The City of Edgewater

Chapter 21
Land Development Code

Chapter 21
Land Development Code
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ARTICLE I

GENERAL PROVISIONS

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Sections 21-14 through 21-19 reserved for future use.

ARTICLE I

GENERAL PROVISIONS

SECTION 21-01 TITLE

This Chapter shall be codified known and cited as the "Land Development Code of the City of Edgewater, Florida".

SECTION 21-02 AUTHORITY & APPLICABILITY

This Land Development Code is enacted pursuant to the requirements and authority granted by the Florida Constitution and the Laws of the State of Florida of Chapter 163, Part II, Florida Statutes, (Growth Policy; County and Municipal Planning; Land Development Regulation) and the general powers in Chapter 166, Florida Statutes and Article VIII & II of the Florida Constitution. More specifically, Chapter 163.3161(5), Florida Statutes "... no public or private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act." This statutory mandate is further amplified in Chapter 163.3202, Florida Statutes which states "...each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted Comprehensive Plan..."

Upon adoption of this Code, the use of any parcel of land, water body, any structure, or any combination thereof, within the corporate limits of the City of Edgewater shall be in conformance with the requirements of this City Code. Failure to comply with the requirements of this Code may subject an alleged offender to the enforcement provisions of Article X as well as any other available enforcement remedies.

SECTION 21-03 PURPOSE AND INTENT

21-03.01 – Purpose

The purpose and intent of this Code is to promote and safeguard the health, safety, comfort and welfare of the public and to ensure that lands within the City of Edgewater are developed in a manner which is consistent with the policies and objectives of the City of Edgewater's Comprehensive Plan. It is further the intent of this Code to implement the requirements of Chapter 163.3202, Florida Statutes (hereinafter referred to as FS) by adopting regulations which:

a. Regulate the subdivision of land.

b. Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.

c. Provide for the protection of potable water well fields.

d. Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.

e. Ensure the protection of environmentally sensitive land designated in the comprehensive plan.

f. The regulation of signage.

g. Provide criteria and standards to regulate, protect and enhance unique areas of the City including but not limited to, the gateway highway corridor, such as Indian River Boulevard and Ridgewood Avenue.

h. Establish procedures to ensure that policies and objectives of the Comprehensive Plan are enforced.

i. Provide criteria and procedures to ensure that the level of service standards established in the Comprehensive Plan are met.

j. Ensure safe and convenient on-site traffic flow and parking.

21-03.02 – Intent

The Land Development Regulations set forth herein are made in accordance with a Comprehensive Plan for the general public health, safety and welfare of the City. They are designed to lessen congestion in the streets; to secure safety; to provide adequate light and air; to prevent the overcrowding of land or buildings; to avoid undue concentration of population; to provide adequate public facilities and utilities; and to preserve the natural resources and community amenities of beauty and visual interest. They are made with reasonable consideration to the character of each district and its unique suitability for particular uses, and with a view of conserving the value of property and encouraging the most appropriate use of land throughout the City.

SECTION 21-04 CONSISTENCY WITH COMPREHENSIVE PLAN

This Code incorporates new authorization, requirements and regulations to implement the objectives and policies of the Comprehensive Plan, and to ensure that all land development activities within the City are consistent with and further the objectives, policies, land uses, densities and intensities in the City's Comprehensive Plan.

It is recognized, however, that situations may arise in the daily administration and enforcement of this Code whereby strict interpretation and enforcement of the Code may be contrary to the

goals, objectives and policies of the Comprehensive Plan. Such situations may arise due to changes in land development priorities or economics, new issues which were not anticipated at the time this Code was drafted and adopted, or the inability to meet competing goals through a single action. In this situation, the goals and policies of the Comprehensive Plan shall take precedence, and the Code shall be interpreted and administered consistent with the overall goals, objectives and policies of the Comprehensive Plan as interpreted by the City Council, until such time that the Code and/or Comprehensive Plan can be amended to resolve any conflict.

SECTION 21-05 JURISDICTION

The provisions of this Code shall apply to all buildings, structures, uses and development of land within the corporate limits of the City of Edgewater, Florida, as now or hereafter defined, and all areas under the jurisdiction of the City for land use planning and development control as specified by law or in any applicable interlocal planning agreements.

SECTION 21-06 RULES OF INTERPRETATION

For the purpose of this Code, the following rules of interpretation shall apply unless such construction would be inconsistent with the Comprehensive Plan or the manifest intent of the City Council:

a. In case of any difference of meaning or implication between the text and any caption, illustration, summary table, or illustrative table, the text shall control.

b. The words “shall” or “must” are always mandatory and not discretionary. The words “may” or “should” are permissive.

c. Words used in the present tense shall include the future, and words used in the singular number shall include the plural and the singular, unless the context clearly indicates the contrary.

d. The term “building” or “structure” includes any part thereof.

e. The phrase “used for” includes “arranged for,” “designed for,” “maintained for” or “occupied for.”

f. The word “person” includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.

g. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, or “either/or”, the conjunction shall be interpreted as follows:

    1. “And” indicates that all the connected items, conditions, provisions or events shall

apply;

2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination;
3. "Either.../or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

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

i. Sites, or lot areas, herein is the minimum area required.

j. The interpretation and application of the regulations and provisions of this Code by the City shall be reasonable and uniformly applied to all property within the jurisdiction of the City of Edgewater.

k. Whenever the regulations and requirements of this Code are in conflict with the requirements of any other lawfully enacted and adopted rules, regulations, ordinances, or laws, the most restrictive shall apply.

21-06.01 – Appeal Procedure

In the event any person believes that a City official has made an interpretation or determination under the Land Development Code that adversely impacts such person to the extent that such person believes in good faith that such decision results in a deprivation of the reasonable and beneficial use of the land which is the subject of the adverse interpretation or determination, then such person may appeal such decision to the City Manager by submitting a written notice or appeal to the City Manager's office within fifteen (15) days of the adverse decision being communicated to such person. The City Manager shall review the decision of the city official and render a decision on the appeal within thirty (30) days of receipt of the written notice or appeal.

Any person may subsequently appeal the decision of the City Manager to the City Council. Any such appeal to the City Council must be filed with the City Clerk within fifteen (15) days of the adverse decision by the City Manager being communicated to such person. The City Council shall review the decisions of the city official and City Manager within sixty (60) days of the date of filing such appeal. The decision of the City Council shall be final and binding. An appeal of a decision made by any advisory board may be filed by any interested party.

SECTION 21-07 – VESTED RIGHTS DETERMINATIONS

21-07.01 – Findings and Determinations

a. It is hereby found, determined and declared as follows:

1. Pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Part II, Chapter 163, Florida Statutes ("the Act"), the City of Edgewater is authorized and required to adopt local land development regulations.
2. The City Council of the City of Edgewater adopted a local Land Development Code in accordance with the provisions of the Act on September 11, 2006.
3. Under the provisions of the Act, in some circumstances development that was approved prior to the adoption of the Land Development Code may be "vested" and not subject to the provisions of the Land Development Code.
4. The City Council of the City of Edgewater deems it necessary under the authority thus granted to it to adopt and enforce vested rights regulations for all development subject to the jurisdiction of the City.

21-07.02 – Definitions

For the purpose of this Section only, the following terms have the following meanings:

1. *Commencement Development* means that the developer of a project received a final development order prior to September 11, 2006.
2. *Continuing development in good faith* means that following the issuance of the final development order, the developer of a project diligently pursues the issuance of all permits necessary to begin development of the project, and once obtained commences and proceeds with development. Once development is commenced, no more than one hundred eighty (180) consecutive days may pass without the occurrence of development unless the developer can establish that the lapse was due to circumstances beyond his or her control.
3. *Manager* means the City Manager for the City of Edgewater or his or her designated representative.

21-07.03 – Existence of Vested Rights

a. Notwithstanding its consistency, in whole or part, with this Land Development Code, a project or development shall be deemed to have vested rights if the project or development meets one (1) or more of the following criteria:

1. The project or development has been issued a final development order and the developer has commenced development and is continuing development in good faith on September 11, 2006 and on the date of submittal of the application for a determination of vested rights.
2. The person seeking to establish vested rights, with respect to such project or development, or their predecessors-in-interest (i) have relied in good faith and in reasonable reliance upon some clear and unequivocal act or promise by the City, and (ii) have made such a substantial change in position and incurred such extensive obligations that it would be highly inequitable or unjust to destroy the rights which such person has acquired.

3. The City has entered into a development agreement prior to September 11, 2006 which expressly grants vested rights to all or a portion of a project or development.

b. Nothing in the Land Development Code shall limit or modify the rights of any developer to complete a project or development that has vested rights; provided, however, the development of a vested project must occur in a manner consistent with the final development order or other actions forming a basis for the vested rights in order to maintain the vested status of the project or development. This Land Development Code shall not be construed or applied so as to result in an unconstitutional taking or private property or the abrogation of validly existing vested rights.

c. A project or development which is found to have vested rights shall enable the owner of the subject property to undertake development addressed by the vested rights determination made pursuant to this Section, notwithstanding that the development may be inconsistent with this Land Development Code, or in violation of the concurrency requirements of the concurrency requirements of the Land Development Code, or both, as specified in the vested rights determination made pursuant to this Section, but only if the project or development complies with and is subject to all other applicable laws and regulations.

21-07.04 – Takings

This Land Development Code is not intended to constitute a taking without just compensation. No person claiming that this Land Development Code as applied to a particular property, constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim in court or before a quasi-judicial body unless the person has first exhausted the administrative remedies provided in this Section by applying for a vested rights determination to the extent any such claim is based in part or completely on facts related to the criteria for establishing vested rights. In such event, it shall be the duty and responsibility of the person alleging a taking to demonstrate the legal requisites of a taking.

21-07.05 – Application for Vested Rights Determination

a. *Application Period.* The developer or owner of a project may request a determination of vested rights by filing a complete application and paying the applicable fee.

b. *Contents of Application.* The application shall contain the following information:

1. The name, address, and phone number of the applicant;
2. A legal description of the property;
3. The name and address of each owner of the property, if the applicant is not the owner;
4. If the claim for vested rights is being asserted pursuant to Section 21-07.03 (a)(1) hereof:

a. Identification by specific reference to any Ordinance, Resolution, City Council action, approved final subdivision plan, building permit or other action demonstrating that the project was issued a final development order prior to September 11, 2006; and
b. A sworn statement of facts demonstrating that development of the project has continued in good faith.

5. If the claim for vested rights is being asserted pursuant to Section 21-07.03 (a)(2) hereof;
   a. A sworn statement setting forth the facts upon which the claim for vested rights is based.
   b. Copies of all contracts, letters, appraisals, reports or any other documents, items or things upon which that applicant's claim is based.

6. If the claim for vested rights is being asserted pursuant to Section 21-07.03 (a)(3) hereof:
   a. A sworn statement setting forth the facts upon which the claim for vested rights is based.
   b. A copy of the developer agreement or other document supporting the claim for vested rights.
7. A sworn statement setting forth the specific vested rights claimed by the applicant and whether vested rights are claimed for purposes of consistency or concurrency, or both.
8. Such other relevant information as the City Manager may request.

c. *Application submittal*. The application and application fee shall be submitted to the City of Edgewater Development Services Department.

21-07.06 – Procedure for Determining Vested Rights

a. *Application Review.* The City Manager shall review the application in consultation with the City Attorney and shall, within thirty (30) days after it is filed, determine if the application is complete. If it is not complete, the applicant shall be granted ten (10) days to provide additional information to make the application complete.

b. *Vested Rights Determination*

1. It shall be the applicant's burden to affirmatively allege and establish the existence of vested rights.

2. Following receipt of a complete application, if the applicant does not request the opportunity to present additional evidence to the City Manager, the City Manager shall issue a written vested rights determination ("the Vested Rights

Determination") within sixty (60) days of the date of determination that the application is complete.

3. The applicant may request the opportunity to present additional evidence to the City Manager, and any such request shall be granted. The City Manager, in consultation with the City Attorney, may conduct a hearing to evaluate the applicant's evidence, and may require that all testimony be submitted under oath. In the event a hearing is conducted, a recording or transcript of the hearing shall be made. Within sixty (60) days following the conclusion of the hearing, the City Manager shall issue a written Vested Rights Determination.

