forth in Chapter 163, *F.S.* to:
1. Prepare, or cause to be prepared, the Comprehensive Plan or Comprehensive Plan amendments;
 2. Make recommendations to the Town Council on the Comprehensive Plan or Comprehensive Plan amendments; and
 3. Recommend any changes to the Comprehensive Plan as may be required, including preparation and recommendation of periodic amendments to the Comprehensive Plan in accordance with Section 163.3191, *F.S.*
- B. Review proposed amendments to the ULDC and make a recommendation to the Town Council regarding the consistency of such amendments with the Comprehensive Plan.
- C. Review and recommend approval or denial of local development permits and certificates of concurrency to the Town Council.
- D. Other duties as described by Town ordinance or resolution.

8.03.00 COMMUNITY REDEVELOPMENT AGENCY

8.03.01 Creation

Pursuant to Chapter 163, Part III, *F.S.* and adopted by *Ordinance 2000-2*, *Town of Marineland Community Redevelopment Area Ordinance*, a Community Redevelopment Area was created and a Community Redevelopment Agency for the CRA was also created to be known as the "Town of Marineland Community Redevelopment Agency" (Agency).

8.03.02 Membership, Terms of Office, and Vacancies

- A. The Agency shall consist of the Town of Marineland Town Council plus one additional member designated by Flagler County Officials.
- B. The term of membership shall be commensurate with the terms of office served by each Town Council Member and the Mayor.
- C. A vacancy occurring during a term shall be filled in the same manner as provided for filling a vacancy in the term of the Mayor or other members of the Town Council.

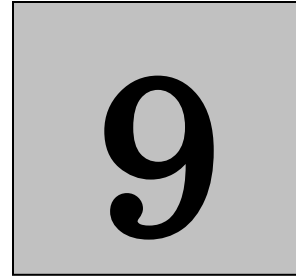
8.03.03 Organization

The following members shall serve as officers of the Agency:

- A. The Mayor shall serve as chair; and
- B. The Vice-Mayor shall serve as vice-chair.

8.03.04 Roles and Responsibilities

- A. The Community Redevelopment Agency shall have the powers as provided under Part III of Chapter 163, *F.S.*, with exception of the power reserved to the Town Council as set forth in Section 163.358, *F.S.*
- B. The Community Redevelopment Agency shall have the following additional roles and responsibilities with respect to this ULDC:
 - 1. To hear, consider, and make recommendations to the Town Council regarding amendment of the text of the Comprehensive Plan pertaining to growth and development within the CRA Overlay District; and
 - 2. To hear, consider, and make recommendations to the Town Council regarding amendment of the Future Land Use Map of the Comprehensive Plan for properties within the CRA Overlay District.



CHAPTER 9

VARIATIONS FROM ULDC REQUIREMENTS

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9.00.00 PURPOSE AND INTENT

The purpose of this chapter is to provide mechanisms for property owners to obtain relief in the event that the provisions of this ULDC cause undue hardship or to obtain permission to conduct land development activities where the desired activity or use is not consistent with the requirements of the ULDC but is in harmony with the purpose and intent of the ULDC.

9.01.00 NONCONFORMING SITUATIONS

9.01.01 Continuation of Nonconforming Uses and Structures

A. Nonconforming Uses. The lawful use of a building, structure or premises, existing at the time of the adoption of this ULDC, may continue although such use does not conform to the provisions of this ULDC until such use is discontinued for a period of more than one-hundred eighty continuous (180) days. Nonconforming uses shall not be converted to other nonconforming uses even if the proposed use is less non-conforming.

B. Nonconforming Structures. A lawful structure existing at the time of adoption of this ULDC that does not conform with this ULDC can remain until the structure is involuntarily destroyed or voluntarily demolished. Nothing in this chapter shall be construed to prevent the ordinary and routine maintenance and repair of nonconforming structures provided that the costs of repair or replacement are less than fifty percent (50%) of the value of the structure, based on the appraised value as assessed by the County property appraiser.

9.01.02 No Expansion or Modification of Nonconforming Uses or Structures

A. No existing building, structure or premises shall be changed, reconstructed, extended, expanded or structurally altered in any manner or used for any purpose not consistent with the provisions of this ULDC or any other applicable law.

B. A nonconforming use shall not be enlarged, increased, expanded or extended or occupy a greater area of land than at the time of the adoption of this ULDC.

C. If a nonconforming use is discontinued for a continuous period of one-hundred eighty (180) days, every future use of such premises shall be in conformity with the provisions of this ULDC.

D. A nonconforming structure may be repaired when such structure is partially destroyed or damaged, provided that the costs of repair or replacement are less than fifty percent (50%) of the value of the structure, based on the appraised value as assessed by the County property appraiser.

E. A nonconforming building or structure, which is voluntarily demolished or involuntarily destroyed, partially destroyed, or damaged must be brought into full compliance with this ULDC if the cost to repair such damage is greater than fifty percent (50%) of the value of the structure.

9.01.03 Specific Provisions for Nonconforming Residential Lots of Record

The minimum lot area, as specified in this ULDC for any residential land use district, shall not apply to lots upon which buildings existed prior to the adoption of this ULDC. Non-conforming lots which do not have buildings may be combined or joined with other lots to create a buildable lot and may apply for a variance or beneficial use determination.

9.02.00 VARIANCES

9.02.01 Generally

Where there are practical difficulties or unnecessary hardships involved in carrying out the strict adherence to this ULDC, an application for a variance from the ULDC requirements may be made to the Town Council, using the procedure established in Section 9.02.03.

9.02.02 Required Findings for a Grant of Variance

In considering variations from the terms of this ULDC, the Town Council will consider granting a variance based on an affirmative response (i.e., each of the questions raised in the findings can be answered in the affirmative “yes”) for each of the following findings:

- A. The proposed variance does not constitute a change in the land use districts shown on the Future Land Use Map and the proposed variance does not violate the goals, objectives or policies set forth in the Comprehensive Plan
- B. There are substantial practical difficulties and hardships in carrying out the strict letter of the ULDC due to special conditions and circumstances that are peculiar to this particular parcel, lot, land, structure, or building that are not applicable to or found on other lands, structures, or buildings in the same land use district
- C. The special conditions and circumstances do not result from the actions of the applicant
- D. The variance request is not based on the presence of nonconformities in the district or adjoining districts
- E. Strict interpretation of the provisions of the ULDC would deprive the applicant of rights commonly enjoyed by others in the same land use district under the terms of the ULDC and would work unnecessary and undue hardship on the applicant
- F. The variance as requested or the variance as granted (because it is reduced in scope or subjected to additional conditions of approval) is the minimum variance that will make possible the reasonable use of the land, building, or structure for an allowable use in the district
- G. The grant of the variance will be in harmony with the general intent and purpose of this ULDC and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare, and the proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site

- H. The variance request is not based exclusively or solely upon a desire to reduce the cost of (or to increase profits from) developing the site or economic circumstances
- I. That the variance, if granted, is based on competent substantial evidence supporting the findings required by this section

9.02.03 Procedures for Variances

- A. Any person requesting a variance from the terms of this ULDC shall make formal application to the Town Council on forms provided by the Town Administrator.
- B. Any person requesting a variance shall issue payment to the Town of an appropriate fee as established by the Town Administrator. Payment of the fee shall accompany the application. No portion of the fee shall be refunded whether the request is withdrawn by the applicant or denied or granted by the Town.
- C. The Town may reduce or condition approval of a variance requested in size or type to the minimum necessary to prevent a taking of all reasonable use or value of the property as currently zoned.
- D. Any variance that is granted shall be memorialized in writing (either as a Resolution or Final Order granting the variance) and shall set forth the findings and reasons for granting the variance and any conditions of approval.