4. The Vested Rights Determination shall contain findings of fact and conclusions of law and shall include the legal description of the property to which it applies. The Vested Rights Determination shall set forth whether the project or development is vested, in whole or part, for consistency or concurrency, or both and whether the project or development is subject in whole or part to this Land Development Code. The Vested Rights Determination may contain reasonable conditions necessary to effect the purposes of this Land Development Code and the Comprehensive Plan. It shall state that the Vested Rights Determination is subject to expiration in accordance with this or subsequent ordinances. The City Manager may consult with the City Attorney in connection with the drafting and issuance of a Vested Rights Determination.

c. *Appeal of Determination.* Any applicant may appeal to the City Council the City Manager's Vested Rights Determination. The appeal shall be filed with the City Clerk within thirty (30) days following the rendering of the City Manager's Vested Rights Determination. This time is jurisdictional. The City Council's review of the Vested Rights Determination shall be based solely upon a review of the application and the evidence in support thereof submitted to the City Manager. The City Council shall take final action on the appeal within sixty (60) days from the date the appeal is filed with the City Clerk. The decision of the City Council shall be final, subject to judicial review.

d. *Payment of Review Costs.* Notwithstanding any provision contained herein to the contrary, the Vested Rights Determination shall not be final until all review costs incurred by the City in connection herewith have been paid in full by the applicant.

e. *Judicial Review.* Judicial review of the Vested Rights Determination made by the City Council is available and shall be by common-law certiorari to the circuit court.

21-07.07 – Health, Safety, and Welfare Consideration

Nothing contained herein shall preclude the City of Edgewater from requiring a project or development to comply with any Land Development regulations adopted subsequent to the issuance of the Final Development Order or the obtaining of vested rights if the City Council

deems such compliance essential to the protection of the health, safety, and welfare of the citizens of Edgewater.

SECTION 21-08 DELEGATION OF AUTHORITY

Whenever a provision appears requiring the administrative official, the head of a department or some other City officer or employee to perform an act or duty, it is to be construed to authorize delegation to subordinates to perform the required act or duty, unless the terms of the provision or section specify otherwise, or such delegation would be contrary to the spirit and intent of this Code.

SECTION 21-09 RELATIONSHIP OF SPECIFIC TO GENERAL PROVISIONS

More specific provisions of this Code shall be followed in lieu of more general provisions which may be more lenient than, or in conflict with the more specific provisions.

SECTION 21-10 CONFLICTING LANGUAGE OR PROVISIONS

In case of conflict within this Code or between this Code and the Code of Ordinances, the language or provision which is most appropriate shall apply.

SECTION 21-11 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Code is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of this Code shall continue in full force and effect.

SECTION 21-12 REPEAL OF PRIOR PROVISIONS

Table I-1 lists the portions of the Code of Ordinances that are hereby superseded and expressly repealed upon the effective date of this Code.

TABLE I-1
REPEALED ORDINANCES AND DOCUMENTS

Ordinance No. 94-O-26	Existing Land Development Code
Appendix A	Existing Zoning Ordinance
Chapter 2-46 thru 2-59	Citizen Code Enforcement Board
Chapter 2-101 thru 2-105	Supplemental Code Enforcement
Chapter 3	Advertising Signs
Chapter 4.3	Alcoholic Beverages
Chapter 7, Article IX	Swimming Pools
Chapter 7, Article XII	Satellite Dishes
Chapter 11-29 thru 11-33	Junkyards
Chapter 14	Planning and Zoning Generally
Chapter 17, Article III	Parking Requirements
Chapter 18	Trailers, Mobile Homes, Recreation Vehicles, Parks and Parking
Chapter 19-111 thru 19-122	Wellfield Protection Areas
Chapter 20	Wetlands Protection

SECTION 21-13 EFFECTIVE DATE

These regulations shall be effective as of September 11, 2006.

Section 21-14 through 21-19 reserved for future use.

ARTICLE II

DEFINITIONS

SECTION 21-20 - DEFINITIONS II-1
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ARTICLE II

DEFINITIONS

SECTION 21-20 - DEFINITIONS

21-20.01 - Intent

Unless otherwise expressly stated the following terms shall, for the purposes of these regulations have the meaning indicated. Words in the singular include the plural, and those in the plural include the singular. Words used in the present tense include the future tense. The words "person," "subdivider," "developer" and "owner" include a corporation, unincorporated association and a partnership or other legal entity, as well as an individual. The word "watercourse" includes channel, creek, ditch, spring and streams.

The words "should" and "may" are permissive. The words "shall" and "will" are mandatory and directive. Words not herein defined shall have the meanings given in Webster's Unabridged Dictionary or the applicable state statutes and/or administrative rules. The words and terms herein shall have the meanings ascribed thereto.

21-20.02 - Definitions

ABANDON means to discontinue an existing use of land or structure for 181 consecutive days, other than cessation due to probate or mortgage foreclosure activities.

ABUT OR ABUTTING means to physically touch or border upon, or to share a common property line, or be separated from such a border by an alley, easement, street or canal.

ACCESS means a dedicated, or recorded right-of-way, road, lane, alley or easement affording perpetual ingress and egress to a subject property, to a public thoroughfare or to a water body.

ACCESSORY BUILDING means a structure, the use of which is customarily incidental and subordinate to that of the main building on the same lot, including but not limited to, detached garages, or carport, barns, greenhouse, woodshed, tool shed, gazebos, docks, boat houses and similar uses that are used to shelter and/or protect equipment, supplies, chemicals, goods, furniture and the like for use by the principal occupant.

ACCESSORY USE means a use that is incidental, related, appropriate and clearly subordinate to the principal use of the building, lot or parcel and is under the direct control or ownership of any person who occupies or operates the principal use of the same building, lot or parcel.

ACTUAL START means the first placement of, permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation.

ADMINISTRATIVE OFFICIAL means the Development Services Director or Building Official of the City of Edgewater.

ADULT DAY CARE CENTER means any building, buildings, whether operated for profit or not, in which is provided through its ownership or management, for any part of a day, basic services to three or more persons who are 18 years of age or older, who are unrelated to the owner or operator by blood or marriage, and who require such services.

ADVERTISING DISPLAY AREA OR DISPLAY AREA means the advertising display surface area (copy area) which may be encompassed within any regular geometric figure and which forms the informational component of a sign, not including the structural support components of a sign.

AFFILIATE means a person that directly or indirectly owns or controls, or has common ownership or control with another person. For purposes of this paragraph**,** the term own means to own an equity interest (or the equivalent thereof) of more than 10 percent.

AFFORDABLE HOUSING means residential units priced so that monthly costs do not exceed thirty (30) percent of the household gross income.

AGRICULTURAL USE means the use of land in horticulture, floriculture, viticulture, forestry, diary, livestock, poultry, beekeeping, pisciculture and all forms of farm products and farm production.

AGRICULTURE means general farming activities and attendant accessory uses and subsequent processing and industrial activities.

AIRCRAFT HANGER means an enclosed or semi-enclosed building specifically intended for the storage of aircraft.

ALLEY means a public right-of-way primarily designated to serve as a secondary means of access to the side or rear of abutting properties having principal lot frontage on a street.

ALTERED OR ALTERATIONS means any change in a building's structural parts; stairways; type of construction; kind or class of occupancy; light and ventilation; means of ingress and egress; wiring, plumbing, heating or cooling system; and other changes affecting or regulated by building codes or the ordinances.

ALTERATION in regards to Historic Preservation means any act that changes the exterior features of a designated property.

ALTERED WETLAND means wetlands that have been substantially affected by development, but which continue to provide some environmental benefit.

ALTERNATIVE SUPPORT STRUCTURE means structures, other than telecommunication towers, including, but not limited to: buildings; water towers; light poles; power poles; telephone poles and other public utilities structures.

AMORTIZATION OR AMORTIZING means a method of eliminating nonconforming uses by requiring the termination of the nonconforming use after a specified period of time.

ANIMAL BOARDING means the housing of animals for compensation for more than 12 hours.

ANTENNA means any system of wires, poles, rods, reflecting discs or similar devices, used for the transmission or reception of electromagnetic waves external to, or attached to, the exterior of any building.

APARTMENT- see "Dwelling" for various housing types.

APPEAL means a request for a review of an administrative interpretation of any provision of this Code, a decision made by any City official, City board or the City Council.

APPLICANT means any person who submits appropriate documentation as required by the City relating to all aspects of this Code.

AQUACULTURE means raising aquatic animals for sale.

AQUACULTURE, LIMITED means the cultivation, production and raising of the natural products of water including hatcheries, nurseries and maintenance of products in above ground tanks less than 10,000 gallons of capacity.

AREA OF SHALLOW FLOODING means a designated AO or VO zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD means the land in a flood plain in a community subject to a one percent or greater chance of flooding in any given year.

AS-BUILT SURVEY means a survey which depicts the location and dimension of all structures, parking areas, stormwater management facilities and associated grades, road easements or other improvements as may be required or constructed on the parcel and includes the location and limits of the 100-year flood plain, if any.

ASSISTED LIVING FACILITY (ALF) means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

AUTOMOTIVE PAINT AND BODY SHOP means an establishment for automotive bodywork including the painting, repainting, restoring of a vehicle, parts or components including engine removal or dismantling, straightening or welding of vehicle frames or body parts, or the performance of other related vehicle services.

AUTOMOTIVE REPAIR means a use or establishment performing mechanical repair or serving work to automobiles and light trucks and does not include large trucks or other mechanical equipment. The term does not include any of the following activities or uses:

(a) Vehicle paint and body shop.
(b) Vehicle fabrication or assembly uses.
(c) Vehicle welding services or repairs.

AUTOMOTIVE SERVICE STATION means an establishment that is used primarily for the retail sale and direct delivery to motor vehicles of motor fuels and lubricants.

AWNING means a roof-like structure, regardless of the material used for construction, attached to a building which shelters doors or windows from the weather.

BANNER SIGN means any sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentation applied to paper, plastic or fabric of any kind, including such signs stretched across or hung over any public right-of-way.

BASE FLOOD means the flood having a one-percent (1%) chance of being equaled or exceeded in any given year (100 year storm event).

BASE FLOOD ELEVATION means the maximum elevation above mean sea level expected to be reached by flood waters during a 100-year storm event.

BASEMENT means that portion of a structure having its finished floor (below ground level) on all sides.

BEACON LIGHT SIGN means any sign or device which includes any light with beams capable of being revolved automatically.

BED AND BREAKFAST means a house or portion thereof where lodging rooms are available for short-term rental and meals may be provided to the guests renting the rooms and where the operator of the establishment lives on the premises.

BENCH SIGN means a bench or bus shelter upon which a sign is drawn, painted, printed, or otherwise affixed thereto, as further described in Chapter 337.408, F.S.

BERM means a manmade or natural mound of earth located so as to form a mound above the general elevation of the adjacent ground or surface.

BEST MANAGEMENT PRACTICES (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, treatment methods and other management practices to prevent or reduce pollutants from entering the MS4 (see definition).

BILLBOARD SIGN means a sign that directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

BLOCK means a tract of land existing within well defined and fixed boundaries, usually being a group of lots surrounded by streets or other physical barriers.

BOAT HOUSE means an accessory structure typically but not necessarily attached to a dock designed and used for the protection and storage of boats and boating supplies.

BOUNDARY LINE means a delineation that indicates or defines limits between differing lot or property lines.

BOUNDARY SURVEY means a survey that depicts the physical boundaries and dimensions of a parcel and its legal description.

BREAK POINT means the location on a communication tower of a designed feature which, in the event of a tower failure, would result in the tower falling entirely within the boundaries of the property on which it is located.

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 elevation portion of the building or the supporting foundation system.

BUFFER means a land area of specified width and/or height which is used to separate one use from another, or to shield or block noise, lights, or other nuisances.

BUILDABLE AREA means that portion of a lot remaining excluding the established front, rear and side setbacks.

BUILDING means any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or moveable property of any kind.

BUILDING ADDITION means any expansion to the perimeter of a building to which the addition is connected.

BUILDING FRONTAGE means the side of a building facing the principal road, street, highway or easement serving the building.

BUILDING HEIGHT means the vertical distance measured from the required minimum finished floor elevation to the highest point of a flat roof, or to the deck line of mansard roof: or to the average distance between eaves and ridge for gable, hip and gambrel roofs.

BUILDING PERMIT EXPIRATION means every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six months after the time the work is commenced. One or more extensions of time, for periods not more than 90 days each, may be allowed for the permit. The extension shall be requested in writing and justifiable cause demonstrated. Extensions shall be in writing by the Building Official.

BUILDING SETBACK LINE means a line within a lot or other parcel of land so designated on the final plat, between which line and the adjacent boundary of the street or street widening setback line, where applicable, upon which the lot or parcel abuts the erection of a building is prohibited, as prescribed by the zoning ordinance.

BULKHEAD LINE means a line established to fix the maximum distance from the shoreline within which filling may occur.

BUSINESS TAX RECEIPT means a permit to engage in an activity that requires regulation and all regulated activities must operate from within a permanent structure.

CALIPER means the trunk diameter of trees at a predetermined point.

CANOPY (FREESTANDING)/TEMPORARY CARPORTS means a rigid supported structure (capable of disassembly) covered with fabric, and supported by columns or posts embedded in the ground and/or attached at other points. Does not include the term carport.

CAPACITY means the availability of a public or private service or facility to accommodate users, expressed in an appropriate unit of measure such as gallons per day or average daily trips.

CARTWAY means the actual road surface areas from curb line to curb line or the hard surface road width of the road surface when no curbs are present.

CARPORT means an accessory structure or portion of a principal structure consisting of roofed area open on one, two, or three sides and free standing or attached to the main building by support members for storage of one or more vehicle. Does not include the term canopy (freestanding).

CAMOUFLAGE COMMUNICATION TOWER means a tower designed to merge and blend into and conform in appearance with existing surroundings. An example of a camouflage communication tower would be one that is constructed in the form and shape of a tree in order to appear to be part a forested area or a tower constructed to appear to be a component of a bell tower or to be or appear to be a component of church steeple in order for the tower to be or appear to be part of these more aesthetically pleasing structures.

CANAL means an artificial, primary water conveyance facility with an open channel and usually a wet bottom.

CEMETERY means land used or intended to be used as a burial ground or burial place of the human dead and dedicated for crematories, mausoleums and mortuaries if operated in connection within the boundaries of such cemetery.

CERTIFICATE OF CONCURRENCY means a statement issued by the City and relating to a specific development project on a specific parcel of real property or part thereof, which is valid and states that all concurrency requirements are satisfied and that a specified quantity of concurrency facilities is reserved for a specified period of time.

CERTIFIED LOCAL GOVERNMENT means a government meeting the requirements of the National Historic Preservation Act Amendments of the 1980 (P.A. 96-515) and the implementing regulations of the U. S. Department of the Interior and the State of Florida.

CHANGEABLE COPY SIGN means a sign that is designed so that characters, letters or illustrations can be changed or rearranged, including billboards.

CHILD CARE FACILITY means any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included:

Public schools and nonpublic schools and their integral programs, except as provided in Chapter 402.3025, F.S. (2005);

(a) Summer camps having children in full-time residence;
(b) Summer day camps;
(c) Bible schools normally conducted during vacation periods; and
(d) Operators of transient establishments, as defined in Chapter 509 (F.S.), which provide child care services solely for the guests of their establishment or resort provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of Chapter 435.

CHRONIC NONMALIGNANT PAIN means pain unrelated to cancer or rheumatoid arthritis, which persists beyond the usual course of the disease or injury that is the cause of the pain, or more than ninety (90) days after surgery.

CITY means the City of Edgewater, a Florida municipal corporation.

CITY COUNCIL means the governing body of the City.

CITY ENGINEER means a professional engineer employed by the City or the designated consultant professional engineer.

CLEAN WATER ACT (CWA) means Public Law (PL) 92-500, as amended PL 95-217. PL 95-576, PL 6-483, and PL 97-117, 33 U.S.C. 1251 et seq., as amended by the Water Quality Act of 1987, PL 100-4.

CLEARING means the removal of trees and/or brush from a parcel, not including mowing.

CLUB means a building or facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business and where the serving or sale of alcohol is not the primary use.

COASTAL HIGH HAZARD ZONE OR AREA means the area subject to high-velocity waters caused by, but not limited to, hurricane wave wash found in Category 1 storms.

CODE OF ORDINANCES means the laws, rules and regulations of the City of Edgewater which shall include, but not be limited to, the Code of Ordinances and the Land Development Code.

COMMERCIAL MASCOT means any person(s), animal(s) and/or facsimile thereof holding, spinning, waving and/or otherwise displaying signage for the advertising of commercial products or services within any public right-of-way or visible from any public right-of-way, including any person(s), animal(s) and/or facsimile thereof attired or decorated with commercial insignia, images or symbols, for the advertising of commercial products or services within any public right-of-way or visible from any public right-of-way. This shall include, but not be limited to, sign spinners, sign twirlers, sign walkers, sign clowns, etc.

COMMERCIAL MOBILE SERVICES means the communications Act and the FCC's rules, and include cellular telephone services regulated under Part 22 of the FCC's rules, SMR services regulated under Part 90 of the FCC's rules, and PCS regulated under Part 21 of the FCC's rules.

COMMUNICATION ANTENNA means an antenna designed to transmit or receive communications as authorized by the Federal Communications Commission (FCC).

COMMUNICATION TOWER means a tower greater than 35 feet in height (including the antenna component) which supports communication (transmission or receiving) equipment. Amateur radio operators' equipment, as licensed by the FCC, shall not be deemed a communication tower.

COMMUNITY RESIDENTIAL HOME means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes shall not be located within a radius of 1,000 feet of another existing such home with six or fewer residents; provided that, prior to licensure, the sponsoring agency provides the local government with the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located in order to show that no other community residential home is within a radius of 1,000 feet of the proposed home with six or fewer residents. At the time of home occupancy, the sponsoring agency must notify the local government that the home is licensed by the licensing entity.

COMMUNITY WATER SYSTEM - means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

COMPATIBILITY means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is negatively impacted directly or indirectly by another use or condition.

COMPREHENSIVE PLAN means an ordinance of the City which contains the official statement of public policy for the development and/or redevelopment of the City, and which conforms to the relevant requirements of Chapter 163, Part II, F.S. and the appropriate portions of the Florida Administrative Code.

COMPUTERIZED SWEEPSTAKES DEVICE means any computer, machine, game or apparatus which, upon the insertion of a coin, token, access number, magnetic card, or similar object, or upon the payment of anything of value, and which may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not registering a score, and which provides the user with a chance to win anything of value that is not de minimis. Machines designated for use by the State Lottery Commission are not Computerized Sweepstakes Devices for purposes of this definition.

CONCEPTUAL PLAN means a preliminary presentation and attendant documentation of a proposed development project of sufficient accuracy to be used for meaningful discussion.

CONCURRENCY means a finding that required public facilities and services necessary to support a proposed development are available, or will be made available concurrent with the impacts of the development. Roadways, wastewater, solid waste, drainage, potable water, open space/parks and recreation facilities and schools have or will have the necessary capacity to meet the adopted level of service standards at the time the impact of a new or expanded development occurs. Transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation.

CONCURRENCY MANAGEMENT means the procedure and process that the City uses to ensure that no development order or permit is issued by the City unless the necessary concurrent public facilities are available. This means public facilities and services for which a Level of Service (LOS) must be met concurrent with the impact of development, or an acceptable deadline as mandated in the Comprehensive Plan pursuant to Chapter 163, Florida Statutes, and 9J-5.0055, Florida Administrative Codes, and shall include but may not be limited to:

(a) potable water
(b) sanitary sewer
(c) drainage
(d) recreation/open space
(e) solid waste
(f) roadways
(g) schools

CONSTRUCTION PLANS means signed and sealed drawings by an appropriate professional, and/or specifications indicating specific locations of site improvements and other similar matters.

CONSTRUCTION SIGN means any sign giving the names of contractors, design professionals and lending institutions responsible for construction occurring on the same parcel.

CONSTRUCTION TRAILER means a temporary office placed upon a parcel for the purpose of supervising the development of said site, and can only be installed after site plan approval and must be removed within five days of the issuance of a Certificate of Occupancy.

CONDITIONAL USE means a use within a zoning district that may be permitted, pursuant to express standards and criteria, which are consistent with the Comprehensive Plan.

CONTIGUOUS means lands which abut each other or are separated by streets, easements, pipelines, power lines, conduits, or rights-of-way under ownership of the petitioner, governmental agencies, subdivision, or public or private utility.

CONTROLLED SUBSTANCE MEDICATION means any controlled substances identified in Schedules I, II, III or IV of Chapter 893, Florida Statutes as may be amended from time to time.

COSTS with regard to hazardous substances means those necessary and reasonable costs incurred by the City in connection with investigating, mitigating, minimizing, removing or abating discharges of hazardous substances, including but not limited to: the actual labor costs of city personnel or authorized agents, cost of equipment operation and rental, cost of expendable items, including but not limited to, firefighting foam, chemical extinguishing agents, absorbent material, sand, recovery drums, goggles and protective clothing (both structural and chemical protective, disposable or standard use). Costs shall further include overhead costs and indirect expenses allocable to the foregoing costs.

CREMATORIUM means an establishment in which a deceased body is reduced to ashes in a furnace. This type of facility must be licensed with the Florida Department of Business and Professional Regulation and meet the criteria of the Florida Department of Health Department of Environmental Protection, pursuant to Florida Statutes, Chapter 470.

DECISION OR RECOMMENDATION regarding Historic Preservation means when referring to the Recreation/Cultural Services Board, the executive action taken by the Board on an application for a designation or a certificate of appropriateness regardless of whether that decision or recommendation is immediately reduced to writing.

DEMOLITION means any act that destroys in whole or in part, a building or structure, landmark or archeological site.

DENSITY means an objective measurement of the number of residential units allowed per unit of land.

DESIGN CAPACITY means the limit of capacity of a public facility beyond which it ceases to function efficiently.

DESIGN HIGH WATER (DHW) means the water elevation expected to occur at a particular design storm event. Examples are:

DHW 10	10-year storm event
DHW 25	25-year storm event
DHW 100	100-year storm event

DEVELOPER means any person, partnership or corporation, or duly authorized agent who undertakes any material changes to land or other development activities under these regulations.

DEVELOPMENT means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three (3) or more parcels and includes the following activities or uses:

(a) A reconstruction, alteration of the size or material change in the external appearance of a structure or land:
(b) A change is the intensity of use of land, such as an increase in the number of dwelling units in a structure, or on land, or a material increase in the number of businesses manufacturing establishments, offices, or dwelling units in a structure or on land;
(c) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal including any "coastal construction' as defined in Section 161.021, Florida Statutes;
(d) Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land;
(e) Demolition of a structure;
(f) Clearing of land as adjunct of construction;
(g) Deposit of refuse, solid or liquid waste, or fill on a parcel of land; or
(h) The subdivision of land consistent with this regulation.

When appropriate to the context, "development" refers to the act of developing or to the result of development.

DEVELOPMENT AGREEMENT means an agreement entered into between the City and another party associated with the development of land, including agreements associated with development orders issued pursuant to Section 21-101 of this Code.

DEVELOPMENT ORDER means an order or permit granting, denying, or granting with conditions an application for a development permit.

DEVELOPMENT SIGN means a sign designed and intended to advertise and promote the sale of buildings or subdivided lots on the same parcel.

DIAMETER AT BREAST HEIGHT (DBH) means the diameter of a tree, measured 4-1/2 feet above the average ground elevation at its base. If the tree, or shrub forks 4-1/2 feet above the ground level, it is measured below the swell resulting from the double stem. Stems that fork below 4-1/2 feet above the ground level should be considered a separate plant.

DIRECTORY SIGN means a sign on which the names and locations of occupants or the use of a building is given.

DISCHARGE shall mean any intentional or unintentional action or omission resulting in the release of liquid, solid or gaseous material and includes but is not limited to a release, spilling, leaking, seeping, pouring, emitting, emptying, and dumping of any substance or material.

DISPENSING FACILITY means a facility of a dispensing organization that dispenses low-THC cannabis and/or medical cannabis.

DISPENSING ORGANIZATION means an organization authorized by the Florida Department of Health to cultivate, process, transport and dispense low-THC cannabis or medical cannabis.

DOCUMENTATION means any photographs, slides, drawings, plans, electronic media, or additional written description or narrative relating to the specific matter.

DREDGING means excavation by any means that occurs in a water body or which is, or is proposed to be, connected to a water body via excavated water bodies or a series of excavated water bodies.

DWELLING means any building or portion thereof designed or used exclusively for residential living occupancy.

DWELLING TYPES

SINGLE-FAMILY means a residential building designed for, or occupied exclusively by one family.

DUPLEX means a residential building containing two dwelling units joined by a minimum 2-hour rated firewall each having separate entrances and kitchen facilities.