9.02.04 Specific Requirements for Variances in Areas of Flood Hazard

- A. Generally
 - 1. Variances may be granted for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
 - a. Any person aggrieved by the decision of the Local Planning Agency or any taxpayer may appeal such decision to the county circuit court.
- B. Required Findings

Variances shall only be granted upon a determination of the following:

 - 1. The variance is the minimum necessary, considering the flood hazard, to afford relief;
 - 2. In the instance of a historical building, the variance is the minimum necessary so as not to destroy the historic character and design of the building;
 - 3. Failure to grant the variance would result in exceptional hardship;
 - 4. Granting the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; and
 - 5. Granting the variance will not create a nuisance, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

C. Factors for Consideration

In reviewing applications for variance, the Local Planning Agency shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ULDC, and the factors listed in Table 9.02.04(B).

Table 9.02.04(B). Factors Specific to Areas of Flood Hazard.

A.	The danger that materials may be swept onto other lands to the injury of others;
B.	The danger to life and property due to flooding or erosion damage;
C.	The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
D.	The importance of the services provided by the proposed facility to the community;
E.	The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
F.	The availability of alternative locations, not subject to flooding or erosion damages, for the proposed use;
G.	The compatibility of the proposed use with existing and anticipated development;
H.	The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
I.	The safety of access to the property in times of flood for ordinary and emergency vehicles;
J.	The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
K.	The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges

D. Variances shall not be granted within any designated floodway if any increase in flood levels during the base flood discharge would result.

E. Upon consideration of the factors listed in this section, and the purposes of this ULDC, the Local Planning Agency may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ULDC.

F. Variances shall only be granted upon a showing of good and sufficient cause.

G. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of

flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- H. The Building Official shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

9.03.00 APPEALS OF ADMINISTRATIVE ACTIONS

9.03.01 Applicability

Any person may file an appeal when it is alleged that there is error in any order, requirement or decision made by the Town in the application or interpretation of this ULDC.

9.03.02 Time for Filing an Administrative Appeal

- A. An applicant appealing an administrative decision under the terms of this section shall make formal application to the Town Council and shall pay a fee as established by the Town Administrator. No portion of the appropriate fee shall be refunded whether the request is withdrawn by the applicant or denied or granted by the Town.
- B. An application for consideration of an appeal of an administration decision shall be filed with the Town Administrator within thirty (30) days of the decision that is the subject of the administrative appeal.

9.04.00 ADMINISTRATIVE WAIVERS

9.04.01 Reduction in Required Parking

- A. A reduction of required parking spaces may be allowed by the Town Administrator when the reduction would result in:
 - 1. The preservation of a protected tree with a trunk of twelve (12) inches DBH or greater; or
 - 2. The preservation of native shrubs and/or ground cover in a quantity exceeding the minimum requirements of Section 3.05.00.
- B. The reduction in required parking may be granted only if it will prevent the removal of a protected tree or native vegetation that is located within the area of the site designated as a vehicular use area.
- C. The following reduction schedule shall apply:

Table 9.04.01(C). Reduction in Parking.

Required Parking Spaces (Number)	Reduction of Required Parking Spaces Allowable
1 to 4	0
5 to 8	1
10 to 18	2
20 or above	Ten (10) percent of total number of spaces maximum reduction regardless of number of

	trees or percentage of native vegetation preserved
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9.04.02 Reserved

9.05.00 SUSTAINABILITY WARRANTS

9.05.01 Purpose and Intent

The purpose of this subsection is to provide standards and procedures for the granting of a Sustainability Warrant by the Town Council upon a finding that use of an alternative performance standard that deviates from standards and criteria set forth the ULDC is preferable because it furthers, promotes and is in harmony with the purpose and intent of the ULDC, and offers more protection of environmental and natural resources of the Town and the ability of the ecosystem to maintain ecological processes and functions, biodiversity and ecological productivity into the future.

9.05.02 Pre-application Conference

The applicant shall meet with the Town Administrator to discuss informally the requirements of this sub-section and the nature of the proposed Sustainability Warrant prior to submitting an application for a Sustainability Warrant. The Town Administrator may specifically waive the pre-application conference requirement.

9.05.03 Submittal of the Application

- A. The applicant shall submit to the Town Administrator an application for a Sustainability Warrant on a form provided by the Town Administrator. The Town Administrator shall not accept an incomplete application. The Town Administrator shall establish and strictly adhere to application deadline.
- B. The applicant shall submit the following information along with the application for a Sustainability Warrant to the Town Administrator:
 1. Documents, reports, or other materials published by a generally recognized professional organization or government agency that describe the requested performance standard and support the Sustainability Warrant Application;
 2. If title to the property is not in the applicant's name and the property owner does not sign the application, the applicant shall submit a document signifying the owner's consent or an affidavit by the applicant;
 3. Any documents, plans, or other materials the Zoning Official determines are necessary to supplement the Sustainability Warrant Application.

9.05.04 Review by the Town Council

The Town Council shall approve the Sustainability Warrant Application by super-majority vote based on the application, the requirements of this Part, and the recommendations of the staff.

9.05.05 Effect of Sustainability Warrant Approval

- A. The voluntary removal, abandonment, or failure to exercise a privilege approved by a Sustainability Warrant for a period of six (6) months shall terminate the privilege approved by the Sustainability Warrant. Upon written request of the applicant stating the reasons for the voluntary removal, abandonment or failure to exercise a privilege approved by a Sustainability Warrant, the Town Council may extend the time limits in this paragraph for one period not to exceed six (6) months.
- B. The approval of an application for a Sustainability Warrant shall not constitute a general modification of the requirements of the ULDC for any property or portion of property not specified in the Sustainability Warrant.
- C. The approval of an application for a Sustainability Warrant shall not constitute a condition peculiar to the property that creates an undue construction or development hardship in complying with the strict letter of the ULDC.

9.05.06 Factors for Sustainability Warrant Approval

In determining whether to approve or deny an application for a Sustainability Warrant, the Town Council shall consider the following factors:

- A. The requested performance standard has been published by a generally recognized professional organization or government agency;
- B. Approval of the Sustainability Warrant is in harmony with the purpose and intent of the ULDC;
- C. Approval of the Sustainability Warrant will not injure or unreasonably interfere with the use or enjoyment of the property of another, or otherwise detrimentally affect the public welfare;
- D. The requested performance standard does not mitigate the application or affect of another unrelated performance standard required by the ULDC; and
- E. The requested performance standard does not require the approval of a variance to install or implement.

9.05.07 Prohibited Sustainability Warrants

The Town Council shall not grant a Sustainability Warrant if granting the Sustainability Warrant would permit a use or intensity not generally allowed in the affected land use district, or if granting the Sustainability Warrant would permit any use or density expressly or by implication prohibited in the affected land use district.

9.06.00 RESERVED

9.07.00 VESTED RIGHTS

9.07.01 Purpose and Intent

The purpose of this Section is to provide a method to recognize vested rights and works-in-progress that were authorized prior to the adoption of this ULDC.