MULTI-FAMILY means a residential building on one parcel of land designed for, or occupied exclusively by three or more families with separate housekeeping and cooking facilities for each unit.

APARTMENT means a rented or leased room, or a suite of rooms, occupied, or which is intended or designed to be occupied as the home or residence of one individual, family, or household for housekeeping purposes with each unit separated by a minimum one-hour rated fire wall.

TOWNHOUSE means a one family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common wall with a minimum 2-hour rated fire wall.

GARAGE APARTMENT means a two story attached accessory building with a ground floor automobile storage and single family living quarters on the second floor located in a multi-family designated district.

GARDEN APARTMENT means a residential building containing more than four apartments, not exceeding three stories in height with units located side by side and on top of each other with each unit separated by a minimum one-hour rated fire wall.

UNIT means a group of interrelated rooms which are intended or designed for the use of one family, separated from other spaces by lockable doors, having access to the outdoors without crossing another dwelling, having living and sleeping facilities and cooking facilities, fixed or portable, and complete sanitary facilities.

MID-RISE means a residential building containing more than four apartments, not less than four stories with units located side by side and on top of each other.

CLUSTER HOUSING means a development involving two or more detached dwellings to be constructed on a parcel on which all land areas not occupied by dwelling units shall be designated as common space.

DRY BOTTOM means any water retention, detention, or conveyance facility which evacuates its water level below its designated bottom within seventy-two hours of its deigned storm event, by either natural or artificial draw down means; and whose bottom is maintained a minimum twelve inches above the SHWT.

EASEMENT means any strip of land created by a subdivider, or granted by the owner for public utilities, drainage, sanitation or other specified and limited uses, the title to which shall remain in the name of the property owner subject to the right of use designated in the conveyance.

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

EMF (electromagnetic field) means a wireless communication.

ENGINEER means a person practicing engineering and licensed in the State of Florida pursuant to the requirements of Chapter 471, F.S.

ENVIRONMENTAL CONSTRAINTS means natural resources or natural characteristics that are sensitive to improvements and require mitigative actions to be maintained by owner.

EQUIPMENT means the implements used in an operation or activity.

EQUIVALENT RESIDENTIAL UNIT (ERU) means 204 gallons per day potable water usage, and 204 gallons per day of wastewater contribution to be an equivalent residential unit.

ERECT shall mean to build, construct, attach, hang, place, suspend or affix, whether temporary or permanent, and shall include the painting of wall signs.

ERECTED means attached, altered, constructed, enlarged, reconstructed, or moved whether temporary or permanent.

EXCHANGE ACCESS means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

EXFILTRATION SYSTEM means water passing through a permeable substance such that water is filtered as it is discharged from a water conveyance facility (e.g., exfiltration pipe).

EXISTING CONSTRUCTION means any structure for which the "start of construction" commenced before June 17, 1974.

F.A.C. means the most current version of the Florida Administrative Code which is the administrative rules implementing state statutes.

FAMILY means a group of individuals living under one roof. Those who dwell under the same roof and compose a family; a social unity comprised of those living together in the same dwelling.

FEMA means the Federal Emergency Management Agency.

FENCE means a barrier, usually comprised of wooden or metal posts, rails or chain link, used as a boundary marker or means of protection, concealment and/or confinement, but not including hedges, shrubs, trees, or other natural growth.

FINISHED FLOOR ELEVATION means the elevation of the finished floor of the habitable space of a building. The elevation should be referenced to a standard datum, typically the North American Vertical Datum of 1988 (NAVD-88).

FIREWALL means a wall as described in the Standard Building Code which is of sufficient fire resistance, durability and stability to withstand the effects of an uncontrolled fire exposure, which may result in collapse of the structural framework on either side. Openings in the wall, if allowed, must be protected.

FIRM means the Flood Insurance Rate Map.

FIS means Flood Insurance Study.

FIXED BASE OPERATIONS means directly related activities to operate and support an airport and its users.

FLASHING SIGN means a sign that contains an intermittent or sequential flashing light source. An animated or moving sign shall not be considered a flashing sign. Such signs shall not be deemed to include time and temperature signs.

FLOOD OR FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.
(b) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD AREA means land in the flood plain within a community which is subject to a one percent (1%) or greater chance of flooding in any given year. Also defined as the one hundred (100) year storm event or Base Flood.

FLOOD INSURANCE RATE MAP (FIRM) means an official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means a Federal Emergency Management Agency (FEMA) report containing flood profiles, flood boundary maps and the water surface elevation of the base flood.

FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

FLOOD PLAIN means boundaries of the special flood hazard area indicating a flood having one percent (1%) chance of occurrence in any given year as indicated on the Federal Insurance Rate Map (FIRM) Flood Hazard Boundary Map. Flood plain can also be defined as or include a ten (10) year, twenty-five (25) year or one hundred (100) year storm event.

FLOOR means the top surface of an enclosed area in a building, i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction, but does not include the floor of a garage used solely for parking vehicles.

FLOOR AREA means the sum of the gross horizontal area of the several floors of a building, except that in structures used as a residence, cellar, basement, garage, carport, patio, porch and attic floor area not devoted to living use shall be excluded. All dimensions shall be measured between exterior faces of walls or the center line of the wall separating two attached buildings.

FLOOR AREA RATIO (FAR) means the gross floor area of a building or structure divided by the gross area of the parcel.

FOWL means any guineas, peafowl, pigeons, pheasants or poultry or similar wild birds.

FRONTAGE see "Lot Frontage."

F.S. means the most current version of the Florida Statutes.

FUTURE LAND USE MAP (FLUM) means a graphic representation of the land use categories adopted as part of the Edgewater Comprehensive Plan. The Future Land Use Map may also be referred to as the "Land Use Map" or "Future Land Use Map Series."

GARAGE means an accessory building incidental to a dwelling unit which is intended for the off-street storage of motor vehicles belonging to the inhabitants of the dwelling unit on the parcel on which the garage is located; and is not intended to be used for any commercial business purpose.

GRADE means the slope of a road, street, unimproved land, or any other land improved, altered or changed; specified in percent.

GROUND SIGN mean a sign that is anchored to, and not elevated above, the ground and maintains essentially the same contour from the ground to the top of the sign.

GUEST COTTAGE means living quarters within a detached accessory building located on the same lot or parcel as the main building to be used exclusively for housing members of the family occupying the main building and/or their nonpaying guests; such quarters shall have no kitchen facilities and shall not be rented or otherwise used as a separate dwelling.

GUYED TOWER means a communication tower that is supported, in whole or in part, by guy wires and ground anchors.

HAZARDOUS MATERIALS means any substance or material, solution, mixture, or a formulation containing such materials and includes any material which due to its chemical composition poses an unreasonable and eminent risk to the life, health, safety or welfare of persons, property or environment. Materials deemed hazardous are as specified in the following:

(a) Chapter 38F-41 of the Florida Administrative Code
(b) Title 40 of the Code of Federal Regulations, Part 261
(c) Title 40 of the Code of Federal Regulations, Part 302.4
(d) Title 40 of the Code of Federal Regulations, Part 355

HEALTH/EXERCISE CLUB means an establishment which provides for athletic and physical force training or health and recreational exercise whether private or public.

HIGHEST ADJACENT GRADE means the highest elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC DISTRICT means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, objects or areas, which are united by past events. A district also may be comprised of individual

resources which are separated geographically but are linked by association or history.

HOME OCCUPATION means a commercial enterprise within a residence for the purpose of sending and receiving communication, maintaining records and similar functions; and where no business is conducted other than by phone, mail or electronically; and employing no persons other than members of the immediate family residing on the premises. No commercial delivery shall be allowed.

HOSPITAL means an institution where the sick or injured are given medical or surgical care.

HOTEL see "Motel."

ILLEGAL SIGN means a sign that does not meet the requirements of this Code and that has not received nonconforming status.

ILLICIT CONNECTION means point source discharges to the City's MS4 or to waters of the United States, which are not composed entirely of stormwater and are not authorized by a permit.

ILLICIT DISCHARGE means the discharge to the City's MS4 or to waters of the United States which is not composed entirely of stormwater, unless exempted pursuant to local, state and/or federal permits.

ILLUMINATED SIGN shall mean any sign illuminated in any manner by an artificial light source.

IMPERVIOUS SURFACE AREA (ISA) means the area of a lot or parcel of land covered by any part of a building, street, parking lot, or any other structure, improvement, facility or material, except roof overhang, which restricts natural percolation by rain water. This includes swimming pools, all asphalt, brick or wooden surfaces and areas devoted to any outdoor storage and/or display of materials and merchandise. Unpaved parking shall be considered impervious surfaces.

IMPERVIOUS SURFACE RATIO (ISR) means the gross impervious surface area divided by the gross area of the parcel.

IMPROVEMENT means any building, structure, construction, demolition, excavation, landscaping, or any part thereof existing, built, erected, placed, made, or done on land or other real property for its permanent benefit. Property abutting a street, waterway or utility easement shall be considered improved.

INFILL DEVELOPMENT means the addition of new housing or other buildings on scattered vacant sites or platted lots in a developed area or subdivision.

INFILTRATION means water passing through a permeable surface such that the water is filtered before it is collected by a water conveyance facility (e.g., under drain pipe).

INFORMATION SERVICES means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

INTEGRAL SIGN means memorial signs or tablets, including names of buildings and date of erection when cut into any noncombustible materials mounted on the face of a building.

INTERNET/SWEEPSTAKES CAFÉ means any business, establishment or portion of business or establishment, which conducts giveaways through drawings by chance conducted in connection with the sale of a consumer product or service, sweepstakes, game promotions, to include any giveaways obtained with any "Computerized Sweepstakes Device", as defined in this Section, and that does not otherwise violate Florida law and is located for the use or entertainment of the public.

JUNKYARD see "Salvage Yards."

KENNEL means any place of business where dogs or cats regardless of number are kept for sale, breeding, boarding or treatment purposes, except an animal hospital, grooming facility or pet shop. The term "kennel" shall include any premises used for residential purposes where five (5) or more dogs or cats four (4) months or older are kept, harbored or maintained for monetary compensation.

LAND PLANNING AGENCY means the Planning and Zoning Board as designated pursuant to the requirements of Chapter 163.3174, F.S.

LANDMARK in regards to Historic Preservation means a building or structure meeting one or more of the criteria required in Article XIV of this Code. A "landmark" shall include the location of significant archeological structures, features or of an historical event.

LANDMARK SITE in regards to Historic Preservation means the land on which a landmark and related buildings and structures are located and the land that provides the grounds, the premises or the settings for the landmark.

LATTICE TOWER means a telecommunication tower that is constructed without guy wires and ground anchors.

LEVEL OF SERVICE STANDARD (LOS) means the volume of capacity per unit of demand for certain public facilities as adopted in the Comprehensive Plan.

LITTER means any garbage, rubbish, trash, refuse, cans, bottles, boxes, container paper, tobacco products, tires, appliances, electronic equipment, mechanical equipment or parts, building or construction material, tools, machinery, wood, motor vehicles or motor vehicle parts, vessels, aircraft, farm machinery or equipment, sludge from a water treatment facility, water treatment plant or pollution control facility; or substances in any form resulting from domestic, industrial, commercial, mining, agriculture or governmental operations as defined in Chapter 403.413, F.S.

LIVING AREA means space in a structure in which the air is conditioned by heating and/or air conditioning and the space is habitable and enclosed.

LOADING SPACE means a space within, or adjacent to, the main building on a lot providing for the standing, loading or unloading of trucks.

LOCAL REGISTER in regards to Historic Preservation means a method by which to identify and classify various sites, buildings and objects as historic and/or architecturally significant.

LOCATION means any lot, premises, building, structure, wall or any place whatsoever upon which a sign, structure or dwelling is located.

LOT means an area of land which abuts a street and which either complies with or is exempt from the City's regulations, and is sufficient in size to meet the minimum area and width requirements for its zoning classification as established in Article V of the Land Development Code or in Article VII entitled "Non-Conforming Uses" or a subdivision or any other tract or parcel of land, including the airspace above or contiguous thereto, intended as a unit for transfer of ownership or for development or both. The word "lot" includes the word "plot", "tract" or "parcel".

LOT AREA means the total horizontal area within the boundaries of a lot of record.

LOT, CORNER means either a lot bounded entirely by streets, or a lot that adjoins the point of intersection of two or more streets and includes lots on curves.

LOT COVERAGE means that portion of the lot area expressed as a percentage, occupied by all buildings.