9.07.02 Time Period and Applicability

- A. Within one (1) year from the original date of adoption of this ULDC or the date that the Town Council adopts an amendment to this ULDC that affects vested rights or creates a substantial and unreasonable conflict with a development work-in-progress, the affected party may apply for relief.
- B. Any project that constitutes a public nuisance and/or any project presenting a danger to the public health, safety, and welfare of the residents of the Town shall not qualify for consideration for relief.
- C. Vested Rights Determination Standards
 1. A determination of vested rights shall be based upon one or more valid, unexpired permits or approvals issued by the Town prior to the effective date of this Comprehensive Plan and ULDC.
 2. The determination of vested rights shall be limited to the development expressly contemplated by said permits or approvals and to those aspects of development, which meet the standards, and criteria of this Policy.
 3. The applicant for a vested rights determination shall have the burden of proving that:
 - a. The applicant has reasonably relied upon an official act by the Town. For the purposes of a vested rights determination pursuant to this Comprehensive Plan and ULDC, any of the following may constitute an official act:
 - i. One or more valid, unexpired permits or approvals issued by the Town, provided that the mere zoning or land use designation of property shall not be deemed to constitute a permit or approval for the purpose of a determination of vested rights; or
 - ii. A subdivision plat recorded in the official records of the County that fulfills the criteria established in Section 380.05(18), F.S.; or
 - iii. An unexpired determination of vested rights granted by Town; or
 - iv. A valid, unexpired building permit issued prior to the effective date of this Comprehensive Plan or ULDC; and
 - b. The applicant acting in good faith, has made such a substantial change of position or has incurred such extensive obligations and expenses that it would be highly inequitable or unjust to affect such rights by requiring the applicant to now conform to the comprehensive plan and land development regulations.
 - c. Substantial changes of position or expenditures incurred prior to the official Town act upon which the vested rights claim is based shall not be considered in making the vested

- rights determination; and
 - d. That the development has commenced and has continued in good faith without substantial interruption
- D. If an applicant can conform to portions of the ULDC and still be in compliance with previous approvals then approval of a vested rights determination can be conditioned upon compliance with those achievable portions of the ULDC:
- 1. If density was approved without a detailed site plan, and no further building or construction permits were obtained then:
 - a. density may be vested, but
 - b. all roads, site plans and new structures shall comply with the ULDC provisions to the greatest extent possible to the extent that the ULDC provisions do not preclude densities that can still be achieved.
 - 2. If a detailed site plan was approved then the detailed site plan may be vested if it meets the criteria for vesting set forth in this section 9.07.02.

9.07.03 Applications

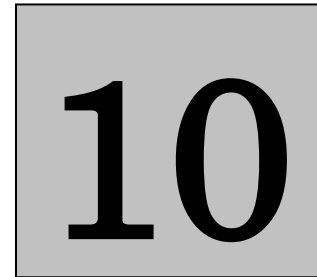
- A. The affected party shall submit an application that includes evidence demonstrating entitlement to vested rights pursuant to applicable State law. The applicant shall provide following information along with the application:
- 1. The specific section(s) of the ULDC that affect the development of the property; and
 - 2. The exact dates the specific ordinances or amendments to the ULDC were passed by the Town Council.
- B. All complete applications provided for under this section shall be submitted not later than one (1) year after the date of adoption of this ULDC or the amendment to this ULDC that are the subject of the application for relief.

9.07.04 Procedures

- A. The applicant shall submit complete applications to the Town Administrator.
- B. The Town Council shall make a determination of vested rights at a public hearing, following public notice provided according to the procedures set forth in Section 10.04.00.

9.07.05 Expiration of Approval

Vested rights shall automatically expire one (1) year from the date of approval where no additional development activity is evident or where the applicant has not obtained a building permit, commenced and continued in good faith with construction of the specific use(s) and structure(s) to be vested. Any further work on the site shall require an application for a development plan in full compliance with the standards and procedures of this ULDC.



Chapter 10

ADMINISTRATIVE PROCEDURES

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DRAFT TOWN OF MARINELAND UNIFIED LAND DEVELOPMENT CODE

ADMINISTRATIVE PROCEDURES

CHAPTER 10

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10.00.00 GENERALLY**10.00.01 Purpose and Intent**

The purpose of this Chapter is to establish procedures for receiving, reviewing, and rendering decisions on applications for development permits, local development orders, tree removal permits, and amendments to this ULDC, permits and orders. The intent of this Chapter is to provide administrative procedures that maximize efficiency and consistency throughout the permitting process.

10.00.02 Applicability

The procedures established in this Section shall apply to all applicants seeking approval for any development within the Town. Procedures for appealing decisions and seeking variation from the standards of this ULDC are set forth in Chapter 9.

10.01.00 DEVELOPMENT PERMITS AND LOCAL DEVELOPMENT ORDERS**10.01.01 Development Permits and Local Development Orders Required**

- A. A development permit or local development order shall be required in conformance with the provisions of this ULDC prior to the commencement of any development activities.
- B. A development permit shall be required for the following activities:
 - 1. Construction of any building or structure;
 - 2. Installation of utilities, streets, driveways, drainage systems, building systems (electrical, gas, mechanical, or plumbing), accessory structures; and
 - 3. Any other construction, reconstruction, site improvements, or modifications to the land or water on a site.
- C. A local development order shall be required prior to initiating construction for any of the activities authorized by the following:
 - 1. Final development plan for planned unit development (PUD);
 - 2. Site plan;
 - 3. Site plan for development subject to supplemental standards; and
 - 4. A change of use to food service uses, medical uses, uses that require an increase in parking spaces, or uses that require concurrency review.
- D. No development permit shall be approved unless all required local development orders necessary to the development activity proposed in the development permit application have first been approved.

10.01.02 Exemptions, Exceptions, and Permits

See Section 1.03.02 for a list of activities that are exempt from the requirement to obtain a local development order prior to submission of an application for a development permit. The following activities are subject to other specific Town permit requirements:

- A. Tree removal permits as set forth in Section 10.02.00.
- B. (Reserved).

10.01.03 Commencement of Work and Expiration of Development Permits and Local Development Orders

- A. Commencement of work based on a development permit or a local development order shall be initiated within one (1) year from the date the order is issued.
- B. The development permit or a local development order shall expire if work does not commence within one (1) year from the date of issuance.
- C. Where a project is initiated under the development permit or a local development order, it may continue as long as the building and inspection process continues.
- D. Where activity toward completion of a project under a development permit or a local development order ceases for a period exceeding six (6) months, the development permit or local development order shall be considered void. No further activity shall be undertaken until a new permit is issued.

10.01.04 Fees required

- A. The applicant shall pay all appropriate fees at the time an application for development review is submitted.
- B. No portion of the appropriate fee shall be refunded whether the request is withdrawn by the applicant or denied or granted by the Town.
- C. The applicant shall pay the actual cost of processing any permit, land use approval or other items requiring approval by the Town Council.
- D. The applicant shall pay a deposit for processing and review fees based on an estimate established by the Town Administrator.
- E. Permit fees shall reflect the actual cost of administration and management of the permitting process. In the event the actual costs are greater than the estimate established by the Town Administrator, the applicant shall pay the difference.
- F. The fee schedule may be amended from time to time by the Town Administrator.
- G. Applicant shall pay all costs and fees incurred by Town for review of applications by consulting professionals.

10.01.05 Fees for Independent Review of Applications

The Town is authorized to enter into a contract with persons who have expertise necessary for the review of an application or a specific technical aspect of an application. The applicant shall pay all costs of such review.

10.01.06 Certificate of Occupancy

A certificate of occupancy demonstrating full compliance with the ULDC and other requirements shall be obtained by the property owner prior to the use or occupancy of land or buildings. When a change of use occurs, a new certificate of occupancy shall be required. This section shall not be construed to apply to the transfer of ownership or the change of occupants.

10.01.07 Application Requirements

Table 10.01.07 summarizes the final decision-making authority for the issuance of development permits and local development orders.

Table 10.01.07. Types of Applications and Responsible Parties for Final Review and Decision-Making.

	Party Responsible for Final Review and Decision-Making		
	Type of Application	<i>Town Administrator</i>	<i>Town Council</i>
Local Development Orders	Site plan for development, with or without supplemental standards		X
	PUD master plan and land use overlay		X
	Amendments to local development orders		X
	Tree Removal Permit	X	
Development Permits	Minor amendments to development permits	X	
	Large Scale Comprehensive Plan and FLUM Amendment		X
	Multifamily Dwellings, Townhouses, and Commercial		X
	Single-family, Two-family (Duplex) Dwellings	X	
Ordinances	Small Scale Development Amendment (FLUM)		X
	Amendment to the ULDC		X

10.01.08 Technical Review Committee Review Requirements

The Technical Review Committee (TRC) shall review all development orders but TRC review is not required for review of single-family and two-family (duplex) development permits.

10.01.09 Pre-application Meeting and Conference

- A. An applicant shall request a pre-application meeting with the Town Administrator.
- B. If requested, the applicant shall schedule the pre-application conference with the TRC to occur at the next regular meeting date of the TRC.

10.01.10 General Requirements for All Applications

All applications for a development permit or a local development order shall be made to the Town Administrator on forms furnished by the Town. All

development applications shall contain, at a minimum, the information shown in Table 10.01.10.

Table 10.01.10. General Development Application Submittal Requirements.

A	Name, address, and phone number of the property owner.
B	Name, address, and phone number of the agent, if applicable.
C	A legal description of the land to be occupied by such construction, including dimensions of the lot.
D	Boundary survey prepared within the last two years.
E	Appropriate fee or fees as established by the Town.
F	Proof of ownership for all lands within the proposed project or use.
G	A vicinity sketch showing existing land uses, future land use map designations, public facilities, streets and roads, north point, scale, and date. The sketch shall be referenced to easily recognizable physical features.
H	Requirements for Areas of Flood Hazard. The following information shall be submitted when a proposed project is located within a flood hazard area as established in Section 3.02.05.
	1. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
	2. Elevation in relation to mean sea level to which any nonresidential building shall be floodproofed;
	3. Certificate from a registered professional engineer or architect that the nonresidential floodproofed building shall meet the floodproofing criteria in Section 3.02.08; and
	4. Description of the extent to which any watercourse shall be altered or relocated as result of proposed development.
	5. During construction within a flood hazard area, the following elevations and certifications shall be submitted:
	a. Upon placement of the lowest floor or floodproofing by whatever construction means or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the Building Official whichever document is applicable, as built, in relation to mean sea level:
	i. A certification of the elevation of the lowest floor,
	ii. A base flood elevation, or
	iii. The elevation of the lowest portion of the horizontal structural members of the lowest floor.
	iv. Such certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by such surveyor and engineer.

	v. When floodproofing is utilized for a particular building, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by such engineer and architect.
	b. No work shall be undertaken prior to submission of the approval of the certification.
	c. The Building Official shall review the floor elevation survey data submitted.
	d. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to any work being permitted to proceed.
	e. Failure to submit the survey or failure to make the corrections required hereby shall be cause to issue a stop work order for the project.

10.01.11 Application for Local Development Orders

An application for a local development order shall include, at a minimum, the requirements listed in Table 10.01.11.

Table 10.01.11. Submittal Requirements for Applications for Local Development Orders.

A	Requirements listed in Section 10.01.10.
B	Site plan drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, utilities and the location of such items.
C	Engineering calculations, including traffic calculations.
D	Demonstration of compliance with the requirements for a stormwater management plan.
E	Coordination with other governmental entities, as applicable (FDEP, FDOT, USACOE, County).
F	Tree survey and landscape plan (Section 3.05.00).
G	Erosion control.
H	For new construction, include drawings to scale or dimensions shown for the following plans, including specifications:
	1. Floor plan;
	2. Front, side, and rear elevation plans;
	3. Utility plan; and
	4. Wetlands delineations.

10.01.12 Application for Development Permits

All development activity shall require issuance of a permit by the Town. Each development permit application shall include demonstration of compliance with the

associated development order and shall include the information set forth in Table 10.01.12.

Table 10.01.12. Submittal Requirements for Applications for Local Development Permits.

A	Requirements listed in Section 10.01.10.
B	Compliance with site plan drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, utilities and the location of such items.
C	Engineering calculations, including traffic calculations.
D	Demonstration of compliance with the requirements for a stormwater management plan.
E	Permits from all other governmental entities, as applicable (FDEP, FDOT, USACOE, County).
F	Updated tree survey and landscape plan (Section 3.05.00).
G	Erosion control.
H	For new construction, include drawings to scale or dimensions shown for the following plans, including specifications:
	5. Floor plan;
	6. Front, side, and rear elevation plans;
	7. Utility plan; and
	8. Wetlands delineations.
I	Compliance with green building requirements (Section 3.09.00)
J	Compliance with dark sky requirements, lighting, and sea turtle protection (Section 3.08.00)
K	Compliance with Florida Yards and Neighborhoods requirements (Section 3.05.05)

10.01.13 Submittal Requirements for Site Plans, with or without Supplemental Standards

- A. The applicant shall submit all commercial, industrial, and multi-family site plans sufficient to demonstrate compliance of the site plan with the ULDC.
- B. The applicant shall submit additional plans, documents, or reports that are necessary to support the application as applicable, including, but not limited to traffic, parking, or environmental studies.

10.01.14 Submittal Requirements for PUD Master Plans

A master plan for a PUD shall be submitted as shown in Table 10.01.14. A complete master plan shall consist of a concept plan, a preliminary development plan, and a final development plan. See Section 10.06.00 regarding requirements for amendments to development orders, including master plans for PUDs.

Table 10.01.14. PUD Master Plan Submittal Requirements.

1	Concept Plan
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	<p>Prior to submitting a formal application for development plan approval, the developer shall submit a concept plan to the TRC to include:</p> <ul style="list-style-type: none"> a. A legal description of the parcel; b. An area map showing adjacent property owners and existing uses within 300 feet of the parcel; and c. A sketch plan drawn approximately to scale, showing the proposed use, conceptual design and layout of buildings, proposed vehicle and pedestrian rights-of-way and open space areas.
<p>2</p>	<p style="text-align: center;">Preliminary Development Plans</p> <p>The applicant shall present the preliminary development plan, along with the appropriate fee, to the Town Administrator. Maps and graphic illustrations shall be drawn at the required scale. The application shall include the information set forth in Section 10.01.03 as well as the following information in written and graphic form:</p> <ul style="list-style-type: none"> a. A discussion of the compatible relationship of the proposed development to the planned unit or traditional neighborhood development concept and adjacent land uses; b. A description of the physical characteristics of the proposed development, including total acreage, number of dwelling units, dwelling unit density by land use category, impervious surface ratios, minimum dimensional standards, lot size, yard and spacing requirements, and amount and location of common open space; c. Agreements, provisions, covenants, and other assurances governing the ownership, development, use, maintenance, and protection of all areas of the proposed development; d. A general statement of the proposed development schedule; e. A preliminary development plan showing the location, proposed use and height of all buildings; the quantity of each proposed use; the location of all parking and loading areas, with ingress and egress drives thereto; the location and proposed development of all common open spaces; the location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; the location and size of all signs; and the location and design of street parking lighting, landscaping and buffers; f. The location and availability of all utilities and the location of easements; g. A map or transparent overlay showing existing topographical contours of the proposed project; and h. General architectural features and the appearance of all building types.