LOT, FLAG means a lot or building site which has minimum required frontage on a public or private street typically behind another lot also fronting on the same street shaped similar to a flag.

LOT FRONTAGE means any portion of a lot which fronts upon a public or private street. The primary front line is that frontage on which the address is given.

LOT, THROUGH (DOUBLE FRONTAGE) means any lot, not on a corner, having both the front and rear property lines adjacent to a public street.

LOT LINE means the boundary of a lot.

LOT LINE, FRONT means the continuous line formed by the lot frontage.

LOT LINE, REAR means any lot line, except a front or side lot line.

LOT LINE, SIDE means a continuous line which runs back from an intersection with the lot front line, and which forms the boundary line between the lot and the adjacent parcel of land.

LOT LINE, ZERO means a single-family dwelling unit sited on a lot contiguous to one side lot line with no more than a 5-foot separation.

LOT OF RECORD means a lot or parcel whether or not a part of a subdivision which exists as shown or described on a plat or deed in the Official Records of Volusia County as of June 17, 1974.

LOUNGE means a building or portion of a building wherein alcoholic beverages are sold by the drink and consumed on the premises (includes the word Nightclub).

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). An unfinished shed or flood-resistant enclosure which is not within a basement but which is usable solely for parking of vehicles, building access or storage purpose, is not considered a building's (or structure's) lowest floor, providing such enclosure is built in compliance with applicable non-elevation design requirements of this Code.

LOW-THC CANNABIS means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, sale, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization.

MANGROVE STAND means an assemblage of mangrove trees which is mostly low trees noted of a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species:

Black Mangrove	-	(Avicennia nitida)
Red Mangrove	-	(Rhizophora mangle)
White Mangrove	-	(Laguncularia racemosa)
Buttonwood	-	(Conocarpus erecta)

MANSARD means a sloped roof or roof-like facade architecturally comparable to a building wall.

MANUFACTURED HOME (OR STRUCTURE) means a mobile home fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site with each section bearing a seal certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standard Act.

MANUFACTURING means a premises, or portion of a premises, occupied by an establishment primarily engaged in the making of a product, fabrication or processing of materials, products or personal property.

MARQUEE means a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall that is designed and constructed to provide protection against the weather.

MEAN HIGH WATER means the average height of waters over a 19-year period. For

shorter periods of observation, "mean high water," means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19 year value.

MEAN SEA LEVEL means the average height of the sea for all stages of the tide and is used as a reference to establish flood plain elevations.

MECHANICAL REPAIR see "**VEHICLE REPAIR**."

MEDICAL CANNABIS means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in Florida Statutes.

MICROWAVE means a dish antenna, or a dish-like antenna used to link communication sites together by wireless transmission of voice or data.

MINI-WAREHOUSE means a structure, or structures in a controlled access and fenced compound that contains varying sizes of individual climate controlled compartmentalized and controlled access stalls or lockers without water, sewer or electric connections for the dead storage of customers' goods or wares.

MINOR SUBDIVISION means any division or re-division of a parcel of land in single ownership whose entire area is ten (10) acres or less, into not more than three (3) lots if all of the following requirements are met:

(a) All resultant lots or parcels front by at least twenty feet (20') on an existing public or private street and;
(b) The division or re-division does not involve the construction of any new street, road or change in an existing street or road and;
(c) The division or re-division does not require the extension of municipal water or sewer or the creation of any public improvement.

MIXED USE DEVELOPMENT means more than one (1) type of use in a single parcel or structure.

MOBILE and LAND BASED TELECOMMUNICATION FACILITY means whip antennas, panel antennas, microwave dishes, and receive-only satellite dishes and related equipment for wireless transmission with low wattage transmitters not to exceed 500 watts, from a sender to one or more receivers, such as for mobile cellular telephones and mobile radio system facilities.

MOBILE HOME means a structure, transportable in one (1) or more sections which is eight (8) body feet or more in width, and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. For the purpose of this section, a travel trailer is not classified as a mobile home.

MOBILE HOME PARK means a parcel or tract of land of contiguous ownership where lots or spaces are rented or leased to accommodate more than one (1) mobile home.

MOBILE VENDOR (Mobile Dispensing Vehicle) means any vehicle mounted public establishment that is self-propelled or otherwise moveable from place to place, and is self-sufficient for utilities, such as gas, water, electricity, and liquid waste disposal. Proof of inspection by the State of Florida Department of Motor Vehicles is required.

MODEL HOME CENTER means an area comprised of one (1) or more lots containing one (1) or more model dwellings upon which active sales or demonstration activities are conducted regardless of the ownership status of the model dwellings or lots.

MODULAR HOME means a structure constructed to the same state, local or regional building codes as site-built homes. Other types of system-built homes include panelized wall systems, log homes, structural insulated panels, and insulating concrete forms. A modular home is designed to be set on a permanent foundation and is not intended to be moved once set.

MONOPOLE TOWER means a telecommunication tower consisting of a single pole or spire self supported by a permanent foundation, constructed without guy wires and ground anchors.

MOTEL means a building, or group of buildings, which contains sleeping accommodations for transient occupancy and may have individual entrances from outside the building to serve each such sleeping unit. Motels may have one (1) or more dining rooms, restaurants or cafes as accessory uses. For the purposes of this Code, motel and hotel shall have the same meaning.

MOVABLE SIGN means any mobile sign or sign structure, not securely attached to the ground or to any other structure, but does not include trailer signs as defined below.

MOVING SIGN means a sign all or part of which is in motion, including fluttering, rotating, revolving or any other motion.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) means a conveyance, storage area or system of conveyances and storage areas (including, but not limited to, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, storm drains, treatment ponds, and other structural BMPs) owned or operated by a local government that discharges to waters of the United States or to other MS4's, that is designed solely for collecting, treating or conveying stormwater, and that is not part of a publicly owned treatment works (POTW) as defined by 40 Code of the Federal Register 122.2 or any amendments thereto.

MUNICIPALITY means a duly incorporated municipality in the County.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) means a vertical control used as a reference for establishing varying elevations within the flood plain.

NAVD88 means the North American Vertical Datum of 1988.

NET DENSITY means the number of dwelling units per acre of land devoted to residential uses and excludes right-of-ways, wetlands and lands below the 100-year flood plain.

NEW CONSTRUCTION means any structure for which the "start of construction" commenced after adoption of this Article and includes any subsequent improvements to such structure.

NGVD29 means the National Geodetic Vertical Datum of 1929.

NIGHTCLUB See “Lounge.”

NONCONFORMING BUILDING OR STRUCTURE means a structure or building existing as of June 17, 1974 which does not conform to the property development regulations of area, height, lot coverage, yard setbacks, lot location or other like requirements of the district in which it is located.

NONCONFORMING LOT means an existing single lot, tract or parcel of land at the effective date of this Code which does not conform to the property development regulations of area, lot width, depth or both or other like requirements of the district in which it is located.

NONCONFORMING USE means any use of land, building or structure which does not conform to all of the provisions, requirements and regulations of this Code at the time of adoption.

NONCONFORMING SIGN means any sign that was a legal sign prior to adoption of this Code, but which does not conform to all of the requirements of this Code.

NONRESIDENTIAL ACTIVITY means any activity occurring on any described parcel of land, whether or not within a structure, that is not a residential activity as defined herein.

NON-TRANSIENT NON-COMMUNITY WATER SYSTEM means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

NUMBER PORTABILITY means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

NUISANCE means an offensive, annoying, unpleasant, or obnoxious object, odor, noise or practice; a cause or source of annoyance, especially a continuing or repeated invasion or disturbance of another's right, including the actual or potential emanation of any physical characteristics of activity or use across a property line, which emanation can be perceived by or affects a human being.

NURSING HOME means any facility which provides nursing services as defined in Chapter 464, Florida Statutes as may be amended from time to time.

OFFICIAL MAP means the map established by the City Council as amended from time to time showing the streets, highways and parks thereafter laid out, adopted and established by the law and any additions resulting from the approval of subdivision plans or annexations.

OPEN SPACE means any parcel or area of land or water set aside, reserved or dedicated for the use and enjoyment of all owners and occupants of the project. Usable common space shall include area(s) readily accessible and generally acceptable for active or passive recreational use. Open space shall not include required setback areas, contain structures, impervious surfaces, or right-of-ways other than those intended for landscape or recreational purposes.

OUTSTANDING FLORIDA WATERS (OFW) means special designation by the FDEP, for waters worthy of special protection because of their natural attributes, pursuant to the criteria set forth in Section 17-3.041 of the Florida Administrative Code. The eastern border of the City of Edgewater along the Intracoastal Waterway also referred to as the Mosquito Lagoon, an aquatic preserve, is considered an OFW.

OWNER means any person, partnership, corporation or corporations, or other legal entity having legal title to the land sought to be subdivided or developed under this Code.

PAIN CLINIC (hereinafter "pain clinics" shall include, but not be limited to, pain clinics, pain management clinics, wellness clinics, urgent care facilities or detox centers) shall have the same meanings and same exemptions as provided for in Florida Statutes Chapter 458 and 459 as amended from time to time, or any successor state law. Pain clinic means a privately owned pain management clinic, facility or office which advertises in any medium for any type of pain management services or employs a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and is required to register with the Florida Department of Health pursuant to Florida Statutes Chapter 458 and 459 as amended from time to time, or any successor state law. A physician is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Pain management clinic does not include a clinic:

(a) Licensed as a facility pursuant to Chapter 395, Florida Statutes, as may be amended from time to time;
(b) Where the majority of the physicians who provide services in the clinic primarily provide surgical services;

(c) Owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded fifty million dollars ($50,000,000.00);
(d) Affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;
(e) That does not prescribe or dispense controlled substances for the treatment of pain; or
(f) Owned by a corporate entity exempt from federal taxation.

PANEL ANTENNA means an array of antennas designed to concentrate a radio signal in a particular area.

PAWN SHOP means an establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

PENNANTS shall include the terms "ribbons" and “streamers" and shall mean pieces of cloth, flexible plastic or other flexible material intended to attract attention because of their bright colors and/or flapping caused by action of the wind and shall include a single pennant, ribbon or streamer or a series of such pennants, ribbons or streamers.

100 PERCENT CLEAR ZONE means the requirement that in the event of a tower failure, the entire height of the tower would fall completely within the boundaries of the subject parcel.

PERMANENT CONSTRUCTION shall mean designed, constructed and intended to be used for more than 180 days, but does not include land preparation, such as clearing, grading and filling.

PERMANENT STRUCTURE means a building designed, and constructed from the ground up, meeting all building code and fire protection standards and intended to be used for more than 180 days, but does not include land preparation, such as clearing, grading, and filling.

PERSON means any individual, firm, association, organization, whether social, fraternal of business, partnership, joint venture, trust company, corporation, receiver, syndicate, business trust, or other group or combination acting as a unit, including any government.

PERSONAL SERVICES means a use primarily engaged to provide services involving the care of a person’s appearance or apparel.

PLACE OF WORSHIP means a premises, or portion of, occupied by a religious organization operated primarily for worship and related activities; may also be called a church, temple, synagogue or other names appropriate to the worship and related activities. The term worship does not include day care facilities or educational facilities.

PLANNED UNIT DEVELOPMENT (PUD) means a land area under unified control, designed and planned to be developed for residential, commercial or industrial uses in an approved Final Development Plan.

PLAT means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirements of all applicable sections of this Code and any other local or state legislation including Chapter 177, F.S. and may include the terms "replat", "amended plat," or "revised plat."

POLE SIGN means a sign attached to, and elevated above, the ground by means of a pole or poles.

POLITICAL SIGN OR CAMPAIGN SIGN means a sign relating to any person, political party or matter subject to a public election.

PORTABLE SIGN means a sign that is mounted on a trailer or other chassis and is capable of being moved as an entire unit.

POTABLE WATER means water that is satisfactory for drinking, culinary and domestic purposes meeting current State and Federal drinking water standards.

POTABLE WATER SUPPLY WELL means water supply well which has been permitted for consumptive use by the SJRWMD**.**

PREMISES means a parcel of land with its appurtenances and buildings which because of its unity of use may be regarded as the smallest conveyable unit of real estate.

PRIMARY CONTAINMENT means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous substance being contained.

PROJECTING SIGN means any sign other than a wall sign affixed to any building or wall whose leading edge extends beyond such building or wall.

PUBLIC BODY means any governmental agency of the City, Volusia County, the State of Florida or the United States.

REAL ESTATE SIGN means any sign that is used to offer for sale, lease or rent the property upon which the sign is placed.