3	Final Development Plans
	The final development plan shall be in basic compliance with the preliminary development plan and conform to all the conditions as adopted by the Town Council and provisions of this ULDC. The final development plan shall be submitted as required by the Town for recording. The final development plan shall include the following information:
	1. A statement of the number of acres, dwelling units, and net density by type of land use, including minimum standards proposed for floor area, lot size, and yard and spacing requirements;
	2. A specific statement of the development schedule;
	3. A detailed statement of agreements, provisions, and covenants which govern the ownership, development, use, maintenance, and protection of the development in any common or open space;
	4. A brief summary indicating the total acreage of the project; the total acreage in residential use, commercial use, common open space, recreational area, parking lots and access ways; and the number of dwelling unit density;
	5. Definitive maps and other graphic illustrations:
	i. The location and name of existing and proposed streets and the location of pedestrian walkways and bicycle paths;
	ii. The location, size and type of all buffers;
	iii. The location and dimensions of all easements;
	iv. The location and dimensions of all lots;
	v. A complete engineering plan for all utilities and drainage;
	vi. The location of all buildings, structures, facilities and amenities, including parking lots and access ways in the project;
	vii. The location of off-street parking and loading facilities; and
	viii. The location and use of existing and proposed public, semipublic or community facilities, including areas proposed to be dedicated or reserved for community or public use.
	5. A definitive drawing showing general architectural features and the appearance of representative building types; and
	6. A phasing plan, if proposed.

10.01.15 Submittal Requirements for Comprehensive Plan Amendments and Amendments to the ULDC

In addition to the information required in Section 10.01.02, all applications for amendments to the Comprehensive Plan or this ULDC shall include the information set forth in this section.

- A. A description of the proposed amendment, with specific citations to the Comprehensive Plan or ULDC sections proposed for amendment. Where the proposed amendment is to the Future Land Use Map, the application shall describe the existing and proposed Future Land Use Map categories.
- B. Supporting information to fully justify the proposed amendment.
- C. For amendments to the Comprehensive Plan, compliance with 9J-5 (F.A.C.) and documentation of anticipated impacts and any proposed mitigation of such impacts.
- D. A detailed statement describing consistency of the proposed amendment with the Comprehensive Plan, state plan, and regional plan.

10.02.0 TREE REMOVAL PERMITS

10.02.01 Tree Removal Permits as Part of Local Development Order Application

- A. Permit applications for the removal, relocation, alteration, or replacement of protected trees as regulated in Section 3.05.04 shall be submitted as part of development plans for subdivisions, PUD master plans, and site plans. A separate application for a permit is required only where the tree removal or site clearing is separate from any other development activity.
- B. The application shall include a written statement indicating the reasons for the requested action and the following:
 - 1. Location of all existing or proposed structures, improvements, and site uses, properly dimensioned in reference to property lines, setback, and yard requirements in spatial relationship;
 - 2. Proposed changes, if any, in site elevations, grades and major contours;
 - 3. Location of existing proposed utility services;
 - 4. Location and identification of all protected trees (common or botanical name) on the site within thirty (30) feet of the buildable area, designating the trees to be retained, altered, removed, relocated, or replaced. The applicant may also show smaller trees to be retained in order to assist the Town Administrator in determining replacement requirements. Groups of trees in close proximity may be designated as "clumps," "forests," or "dense tree cover" with the estimated number and type of trees noted. Only those trees to be removed, altered, relocated, or replaced shall be named (common or botanical name) on the site plan;
 - 5. Required tree information shall be summarized in legible form on the plan and shall include the reason for the proposed alteration, removal, relocation, or replacement;
 - 6. Applications involving developed properties may be based on drawings showing only that portion of the site directly involved and adjacent structures and landscaping on natural growth incidental thereto; and
 - 7. For trees that are to be saved or retained, include a plan or statement of how these tree areas are to be protected during construction and landscaping operations.

10.02.02 Tree Removal Permits Not Part of a Local Development Order

- A. Any person desiring to remove or relocate a protected tree that is not subject to development plan approval or is not located in an exempt area, shall file an application for a tree removal permit with the Town Administrator. The application shall include or be accompanied by:
1. An overall development plan or proportional sketch of the site, easement or right-of-way upon which the protected tree is located, showing the shape and dimensions of the site and the location, configuration and size of existing and proposed structures, driveways and other improvements. The plan or sketch shall also identify the location and type of all protected trees and all major tree groupings on the site that will be impacted by the proposed project. Trees or groups of trees on a site that will not be impacted by the proposed project need not be shown on the plan or sketch.
 2. A designation of any protected trees proposed to be removed or relocated, along with the reasons for such removal or relocation.
 3. A plan or statement of how any other protected trees are to be protected during any approved tree removal or relocation and any associated construction or clearing.
 4. A statement identifying any proposed grade changes on the site and the precautions to be taken to ensure that such changes will not adversely impact or endanger any protected trees that are not to be removed or relocated. Spot elevations may be required prior to issuance of construction permits.
 5. As a condition of the granting of a permit, the applicant will be required to replace each protected tree being removed with two replacement trees.
- B. Permit approval procedure. The Town Administrator shall verify the information contained in the application and either approve or deny the application as to each protected tree proposed to be removed or relocated.
- C. Permit approval criteria. Removal or relocation of protected trees shall be approved by the Town Administrator upon a finding that the trees pose a safety hazard; have been weakened by disease, age, storm, fire or other injury; or prevent the reasonable development of the site, including the installation of solar energy equipment.
- D. Protected trees shall not be removed, damaged or relocated for the purpose of locating utility lines and connections unless no reasonably practical alternative is available as determined by the Town Administrator.
- E. Standards for tree relocation or replacement.
1. As a condition of the granting of a permit, the applicant will be required to replace or relocate the trees being removed with suitable replacement trees in accordance with the Florida Yards & Neighborhoods Handbook.

2. Two trees shall be replaced for every tree removed, except healthy heritage trees. Removal of healthy heritage trees shall be in accordance with Section 3.05.04(D).
 3. In determining the required location of relocated or replacement trees that will be planted either on-site or offsite, the Town Administrator shall consider the needs of the intended use of the property together with a realistic evaluation of the following:
 - a. Existing tree coverage, including percentage of canopy;
 - b. Number of trees to be removed on the entire property;
 - c. Area to be covered with structures, parking and driveways;
 - d. Topography and drainage of the site and its environs;
 - e. Character of the site and its environs;
 - f. Ecology of the site;
 - g. Characteristics and amount of shrubs, grass and trees proposed for planting on the site by the applicant;
 - h. The health and desirability of existing trees;
 - i. The impact of features included in the proposed project (e.g., buffer areas, etc.) and areas not to be impacted by the proposed project.
- F. *Natural emergencies or disasters.* In the case of natural emergencies or disasters such as hurricanes, windstorms, floods or other disasters, issuances of permits for the removal of damaged trees may be waived by the Town Administrator. Such waiver may not be for an indefinite period and shall expire when the Town Administrator determines that emergency conditions have ended.
- 10.02.03 Heritage Tree Removal Permits.**
- A. A permit shall be required to remove a heritage tree.
 - B. The Town Administrator shall only approve a permit for removal of a heritage tree if the applicant demonstrates the presence of one or more of the following conditions:
 1. *Safety hazard.* 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. *Diseased or pest infested trees.* Necessity to remove a diseased or pest infested tree to prevent the spread of the disease or pests. The need to remove trees because of disease or pest infestation must be determined by a forester with a B.S. degree or higher from a Society of American Foresters accredited college or by an arborist certified by the International Society of Arboriculture.
 3. *Compliance with other ordinances or codes.* Necessity for compliance with Town ordinances and codes, such as building code, land use district regulations, subdivision regulations, health provisions, and other environmental ordinances.

4. *Reasonable and permissible use of property.* Tree removal which is essential for reasonable and permissible use of property, or necessary for construction of substantial improvements.
- C. In order for removal of a heritage tree to be essential for reasonable use of property or necessary for construction of substantial improvements, it must be demonstrated that no reasonable, economically-feasible, lawful use of the property would be possible without removal of the heritage tree and that removal of the tree is necessary in order to:
 1. Provide access immediately around a proposed structure for essential construction equipment, limited to a maximum width of 20 feet from the structure
 2. Provide limited access to the building site essential for reasonable use of construction equipment
 3. Facilitate essential grade changes. Essential grade changes are those 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.
 4. Make possible the location of driveways, where there is no alternative means of access to the property. Driveway aisles shall be consistent with other applicable standards.
 5. Provide for construction of buildings or other permanent improvements.
 6. Provide access to the property, where there is no alternative means of access to the property.

10.03.00 PUBLIC NOTICE REQUIREMENTS

10.03.01 Generally

- A. Public notice of proposed action shall be required for the following types of applications:
 1. Amendments to the Comprehensive Plan;
 2. Amendments to this ULDC;
 3. Sites plans;
 4. Variances;
 5. Administrative appeals;
 6. PUD final development plans; and
 7. Tree removal permits.
- B. Public notice of amendments to the Comprehensive Plan and amendments to this ULDC shall comply with the requirements of State law.
- C. All required public notices shall contain the following information:
 1. The name of the applicant.
 2. The location of the property for which development approval is sought.
 3. The nature of the approval sought by the applicant.
 4. The date, time, and place of any applicable public hearings on the application.

- D. Except as required in Section 10.04.01(B), notice shall be provided in accordance with the procedures of Section 10.04.02 – 10.04.04 a minimum of fifteen (15) days before the applicable public hearing.

10.03.02 Posted Notice Requirements

- A. The Town Administrator shall post notice of the proposed change or development at the property that is identified in the application. The posted notice shall adhere to the following conditions:
1. The posted notice for development orders shall contain a site plan with proposed architectural renderings for development permits.
 2. The posted notice shall be located in a manner to ensure that it is clearly visible on each portion of the subject property that fronts on a roadway
 3. The posted notice shall contain the information set forth in Section 10.04.01(C).
 4. Failure to place, maintain, or replace the posted notice shall not affect the jurisdiction of the reviewing board or decision-making entity to consider the application or the validity of any resulting decision.
- B. The Town Administrator shall also post notice of the proposed change or development in a conspicuous place at Town Hall.
- C. The applicant shall pay any fees or costs associated with the posting of notices in accordance with Section 10.01.04.

10.03.03 Mailed Notice Requirements

- A. The applicant shall mail notice for public hearings for variances and establishment or amendment of overlay district boundaries to abutting property owners within 100 feet of the subject property at least fifteen (15) days prior to the public hearing.
- B. The applicant shall provide proof of mailed notice in the form of an affidavit or certificate of mailing from the Post Office to the Town at least seven (7) days prior to the public hearing.
- C. The applicant shall pay any fees or costs associated with the mailing of notices.

10.03.04 Published Notice Requirements

- A. The applicant shall publish notice of the proposed change or development in a newspaper of general circulation and readership in Flagler County.
- B. The published notice shall contain the information set forth in Section 10.04.01.
- C. The published notice shall comply with all requirements of State law regarding size and placement in the newspaper.
- D. The applicant shall provide proof of published notice in the form of a copy of the published notice to the Town at least seven (7) days prior to the public hearing.
- E. The applicant shall pay all fees and costs associated with publishing notice.

10.04.00 PROCEDURES FOR REVIEW AND DECISION-MAKING**10.04.01 Review and Compliance Report by Technical Review Committee****A. PUD master plan review**

1. The TRC shall meet with the applicant to review the concept plan prior to consideration of a preliminary development plan, as determined by the Town Administrator.
2. Preliminary development plan review
The TRC shall review applications for compliance with Sections 4.04.00 and 4.05.00, as applicable, and prepare a report documenting compliance of the application and preliminary development plan with the standards and criteria of this ULDC. The Town Administrator shall forward the compliance report to the Local Planning Agency for review and recommendation. The Town Administrator shall forward the application, supporting materials, and the recommendation of the Local Planning Agency to the Town Council for action.
3. Final development plan review
The TRC shall review the final development plan and prepare a report documenting the consistency of the final development plan with the preliminary development plan and with the standards and criteria of this ULDC. The Town Administrator shall forward the compliance report to the Local Planning Agency for review and recommendation. The Town Administrator shall forward the application, supporting materials, and the recommendation of the Local Planning Agency to the Town Council for action.

D. Site plan review, with or without supplemental standards

1. The TRC shall review site plans for compliance with the applicable standards set forth in the ULDC and prepare a report documenting its findings.
2. When the site plan does not comply with the requirements of the ULDC, the applicant may provide additional information or resubmit a revised site plan. The TRC shall review the revised plan at its next regular meeting and prepare a revised compliance report.
3. The TRC shall forward the compliance report, with recommendations of the TRC for approval, denial, or approval with conditions, to the Local Planning Agency for review at the next available meeting.
4. The Town Administrator shall forward the application, supporting materials, and the recommendation of the Local Planning Agency to the Town Council for action.

10.04.02 Procedures for Action by the Community Redevelopment Agency (CRA)

- A. The CRA shall hold a public hearing on matters pertaining to an application within their jurisdiction. The procedures for public hearings of the CRA shall be the same as procedures for public hearings of the Town Council.

- B. The CRA shall recommend approval, approval with conditions, or denial of the application to the Town Council.
- C. The Town Council may take action on the application during a properly noticed public hearing of the Town Council immediately following the public hearing at which the CRA hears and recommends an action.

10.04.03 Procedures for Action by the Local Planning Agency

- A. The Town Administrator shall submit compliance reports to the Local Planning Agency shall contain proposed findings regarding consistency of the application with the goals, objectives, and policies of the Comprehensive Plan and with the requirements of the ULDC.
- B. Review of PUD master plans shall be in compliance with the requirements set forth in the ULDC.
 - 1. Preliminary development plan review
 - a. The Local Planning Agency shall consider the proposed preliminary development plan at a public hearing.
 - b. Following the public hearing, the Local Planning Agency shall forward the preliminary plan and application to the Town Council with a recommendation to approve, approve with conditions, or deny the preliminary development plan.
 - 2. Final development plan review
 - a. The Local Planning Agency shall consider the proposed final development plan at a public hearing.
 - b. Following the public hearing, the Local Planning Agency shall forward the final development plan and application to the Town Council with a recommendation to approve, approve with conditions, or deny the preliminary development plan.
- E. Site plan review, with or without supplemental standards
 - 1. The Local Planning Agency shall hold a public hearing to review the site plan application.
 - 2. The Local Planning Agency shall vote to recommend approval, approval with conditions, or deny the application and shall forward the plan and recommendation to the Town Council for final action.

10.04.04 Procedures for Action by the Town Council

- A. PUD preliminary development plan review
 - 1. The Town Council shall hold a public hearing for the purpose of determining whether or not the preliminary development plan should be approved.
 - 1. If, after the public hearing, the Town Council approves the preliminary development plan, the developer shall then submit his final development plan within twelve (12) months of the date of approval of the preliminary development plan.
 - 2. For good cause shown, the Town Council may, at its discretion, extend the time in which to file the final development plan for up to six (6) months.

- B. PUD final development plan review
The Town Council shall consider the proposed final development plan at a public hearing according to the published schedule. The Town Council shall approve, deny, or approve with conditions the final development plan.
- C. Site plan review, with or without supplemental standards
The Town Council shall hold a public hearing to review the site plan application and take action to approve, approve with conditions, or deny the application.