RECHARGE AREA means a recharge area designated by the SJRWMD for the surficial aquifer in the City of Edgewater.

RECLAIMED WATER means treated wastewater effluent that has received at least advanced secondary treatment and high-level disinfection.

RECREATIONAL VEHICLE means a vehicle designed as temporary living quarters for recreational camping or travel use, which either has its own motor power or is mounted on, or drawn by, another vehicle. The term recreational vehicle excludes park trailers, automotive vans and mobile homes, but includes travel trailers, camping trailers, truck campers and motor homes as defined by Chapter 320.01, F.S.

REPEAT VIOLATION means a violation of a provision of a code or ordinance by a person who has been previously found through the Code Compliance Board to have violated or who has admitted violating the same provision within five years prior to the violation, notwithstanding the violations which occurred at different locations.

RESIDENTIAL ACTIVITY means any structure, or portion thereof, that is used for residential purposes, including those customary and accessory residential activities.

RESTAURANT means where meals are prepared, and food, including beverages and confections, is served to customers, with the food and nonalcoholic beverage sales amounting to at least fifty-one percent (51%) of the total food sales.

RE-SUBDIVIDE means the making of a new subdivision and/or replatting of previously subdivided and/or platted parcels.

REUSE means the deliberate application of reclaimed water, in compliance with Florida Department of Environmental Protection and the St. Johns River Water Management District rules, for a beneficial purpose.

RIGHT-OF-WAY means land dedicated, deeded, used or to be used for a street, alley, walkway, boulevard, drainage facility, access for ingress and egress, utilities or other purpose by the public, certain designated individuals, or governing bodies.

ROADWAY/STREETS means public or private roads falling into one of several categories, more particularly defined as follows:

Expressway means a limited access facility of four (4) or more lanes designed primarily for the high-speed movement of traffic.

Arterial means a facility of two (2) or more lanes designed primarily to serve as a major access route to expressways and/or as a connector of subregions, inter-county and inter-city vehicular movement. The main function is to move large volumes of vehicles (greater than 6,000 Average Daily Trips (ADT's).

Collector means roads of two (2) or more lanes designed primarily for traffic movement within and between residential neighborhoods, commercial and industrial areas and all other roads.

Cul-de-sac means a minor street with only one (1) outlet terminating at one (1) end with a circular turn around.

Local means road facilities designed primarily to provide direct access to abutting property. Average daily trips are normally less than 1000 vehicles.

Marginal Access means roads which are parallel to, and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

Private means any street that has not been dedicated for public use.

Public means any street designed to serve more than one (1) property owner which is dedicated to the public use and accepted for ownership and maintenance by the City Council or other regulatory public body, includes any street right-of-way dedicated to the public prior to, or at the time of, adoption of this Code.

ROOF LINE means the top edge of the roof or the top of a parapet; whichever forms the top line of the building silhouette.

ROOF SIGN means any sign erected or constructed wholly upon and over the roof of any building and supported solely on the roof structure.

SALVAGE YARD means a location used for collection, storage and/or abandonment of discarded or waste materials.

SCHOOL means any public or private elementary school, middle school or secondary school.

SCREEN ENCLOSURE means an addition to an existing structure that is attached to the principal structure and is enclosed with screen and has a roof and three (3) sides.

SEASONAL HIGH WATER LEVEL (SHWL) means the elevation to which ground or surface water can be expected to rise during a normal wet season.

SEASONAL HIGH GROUND WATER TABLE (SHGWT) means the zone of water saturated soil at the highest average depth during the wettest season of the year.

SECONDARY CONTAINMENT means the level of product containment separate from the primary containment.

SELF-SUPPORT TOWER means a communication tower that is constructed without guy wires and ground anchors.

SEMI-TRAILER see "Vehicle - Commercial."

SERVICE STATION means an establishment that is used primarily for the retail sale and direct delivery to motor vehicles of motor fuel and lubricants, as well as lubrication, washing, repairs and installation of automobile parts and accessories.

SETBACK (OR SETBACK LINE) means a line determined by measurement, parallel to a lot line, creating an area between the lot line and the setback line in which all structures (unless otherwise permitted) may not be erected.

SHOPPING CENTER means a group of commercial establishments planned, developed, owned and managed as a unit, with off-street parking provided on a site of at least one (1) acre and related in its location, size and type of shops to the trade area which the unit serves.

SHRUBS AND HEDGES means that shrubs and hedges shall be self-supporting woody evergreen species and shall be a minimum of two (2') foot in height, immediately after planting. Plants shall be spaced no more than three (3') feet apart measured from center to center.

SIGN means any device, structure, fixture, or placard using graphics, identifiable corporate, or business symbols, and/or written copy for the primary purpose of identifying, providing directions, or advertising any establishment, product, goods or service.

SILVICULTURE means the cultivation and harvesting of forest products for sale and which has an agricultural exemption from the State.

SINGLE OR SOLE SOURCE AQUIFER means the portion of the Florida Aquifer underlying most of Volusia County as designated pursuant to the requirements of Chapter 17-520, F.A.C.

SITE IMPROVEMENT means any man-made alteration to a parcel of land for the purpose of preparing the land for future construction, the actual construction/renovation of structure or paving of a surface and/or the planting or installation of permanent landscaping.

SITE PLAN means an illustration of the details of development of areas such as commercial, industrial, recreational, multi-family, residential and other uses not reflected on the plat.

SJRWMD means the St. Johns River Water Management District, a state agency designated by Chapter 373, F.S. with broad authority to manage the waters of the State.

SNIPE SIGN means any sign of any material whatsoever that is attached in any way to a utility pole, tree or any object located or situated on public or private property.

SPECIMEN TREE means any tree that is unique by reason of age, size, rarity, or status as a landmark as determined by an arborist or botanist and includes the following species of trees with the minimum specified diameter in inches at breast height:

Common Name	Botanical Name	Inches (DBH)
Elm	Ulmus spp.	12 plus
Hickory	Carya spp.	12 plus
Loblolly Bay	Gordonia lasianthus	12 plus
Magnolia	Magnolia grandiflora	12 plus
Maple	Acer spp.	12 plus
Other Oak Species	Quercus spp.	12 plus
Red Bay	Persea borbonia	12 plus
Red Cedar	Juniperus silicicola	12 plus
Swamp Bay	Persea palustris	12 plus
Sweet Bay	Magnolia virginiana	12 plus
Sweet Gum	Liquidambar styraciflua	12 plus
Sycamore	Platanus occidentalis	12 plus
Turkey Oak	Quercus laevis	12 plus
Cypress	Taxodium spp.	12 Plus
Sugarberry/Hackberry	Celtis laevigata	12 Plus
Slash Pine	Pinus Elliotti	18 Plus
Longleaf Pine	Pinus Palustris	18 Plus

SPILL means the release or escape of a hazardous substance, directly or indirectly to soils, surface waters, or groundwater.

START OF CONSTRUCTION (except for construction, or substantial improvement under the Coastal Barrier Resources Act, PL97-348) means the date the building permit was issued and includes the first placement of permanent construction of a structure (including a manufactured or modular building) on a site or plot, such as the pouring of slabs or footings, installation of piles, construction of columns or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling.

STEALTH FACILITY means any telecommunications facility which is designed to blend into the surrounding environment. Examples of stealth facilities include architecturally screened roof-mount antennas, antennas integrated into architectural elements, and telecommunications towers designed to look like light poles, power poles or trees.

STORAGE BUILDING means any structure used to shelter and/or protect equipment, supplies, chemicals, goods, furniture and the like for use by the principal occupant of the site.

STORAGE, OUTDOOR means the safekeeping of any goods, products, equipment or vehicles which are customarily incidental to the principal use, in an uncovered outdoor space and which is screened from view by the general public and neighboring properties.

STORAGE SYSTEM means any one or combination of tanks, sumps, wet floors, waste treatment facilities, pipes, vaults, or other portable or fixed containers used, or designed to be used, for the storage of hazardous substances at a facility.

STORY means that part of a building between the surface of a floor and the surface of the floor next above it, or if there is no floor above it then the space between the floor and the ceiling above it. For the purposes of this Code the minimum elevation change between a story shall be ten (10') feet. Any less dimension shall be considered a half-story.

STRUCTURAL ALTERATIONS means any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders, floor joists or roof joists or any substantial change in the roof or in the exterior walls of a building.

STRUCTURE means anything constructed, installed, or portable, which requires a location on a parcel of land. It includes a moveable structure while it is located on land which can be used for housing, business, commercial or industrial purposes whether temporary or permanent. Structure shall include, but not be limited to walls, billboards, swimming pools and decks, communication towers, on-site signs, tents, porches, fences, privacy screens, docks, arbor, gazebos, canopies/temporary carports, sheds and similar structures. Structure shall not include, pipes, pump stations and any other construction below ground level.

SUBDIVIDER means any person, firm, partnership, association, corporation, estate or trust or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as herein described.

SUBDIVISION means the platting of real property into three (3) or more lots, parcels, tracts, tiers, blocks, sites, units or any other division of land, and includes establishment of new streets and alleys, additions, and resubdivisions and when appropriate to the context, relates to the process of subdividing or to the land or area subdivided. (See Chapter 177.031(18), F.S.)

SUBDIVISION PLAT, PRELIMINARY means a drawing to scale and other supporting data, of a proposed subdivision prepared for the purposes of establishing the overall general layout and design for the provision of streets, lots, blocks and the location, plans and specifications for streets, utilities and other improvements.

SUBDIVISION SIGN means a sign designed as a permanent structure containing only the name of a subdivision, and not used for promotional purposes.

SUBDIVISION SKETCH PLAN means a drawing, not necessarily to scale, which shows a conceptual layout of the proposed subdivision.

SUBSTANTIAL DAMAGE See current Florida Building Code.

SUBSTANTIAL IMPROVEMENT See current Florida Building Code.

SURVEYOR means a land surveyor duly registered in the State of Florida.

SWALE means a man-made trench or channel approximately 1-foot deep or less and having side slopes equal to or greater than 4-foot horizontal to 1-foot vertical.

SWIMMING POOL means a body of water in an artificial or semi-public or private swimming setting or other water-related recreational activity intended for the use and enjoyment

by adults and/or children, whether or not any charge or fee is imposed upon such adults or children, operated and maintained by any person, and shall include all structures, appurtenances, equipment, appliances and other facilities appurtenant to and intended for the operation and maintenance of a swimming pool. This definition shall include whirlpools, spas, and hot tubs unless separately identified and shall exclude 110-volt plug-in Jacuzzi/hot tubs.

SWIMMING POOL, COMMERCIAL means a swimming pool and attendant equipment operated for profit or nonprofit open to the public and/or serving more than one family.

TATTOO PARLOR/BODY- PIERCING STUDIO means an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following:

(a) The placing of designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances which result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.

(b) The creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration. This term does not include a permanent makeup establishment.

TELECOMMUNICATIONS means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content.

TELECOMMUNICATION CARRIER means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services. A telecommunications carrier shall be treated as a common carrier only to the extent that it is engaged in providing telecommunications services, except that the FCC shall determine whether the provision of fixed and mobile satellite services shall be treated as common carriage.

TELECOMMUNICATIONS EQUIPMENT means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

TELECOMMUNICATION SERVICES means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

TEMPORARY SIGN means any sign or advertising display intended for use for a period of time not to exceed twenty-four (24) days and designed and constructed in accordance with this intention.

TRAILER means any non self-propelled wheeled vehicle licensed by the State of Florida as a trailer, not otherwise regulated herein as “Commercial”, “Watercraft” or “Recreational”.

TRAILER SIGN means any sign mounted on a vehicle normally licensed by the State of Florida as a trailer.

TRAVELING LIGHTS SIGN means any sign that includes a series of lights, or lighting device that appears to move or travel in automatic sequence on the display surface of the sign.

TREE means any living, self-supporting perennial plant which has a trunk diameter of at least six inches (6") at D.B.H.

TREE SURVEY means a drawing prepared by a licensed Surveyor or Arborist in a readable scale for the site's size that provides the location, and common name for each tree equal to or greater than the defined DBH per each specimen and historic tree. The survey shall include a numbered list of the identified trees.

TRIP means a single or one-way vehicle movement.

TRIP END means the origin or destination of a trip.

TRIP GENERATION means the total number of trip ends produced by a specific land use or activity.

UNLICENSED WIRELESS SERVICES means the offering of telecommunications services using duly authorized devices which do not require individual licenses; direct-to-home satellite services are excluded from this definition.