10.05.00 QUASI-JUDICIAL HEARINGS

10.05.01 Generally

- A. The Town Administrator shall schedule a quasi-judicial hearing when all required reports and procedures have been completed. A quasi-judicial hearing shall not be scheduled until an applicant has paid all outstanding amounts.
- B. A quorum of the decision-making entity shall be present at the quasi-judicial hearing.

10.05.02 Conduct of hearings

- A. The hearing shall be conducted in a manner to protect the due process rights of the applicant and affected parties.
- B. All testimony presented by the applicant, any affected party, any witness for a party, or the staff (other than legal advice given by the Town attorney) shall be given under oath.
- C. The applicant, any affected party, and the staff may cross-examine any person presenting information at the hearing.
- D. An electronic record shall be made of the hearing.
- E. Members of the general public may provide comment during the hearing. If a member of the general public desires his or her testimony to be considered as potential competent substantial evidence, such person shall be placed under oath and subject to cross-examination.
- F. The decision-making entity may question the applicant, other parties, witnesses, and the Town staff at any time during the hearing.
- G. The decision-making entity shall approve, approve with conditions, or deny the matters under consideration. The decision shall be based upon competent substantial evidence presented during the hearing.
- H. The decision-making entity shall enter a written order which contains findings of fact and conclusions of law in support of its decision.
- I. The Town Administrator shall file the decision-making entity's written order as part of the official records of the Town.

10.05.03 When Required

Quasi-judicial hearings shall be required for review of the following applications:

- A. PUD preliminary and final development plans;
- B. Site plans with or without supplemental standards; and

C. When otherwise required by State law.

10.05.04 Procedures Regarding *Ex Parte* Communication

- A. A member of a decision-making entity shall not willfully participate in an *ex parte* communication regarding a pending application.
- B. All *ex parte* communications are presumed prejudicial, unless the approximate date and general substance of the *ex parte* communication is disclosed at the beginning of the quasi-judicial hearing at which the decision-making entity considers the pending application.
- C. The Town may rebut the presumption of prejudice by demonstrating the absence of any actual prejudice to any party challenging the validity of a decision-making entity’s decision on the basis of *ex parte* communications.

10.05.05 Order of Presentations

The following order of presentation shall be followed:

- A. Presentation by the Town Administrator of a compliance report regarding the pending application.
- B. Presentation by the applicant of evidence supporting the application. The applicant shall bear the burden of demonstrating that the application should be granted.
- C. An affected party is entitled to present evidence opposing the application.
- D. Rebuttal by the Town Administrator, any affected party, and the applicant.
- E. Conclusion of the evidentiary portion of the hearing.
- F. Closing arguments by the Town Administrator, any affected party, and the applicant.
- G. Deliberation by the decision-making entity.
- H. Public comment
- I. Decision or action by the decision-making entity.

10.06.00 CONSTRUCTION AND IMPROVEMENTS

10.06.01 Compliance with Development Permits and Local Development Orders

Prior to the consideration of the final PUD development plan by the Town Council, the applicant shall have completed all the necessary improvements in accordance with Town specifications set forth in Table 10.06.01.

Table 10.06.01 Requirements for Improvement Plans

1	Plans and profiles of each proposed street and sidewalk at a horizontal scale of fifty (50) feet or less to the inch and vertical scale of five (5) feet or less to the inch, with tentative grades indicated; including plans and profiles or proposed sanitary sewers, also stormwater sewers, if required, with grades and sizes indicated.
2	Typical cross sections of each proposed street and sidewalk, including private streets, at a horizontal and vertical scale of five (5) feet or less to the inch, showing the width of pavement, the location and width of sidewalks when installed, and the location of the utility

	main.
3	A complete grading plan.
4	A minimum of two (2) benchmarks, not more than 1,500 feet apart. Benchmarks shall not be required at closer intervals than 600 feet.
5	Drainage plans and calculations in compliance with the stormwater level of service standard in the Comprehensive Plan. The drainage plans shall include all necessary calculations and documentation demonstrating the adequacy of the proposed facilities. Proof of compliance with the rules and regulations of state and federal regulatory agencies shall be submitted with the improvements plan.
6	Construction plans of all water, sewage, pumping, and treatment systems shall include a layout of piping system detailing line size, material, and what the line is carrying.
7	<ol style="list-style-type: none"> a. Mechanical plans for water and sewage pumping stations and water and sewage treatment plants shall, as a minimum, include a plan of the facilities in two sections. b. Electrical plans shall include wiring routes and a line diagram and any control system diagrams. c. Structural plans, where necessary, shall include foundation plans, detail of concrete steel, and slab and wall thicknesses. d. Plans of sewer package plant, if applicable, shall include landscaping and physical buffering to include security.

10.06.02 Improvement Agreements, Guarantees, and Sureties

In lieu of the immediate installation of the required improvements, the applicant may do one of the following:

- A. File an irrevocable letter of credit conditioned to secure the construction of the required improvements in a satisfactory manner and within a time period specified by the Town Council, such period not to exceed one (1) year. The irrevocable letter of credit shall be executed by a surety company authorized to do business in the state. No such letter of credit shall be accepted unless it is enforceable by or payable to the Town in a sum equal to the cost of constructing the improvements as estimated by the Town Administrator and unless its form, the surety thereon and the conditions thereof are approved by the Town attorney.
- B. Deposit with the Town or place in escrow cash, an irrevocable letter of credit, a cashier's check, or a certified check in amount equal to the cost of constructing the improvements as estimated by the Town Engineer. The Town Administrator may release portions of this security deposit as the work progresses to his satisfaction. The Town Administrator shall require that the amount on deposit shall always be equal to or exceed the estimated cost of completing the improvements. Upon the Town's acceptance of the improvements, the developer shall post a one (1) year maintenance bond or irrevocable letter of credit. The amount of the

maintenance bond shall be determined by the Town Administrator, based on the cost of construction of the improvements. When all improvements have been made and accepted, the amount of the maintenance bond/irrevocable letter of credit will normally be ten percent of the amount of the improvements.

10.06.03 Conditions, Covenants and Restrictions

The Town shall require enforceable, recorded Declaration(s) of Restrictive Covenants from the applicant as “Grantor” binding all heirs, legal representatives, successors, and assigns and upon all mortgagees and lessees and others presently or in the future having any interest in the property to the restrictive covenants running with the land naming the Town of Marineland as a “Grantee” to ensure that the Town can enforce all conditions, covenants and restrictions meant to run with the land (for example, green building and energy efficiency standards, low impact development practices and criteria, and any other conditions of approval meant to run with the land). The declaration shall contain the following necessary elements:

- A. That the development shall be developed in accordance with the approved site plan and development order (as may only be modified or amended as set forth in 10.07.01) and that in the event of multiple ownerships subsequent to site plan approval, that each of the subsequent owners shall be bound by the terms, provisions and conditions of the declaration of restrictive covenants and any applicable operating agreements.
- B. The declaration of covenants shall contain such other provisions with respect to the operation, maintenance and development of the property as to which the parties thereto may agree, all to ensure that although the property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan (as may only be modified or amended as set forth in 10.07.01).
- C. The Declaration of Restrictive Covenants shall be in a form(s) prescribed by the Town. The Declaration of Restrictive Covenants shall be recorded in the public records of Flagler County, Florida, by the Department at the expense of the owner of the property.
- D. The declaration of Declaration of Restrictive Covenants shall be in effect for a period of thirty (30) years from the date the documents are recorded in the public records of Flagler County, Florida, after which time they shall be extended automatically for successive periods of ten (10) years unless released in writing by the owners and the Town, upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the property for the purposes herein intended.
- E. For modification or elimination of conditions or Declaration of Restrictive Covenants, or parts thereof, after public hearing, mailed notice shall be accomplished by placing in the United States mail a written notice to all property owners of record, as reflected on the Flagler County Property

Appraiser's tax roll as updated, within the same radius of the property as required to be noticed for zoning action imposing or accepting the condition or restrictive covenant sought to be modified or eliminated, or such greater distance as the Town may prescribe.