USE means the purpose for which land or a structure thereon is designed, arranged or intended to be occupied or utilized, or for which it is occupied or maintained.

Use, Permitted - means a use which is permitted in a particular zoning district providing it conforms with all requirements, regulations and standards of such district.

Use, Principal - means the primary purpose for which the land or building used as permitted by the applicable zoning district.

UTILITIES means, but is not limited to: water systems, electrical power, sanitary sewer systems, stormwater management systems, gas systems, communication systems, telephone and television cable systems, and street lighting.

UTILITY SHED means a building either constructed on site or pre-manufactured, containing 120 square feet or less.

UTILITY SERVICE FACILITIES means elements of utility distribution, collection or transmission networks required by their nature to be relatively dispersed throughout the service area. Typical facilities include, but are not limited to, electrical substations and telephone exchange structures.

VARIANCE means a modification of the strict application of site development requirements related to yard setbacks, building height, parking requirements, landscaping, drainage, and/or signage.

VEHICLE means any self-propelled conveyance designed and used for the purpose of transporting or moving persons, animals, freight, merchandise or any substance.

VEHICLE, ABANDONED means a vehicle that has no appearance of use for 60 days or more. Indication of an abandoned vehicle may include: no maintenance, no cover or screening, grass and weeds growing under and around vehicle and/or flat tires.

VEHICLE, COMMERCIAL means any vehicle, concession wagon, semi-trailer cab, or trailer with a rated capacity of more than one ton, and/or has more than two (2) axels, is over twenty-four (24) feet long, is intended or used for the transportation of people or goods as part of a business; and/or is either commercially or privately registered. Commercial vehicle shall not include rental vehicles designed for temporary personal use.

VEHICLE, LICENSED means any vehicle which is currently licensed by the State of Florida

VEHICLE, MARINE means any vehicle designed for and used on any water body.

VEHICLE PAINT AND BODY SHOP See "Automotive Paint and Body Shop."

VEHICLE ACCESSORY INSTALLATION means the following:

(a) Vehicle tune-up shops.
(b) Installation, repair or services of vehicle glass, sun roofs, convertible tops, interiors, tinting, audio equipment, alarms and similar items.
(c) Installation, repair or servicing of vehicle brakes, shock absorbers, radiators or air conditioning devices.
(d) Installation, repair or servicing of vehicle electrical or ignition systems.
(e) Washing, waxing, accenting and similar activities commonly known as detailing.

VEHICLE REPAIR means all maintenance of and modification and repairs to motor vehicles, and diagnostic work incident thereto, including, but not limited to, the rebuilding or restoring of rebuilt vehicles, warranty work, and other work customarily undertaken by motor vehicle repair shops.

VESTED RIGHTS, COMMON LAW means a right not created by statute or the provisions of the City of Edgewater Comprehensive Plan which would authorize the development of real property or the continued development of real property notwithstanding the provisions of the City of Edgewater Comprehensive Plan. The assignment of a particular zoning classification, or a particular land use designation to a parcel of real property does not guarantee or vest any specific development rights to any person or entity as to said real property.

VESTED RIGHTS, STATUTORY See Section 21.07.

VIOLATION means non-conformance with a code or ordinance, intentionally or unintentionally.

WALL SIGN means any sign painted on, or attached essentially parallel to, the outside wall of any building and supported by such wall with no copy on the sides or edges.

WAREHOUSE means a structure that stores goods and/or merchandise for use off-site.

WATERS means and shall include but not be limited to rivers, lakes, streams, springs, impoundments and all other waters or bodies of water whether surface or subsurface and whether navigable or non-navigable. The term shall encompass all bottom lands lying below the mean high water mark, whether said bottom lands are submerged or not.

WATERS OF THE UNITED STATES means surface and ground waters as defined by 40 Code of the Federal Register 122.2.

WATERCRAFT means any vehicle designed for use in water.

WATERWAY means a channel, creek, ditch, drainage way, dry run, spring, stream, river and canal; but not a lake, pond or pool without a water outlet.

WELL means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, acquisition, development, or artificial recharge of groundwater.

WELLFIELD means an area of land that contains one or more potable water supply wells.

WELLHEAD PROTECTION AREA means an area designated by the City, upon the advice of the SJRWMD, to provide land use protection for the groundwater source for a potable water wellfield, including the surface and subsurface area surrounding the wellfield.

WELLFIELD PROTECTION ZONE - PRIMARY means the land area immediately surrounding any potable water supply well and extending a radial distance of five hundred feet (500') from said well(s).

WELLFIELD PROTECTION ZONE - SECONDARY means the land area, adjacent and surrounding the primary wellfield protection zone extending and defined by a radial distance of one thousand feet (1,000') from the well(s).

WELLFIELD PROTECTION ZONE PERMIT means that permit issued by the city authorizing the activities.

WET BOTTOM means any water retention, detention, or conveyance facility which cannot evacuate its water level (naturally or artificially) below its design bottom within seventy-two 72 hours of its design storm event or those tidally influenced facilities that contain water above their bottom more than twelve (12) hours a day.

WETLANDS means those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include, but are not limited to, swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an under story dominated by saw palmetto. The delineation of actual wetland boundaries may be made by any professionally accepted methodology consistent with the type of wetlands being delineated but shall be consistent with any unified statewide methodology for the delineation of the extent of wetlands ratified by the Legislature.

WETLAND BOUNDARY means the location on the ground where:

(a) The vegetation type shifts from dominantly wetland types to dominantly upland species; or
(b) The soil type shifts from dominantly wetland types to dominantly upland types; or
(c) Flooding, inundation, or saturated soil indicators are no longer present.

WETLAND BUFFER means the twenty-five feet (25') upland areas adjacent to wetlands that protect the wetlands and consists of the existing canopy, under story, and groundcover.

WETLAND MITIGATION means any action to restore and/or create wetlands in compensation for permitted development activities.

WHIP ANTENNA means a cylindrical antenna that transmits signals in three hundred and sixty (360) degrees.

WINDOW SIGN means any sign on a window facing the outside and which is intended to be seen from the exterior.

WRECKER/TOW TRUCK means a motor vehicle equipped with hoisting apparatus or other equipment designed for the towing or servicing of wrecked, disabled or inoperable automobiles, trucks, motor vehicles or industrial equipment.

XERISCAPE means a landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of xeriscape include planning and design, appropriate choice of plants, soil analysis, the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

YARD means a required open space clear from the ground surface upward, unoccupied

and unobstructed by any structure except for fences, walls, trees, and other living landscape material as provided herein.

ARTICLE III

PERMITTED, CONDITIONAL, ACCESSORY AND PROHIBITED USES

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ARTICLE III

PERMITTED USES, CONDITIONAL USES, ACCESSORY USES AND PROHIBITED USES

SECTION 21-30 – GENERAL PROVISIONS

21-30.01 – Purpose

In addition to the intent and purposes listed in Section 21-30, the various zoning districts established herein are intended to:

a. Establish the permitted, prohibited, conditional and accessory uses allowed for each parcel; and

b. Provide for equal protection of property rights of each parcel of land without regard for its classification; and

c. Streamline the land development decision process to the maximum extent possible; and

d. Provide reasonable opportunities for the provision of telecommunication facilities; and

e. Control the placement of signage to preserve property values and enhance the aesthetic character of the City; and

f. Prevent cut-through traffic in residential neighborhoods to the maximum extent possible.

21-30.02 – District Boundaries

Zoning districts are depicted as shown on the Official Zoning Map of the City of Edgewater, Florida, as revised at the effective date of this Code, and made a part of the Article by reference. When uncertainty occurs as to boundaries of zoning districts on the Official Zoning Map, the following rules shall apply:

a. Boundaries are depicted to follow the centerline of streets, highways, alleys, or other public right-of-ways and shall be construed to follow such lines;

b. Boundaries are depicted to follow platted lot lines, section lines, or tract lines and shall be construed as following such lot lines;

c. Boundaries are depicted to follow political boundaries and shall be construed as following such political boundaries;

d. Boundaries are depicted to follow railroad right-of-ways and shall be construed to be the center line of the railroad right-of-way;

e. Boundaries are depicted to follow shorelines and shall be construed to follow such shorelines even if the shorelines change;

f. Boundaries are depicted to follow the center lines of canals and shall be construed to follow such center lines;

g. Boundaries shown to be parallel to the center line of streets, or the center line or right-of-way line of highways, such district boundaries shall be construed as being parallel thereto and such distance therefrom as indicated on the zoning maps. If no distance is given, such dimension shall be determined by measuring from the Official Zoning Map;

h. Where a public road, street or alley is officially vacated or abandoned, the location of the zoning district boundaries shall be the center line of the vacated right-of-way;

i. Where physical or cultural features existing on the ground are different from those shown on the Official Zoning Map, or in case any other uncertainty exists, the Development Services Director/Planning Director shall interpret the intent of the Official Zoning Map as to the location of district boundaries.

21-30.03 – Application of Districts

Except as provided in Section 21-71 – Non-Conforming Uses, the enlargement, alteration, conversion, relocation, rehabilitation, or reconstruction of any structure or building shall be in accordance with regulations of the district in which said structure or building is located as well as all applicable regulations of this Article.

All use of land and/or water shall be done so only in accordance with the applicable requirements of this Article.

21-30.04 – Official Zoning Map

a. The City of Edgewater is hereby divided into zoning districts and shown on the Official Zoning Map as amended by the City Council. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 21, of the Code of Ordinances."

b. No changes shall be made in the Official Zoning Map except as provided herein in Article IX. Any unauthorized change of any kind by any person, or persons, shall be considered a violation of this Article and be subject to the applicable enforcement provisions described in Article X.

c. Regardless of the existence of copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map shall be maintained in the official records of the City.

d. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature of number of changes and additions, the City Council shall adopt a new Official Zoning Map.

21-30.05 – Comprehensive Plan Consistency

The regulations contained herein are consistent with and implement the Comprehensive Plan policies contained in the Future Land Use Element, Housing Element, Coastal Element and Conservation Element.

SECTION 21-31 – COMPREHENSIVE PLAN RELATIONSHIP

Table III-1 shows which zoning categories are consistent with and implement the land use categories in the Comprehensive Plan, particularly the Future Land Use Map (FLUM).

(See Page III-4)

TABLE III-1
LAND USE AND ZONING COMPATIBILITY

Future Land Use Designation	Compatible Zoning Districts
Low Density Transition 1.0 DU/net acre	RT, MUPUD
Low Density Residential 1.0 to 4.0 DU/net acre	R-1, R-2, R-3, RPUD, RP, RT, MUPUD
Medium Density Residential 4.1 to 8.0 DU/net acre	R-3, R-4, RPUD, MH-1, MH-2, MUPUD
High Density Residential 8.1 to 12.0 DU/net acre	R-5, RPUD, MUPUD
Commercial	B-2, B-3, B-4, BPUD, MUPUD
Industrial	I-1, I-2, IPUD, MUPUD
Recreation	CN, RT, AG, R-1, R-2, R-3, R-4, R-5, RPUD, RP, MH-1, MH-2, B-2, B-3, B-4, BPUD, I-1, I-2, IPUD, P/SP, R, EC, CC, MUPUD
Public/Semi-Public	CN, AG, P/SP, R, MUPUD
Conservation	CN, P/SP, R
Agriculture Minimum 1 DU/2.5 net acre	AG, R. MUPUD
Mixed Use Minimum 15 acres; to 12 DU/net acre	RPUD, BPUD, IPUD, MUPUD, EC, CC
Sustainable Community Development See SCD Sub-Element of the City of Edgewater Comprehensive Plan	SCD/PUD

DU = Dwelling Units

SECTION 21-32 – ZONING DISTRICT DESCRIPTIONS

21-32.01 – Zoning District Descriptions

Table III-2 summarizes the principal purpose for each zoning category. The minimum parcel sizes are provided where applicable.