- F. Enforcement of the declaration of restrictive covenant shall be by action at law or in equity with costs and reasonable attorney's fees to the Town if the Town is a substantially prevailing party.

10.06.04 Major Developments

In order to assure that proposed developments are developed in substantial compliance with proffered plans, or in compliance with plans approved by public hearing, the Town may, in order to preserve the integrity of a development, require a property owner to file a unity of title, a development agreement pursuant to Section 163.3122 through 163.3243, a declaration of restrictive covenants, and other appropriate agreements on forms approved for legal sufficiency by the Town Attorney.

10.06.05 Maintenance of Common Areas and Facilities

A homeowners' association, or similar association, shall be created for the entire development (total property) as a master association which shall provide for the maintenance of all common areas, roadways, cross-easements and other amenities common to the entire parcel of land. This does not preclude individual associations for each phase in regard to maintenance of buildings and other common areas so long as said associations, or the members thereof, are made members of the master association, or, the property owner shall execute and record among the public records a covenant running with the land for the entire property providing for the maintenance of all common areas, roadways, cross-easements and other amenities common to the entire parcel of land. This does not preclude individual associations for each phase in regard to maintenance of buildings and other common areas.

10.07.00 AMENDMENTS TO LOCAL DEVELOPMENT ORDERS

Any deviation or changes affecting conformity with this ULDC made in any plans prepared and to be used in construction without obtaining approval shall be grounds for revoking the building permit theretofore issued.

10.07.01 Amendments Required

Changes to an approved local development order, as defined below, shall require specific Town Council approval of an amendment to a site plan or PUD master plan. The approval of an amendment shall follow the same procedure as the original approval. All applications shall demonstrate compliance with the required standards set forth in this ULDC. An amendment to an approved local development order shall be required in any of the following situations:

- A. A proposed increase in the amount of approved impervious surface of five (5) percent or more;
- B. A proposed increase in the approved density of development (may also require an amendment to the Comprehensive Plan);

- C. A proposed decrease in the approved open space of five (5) percent or more;
- D. A modification in the approved design concept, such as a substantial change in relationships among land uses, addition of a land use category not in the approved site plan or PUD master plan, a substantial change in traffic pattern or points of ingress or egress;
- E. A modification in building location that affects required setbacks;
- F. A modification to the number of approved parking spaces;
- G. A modification that reduces the dimensions of approved parking spaces;
- H. A modification in the landscaping or buffering that changes the approved dimensions of the buffer or the location of plants.

10.08.00 VIOLATIONS

10.08.01 Generally

- A. Any development activity that is commenced without prior approval of a stormwater management plan or is conducted contrary to an approved stormwater management plan, as required by this ULDC, shall be deemed a public nuisance and may be restrained by injunction or otherwise abated in a manner provided by law.
- B. Any violation of any of the provisions of a development permit or local development order shall constitute a violation of this ULDC, making the offender subject to penalties under Section 10.09.00.

10.08.02 Responsibility for Enforcement

The Building Official shall issue building permits and certificates of occupancy, inspect buildings and premises with reference to compliance with the Florida Building Code. The Town Building Official and the Town Administrator are hereby designated as the Town Code Enforcement Officers and shall generally enforce the provisions of this ULDC.

10.08.03 Code Enforcement Procedures

All code enforcement activities and procedures shall be carried out as set forth in the Town Code of Ordinances and 10.09.00.

10.09.00 CODE ENFORCEMENT PROCEDURES AND PENALTIES

10.09.01 Violations

Any person, whether as owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this ULDC, or permits any such violation to continue, or otherwise fails to comply with the requirements of this ULDC or of any plan or statement submitted and approved under the provisions of this ULDC, shall be guilty of an ordinance violation.

10.09.02 Reasonable Time to Correct Violation; Exceptions for Repeat, Serious Public Health and Safety and Irreparable Harm

Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of code or ordinance and shall establish a reasonable time period within which the person must correct the

violation. Such time period shall be no fewer than 24 hours and no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation, a code enforcement officer may issue a citation or notice to appear before the special master. Each day such violation continues shall be considered a separate offense. The code enforcement officer does not have to provide the person with a reasonable time to correct the violation, and may require immediate compliance, or may immediately issue a citation or notice to appear if:

- A. A repeat violation is found; or
- B. The code enforcement officer has reason to believe that the violation is of an itinerant or a transient nature that takes place on a particular parcel of property for a period of less than five days which will be discontinued and then subsequently repeated on the parcel or moved to another parcel of property; or
- C. The violation presents a serious threat to public health, safety or welfare; or
- D. The violation resulted in irreparable harm or is irreversible.

10.09.03 Citations

Violations are subject to a citation (under Florida Statutes §162.21) or notice to appear (under Florida Statutes §162.23) issued by the Town Building Official or Town Administrator, who are hereby designated as the Town Code Enforcement Officers. The citation may be contested in county court as set forth in Florida Statutes Sections 162.21 through 162.23. A code enforcement officer may issue a citation in a form prescribed by the Town containing the following information:

- A. The date and time of issuance.
- B. The name and address of the person to whom the citation is issued.
- C. The date and time the infraction was committed.
- D. The facts constituting reasonable cause.
- E. The number or section of the code or ordinance violated.
- F. The name and title or authority of the code enforcement officer.
- G. The procedure for the person to follow in order to pay the civil penalty or contest the citation.
- H. The applicable civil penalty if the person elects to contest the citation.
- I. The applicable civil penalty if the person elects not to contest the citation.
- J. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear to contest the alleged violation, the person shall be deemed to have waived the right to contest the citation, alleged violation, or notice to appear, and that in such a case, judgment can be entered against the person for an amount up to the maximum civil penalty, fees and costs incurred by the Town and Court, and a \$20.00 administrative citation processing fee.

10.09.04 Supplemental Code Enforcement - Special Master

Pursuant to 162.22, Florida Statutes, at the option of the Town, any violation may be processed through the Town's code enforcement special master by notice

of violation (See, Florida Statutes Section 162.06) or citation (See, Florida Statutes 162.21).

10.09.05 Code Enforcement – Appointment of Board

The Town may also refer a notice of violation to a code enforcement board designated by the Town to hear code enforcement cases under Florida Statutes Chapter 162 Part I pursuant to notices of violation issued under Florida Statutes Section 162.06.

10.09.06 Penalties

Unless otherwise specifically authorized and provided for by law, a person convicted of violating a city ordinance by a court of competent jurisdiction may be sentenced to pay a fine, not to exceed \$500.00 per violation per day, and may be sentenced to a definite term of imprisonment as provided by Florida Statutes.

10.09.07 Refusal to Sign, Penalties

Whoever refuses to sign a citation or notice to appear or notice of violation, opposes, obstructs, or resists a law enforcement officer or code enforcement officer in the service or posting of any notice or enforcement of this article, upon conviction, shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

10.09.08 Civil Actions

The Town may also decide to pursue a civil action against a violator in a court of competent jurisdiction for temporary or permanent mandatory injunction, civil penalties, damages, attorney's fees and costs of enforcement. Civil actions shall be filed in a court of competent jurisdiction.