(See Page III-5)

TABLE III-2
ZONING DISTRICT DESCRIPTIONS

Zoning District Title	Category	Purpose and General Description
Conservation	CN	Protection of wetlands, aquifer recharge & environmentally sensitive areas.
Rural Transitional	RT	Provide for limited agriculture and provide for a transition between rural and residential land uses – min. 1 acre lot.
SF Residential	R-1	Single family residential – (1.0 to 4.0 units/net acre) min. 12,000 sq. ft. lot.
SF Residential	R-2	Single family residential – (1.0 to 4.0 units/net acre) min. 10,000 sq. ft. lot
SF Residential	R-3	Single family residential – (1.0 to 4.0 units/net acre) min. 8,625 lot.
MF Residential	R-4	Medium density residential (4.1 to 8.0 units/net acre) – single family, duplex, apartments, and townhouses.
MF Residential	R-5	High density residential (8.1 to 12.0 units/net acre) – single family, duplex, apartments, and townhouses.
Recreation	R	This zoning category includes parks and recreation facilities owned by the City, as well as recreation facilities located at area schools that are under lease to the City. This category includes land committed to both active and passive recreational uses.
Residential Planned Unit Development	RPUD	Intended for mixed residential, personal service and limited retail commercial with a single development plan.
Residential Professional Office	RP	Intended for office professional along SR#442 and a rezoning must be accompanied by a site plan.
Mobile Home Park	MH-1	Medium density residential (5.1 to 8.0 units/acre). Provide for mobile home parks – min. 5 acre parcel (See Sec. 21-71 for Non-Conforming Parks).
Manufactured Home Subdivision	MH-2	Medium density residential (5.1 to 8.0 units/acre). Provide for manufactured home subdivisions – min. 50 acre parcel.
Neighborhood Business	B-2	Intended for retail goods and services for frequent residential needs – min. 10,000 sq. ft.
Public/Semi-Public	P/SP	Consists of public facilities and private not-for-profit uses such as churches, schools, and cemeteries. All other public lands and facilities, including but not limited to, government offices, post offices, hospitals, utility sub-stations, water and wastewater treatment plants, fire stations, and libraries are also included in this category.
Highway Commercial	B-3	Intended for high volume highway related commercial uses – no min. parcel size.
Tourist Commercial	B-4	Intended for short term waterfront accommodations for visitors and accessory uses, may include residential mixed use – min. 2 acres.
Business Planned Unit Development	BPUD	Intended for mixed commercial and limited multifamily residential with a single development plan
Light Industrial	I-1	Intended for storage, light manufacturing, wholesaling and distribution uses and adult entertainment – no min. parcel size.
Heavy Industrial	I-2	Intended for heavy manufacturing uses – no min. parcel.
Industrial Planned Unit Development	IPUD	Intended for mixed industrial and limited commercial with a single development plan.
Agriculture	AG	Intended for general agriculture uses – min. 2.5-acre parcel – temporary or hold zoning intended for future urban development.
Employment Center/Community Center	EC/CC	Intended to allow a mix of uses to satisfy varying degrees of intensity and balance the residential and non-residential needs of the City.
Mixed Use Planned Unit Development	MUPUD	Intended for innovative mixed use developments to include, but not be limited to commercial, light industrial and residential.
Sustainable Community Development/Planned Unit Development	SCD/PUD	See SCD Sub-Element of the City of Edgewater Comprehensive Plan.

SECTION 21-33 – USES AND RESTRICTIONS

21-33.01 – Purpose

This portion of Article III depicts the permitted, conditional and accessory uses by zoning district using the matrix format. The footnotes in Table III-3 refer to any applicable special criteria for that use in the particular zoning district and are described in Section 21-34 of this Article.

If a use is not present in a given square in the matrix, that use is not permitted in that zoning district. Changes to the list of uses, the zoning districts and/or the permitted, conditional or accessory use status of a given land use can only be changed by completing the Land Development Code amendment process described in Article IX.

21-33.02 – Permitted Uses

The use depicted as "P" in the matrix (Table III-3) means that it is permissible in that zoning district as a matter of right, subject to satisfactory compliance with the project design standards found in the Land Development Code and any applicable site plan review requirements in the Land Development Code.

The list of permitted uses cannot be all inclusive. The uses described in Table III-3 shall be interpreted by the Development Services Director/Planning Director to include other uses that have similar impacts to those listed. Any dispute or request regarding interpretations shall be resolved by the City Manager subject to an appeal to the City Council.

All permitted uses or businesses requiring business tax receipts shall operate from within a permanent structure.

21-33.03 – Conditional Uses

The use depicted as a "C" in the matrix (Table III-3) means that it is permitted in that zoning district only after satisfactory completion of the conditional use process described in Article IX or the satisfactory completion of a Planned Unit Development. Satisfactory compliance with the applicable project design standards described in Article V and the concurrency requirements described in Article XI must also be achieved prior to commencement of a project.

21-33.04 – Accessory Uses

The use depicted as an "A" in the matrix (Table III-3) means a use that is incidental, related, appropriate and clearly subordinate to the existing principle permitted use.

SECTION 21-33.05

TABLE III – 3
PERMITTED (P), CONDITIONAL (C), AND ACCESSORY (A) USES
ZONING DISTRICTS

USE, STRUCTURE, OR ACTIVITY	AG	CN	RT	R-1	R-2	R-3	R-4	R-5	RPUD	RP	MH-1	MH-2	B-2	B-3	B-4	BPUD	I-1	I-2	IPUD	P/SP	EC	CC	MUPUD	SCD/PUD
Adult Entertainment (19)																	P							
Agriculture - General	P		P																	C				
Aircraft Manufacturing																	P	P	C		C		C	C
Airport Fixed Base Operations																	P	C	C	P	C		C	C
Aluminum Can Transfer Facility																	P	P	C		C		C	C
Animal Hospital									C	C			P	P		C	P		C				C	C
Antennas (1) (2)	C		C	C	C	C	P	P	P		C	C	C	C	C	C	C	C	C	C			C	C
Aquaculture	P	C																						
Auction/Flea Market – Indoor Only													P				P		C				C	C
Automobile Paint & Body (7) (17)													P				P	P	C				C	C
Automobile Repair – Indoor (7)													P	P			P	P	C				C	C
Automobile Service (7)													P	P		C	P	P	C				C	C
Automobile Sales/Leasing													P	P		C	A	A	C				C	C
Bed & Breakfast (3)				C					C					P	P	C							C	C
Boat Building & Repair													C	C	C	C	C	P	C		C		C	C
Boat Sales and Leasing													P	P		C	A	A	C		C		C	C
Bulk Processing																		P	C		C		C	C
Car Wash									C				P	P	C	C	C	C	C				C	C
Chauffeur/Vehicle for Hire														P		C	C	C	C				C	C
Cemeteries	P																			P				
Containment Facilities	P		C															C	P	C				
Day Care – Children or Adult (17)			P	P	P	P	P	P	P	P	P	P	C	P	A	C						C	C	C
Dispensing Facility									C				P	P	A	C	A	A	C	A			C	C
Distribution Facilities														C		C	P	P	C		C		C	C
Financial Institute									C	C				P		C			C		C	C	C	C
Garden & Yard Supplies	P													P		C	P	P	C				C	C
Government Facilities	P	C	P	P	P	P	P	P	C	C	P	P	P	P	P	C	P	P	C	P	C	C	C	C

SECTION 21-33.05

TABLE III – 3
PERMITTED (P), CONDITIONAL(C), AND ACCESSORY (A) USES (cont'd)
ZONING DISTRICTS

USE, STRUCTURE, OR ACTIVITY	AG	CN	RT	R-1	R-2	R-3	R-4	R-5	RPUD	RP	MH-1	MH-2	B-2	B-3	B-4	BPUD	I-1	I-2	IPUD	P/SP	EC	CC	MUPUD	SCD/PUD
Health/Fitness Facilities									C			C	P	P	A	C	C	C	C			C	C	C
Home Occupations	P		P	P	P	P	P	P	C	C	P	P	P	P		C					C	C	C	C
Hotel/Motel														P	P	C						C	C	C
Internet/Sweepstakes Café (20)																	P							
Kennels & Boarding (4)	C		C											P		C	C	P	C	P			C	C
Laboratories									C					P		C	C	P	C		C		C	C
Lodges – Fraternal/Sorority														P	C	C							C	C
Marina		C							A						P	C				P	C	C	C	C
Marina Related Industrial																		P	C		C		C	C
Machine Shop/Repair													P	P		C	P	P	C		C		C	C
Manufacturing – General													C				P	P	C		C		C	C
Medical/Dental Offices									C	C			P	P		C						C	C	C
Mini-warehouse (5)													P	C		C	P	P	C		C		C	C
Mining/Excavation (18)																	P	P	P					
Mobile Home Sales													P		C						C			
Night Club / Lounge/Bar									C					P	A	C					C	C	C	C
Nursing Homes (6)														P		C	C			P		C	C	C
Outdoor Equipment Sales														P		C	P	P	C		C		C	C
Outdoor Storage (7)													A	C		C	C	P	C		C		C	C
Pain Clinic (21)														C										
Pawn Shop (20)																	P							
Personal Service Facilities									C	C			P	P	C	C	C	C	C				C	C
Pool Hall/Billiards									C			C	P	P	C	C	C	C	C		C	C	C	C
Places of Worship			C	C	C	C	C	C	C			C	P	P	C	C				P			C	C
Places of Worship – Schools (14)	C		C	C	C	C	C	C	C			C	P	P		C				P	C	C	C	C
Professional Office Facilities (12)					C				C	C		C	P	P	C	C	P	P	C		C	C	C	C
Railroad Facilities																	P	P	C	P	C			
Recording Facilities										C			P	P		C	C	C	C		C	C	C	C

SECTION 21-33.05
TABLE III – 3
PERMITTED (P), CONDITIONAL (C), AND ACCESSORY (A) USES (cont'd)
ZONING DISTRICTS

USE, STRUCTURE, OR ACTIVITY	AG	CN	RT	R-1	R-2	R-3	R-4	R-5	RPUD	RP	MH-1	MH-2	B-2	B-3	B-4	BPUD	I-1	I-2	IPUD	P/SP	EC	CC	MUPUD	SCD/PUD
Recreational Uses **(R*)** (13)	P	C	P	P	P	P	P	P	C	C	A	A	P	P	C	C	C	C	C	P	C	C	C	C
Research Facilities										C				P		C	P	P	C		C		C	C
Residential – ALF (9)	P		P	P	P	P	P	P	C					C		C						C	C	C
Residential - Community Home (8)	P		P	P	P	P	P	P	C		P	P				C					C	C	C	C
Residential – Duplex (15)							P	P	C							C						C	C	C
Residential – Multifamily (10) (15)							P	P	C							C							C	C
Residential –Manufactured/ Mobile Homes									C		P	P										C	C	C
Residential –Modular Home	P		P	P	P	P	P	P	C			P				C					C	C	C	C
Residential – Single Family (15)	P		P	P	P	P	P	P	C							C					C	C	C	C
Restaurants A&B									C			A	P	P	A	C	C	C	C			C	C	C
Retail – General									C				P	P	A	C	A	A	C	A			C	C
RV & Boat Storage									C			A	C	C	A	C	P	P	C		C		C	C
Salvage Yards (11)																		C						
Satellite Dishes	A		A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A	A	A	A
Schools – Public	P		P	P	P	P	P	P	C		P	C	P	P	C	C	C		C	P		C	C	C
Schools – Private	C		C						C	C		A	C	P	C	C	C	C	C	P		C	C	C
Shopping Center									C				C	P	C	C					C	C	C	C
Silviculture	P		C																					
Tattoo Parlor/Body- Piercing Studio (20)																	P							
Telecommunication - Unmanned	P		P	P	P	P	P	P	C		P	P	P	P	P	C	P	P	C	C			C	C
Telecommunication Towers (2)	C		C				C	C	C		C	C	C	C	C	C	C	C	C	C	C	C	C	C
Theaters									C					P		C						C	C	C
Truck Freight Terminal																		P	C		C		C	C
Warehousing & Storage													P	C		C	P	P	C		C		C	C
Wholesale & Distribution													P	C		C	P	P	C		C		C	C
Wrecker/Tow Truck Service													P	P		C	P	P	C		C		C	C

***** R – Recreation Zoning District, Recreational Uses permitted only

TABLE III-3 FOOTNOTES

The sections cited below identify special requirements for the listed land uses and are found on the following pages. In addition, many of the proposed projects must also comply with the requirements of Article IV – Natural Resource Protection, Article V – Site Design Criteria, Article VI – Signs, Article XVIII - Indian River Boulevard – S.R. 442 Corridor Design Regulations and Article XX – Ridgewood Avenue Corridor Design Regulations.

1. See Satellite Dishes, Section 21-36.04 – Dishes greater than 39 centimeters in diameter are required to obtain a building permit and otherwise conform to the site development criteria.

2. See Telecommunications, Article XII for details.

3. See Bed & Breakfast, Section 21-34.08 for details.

4. See Kennels/Boarding, Section 21-34.06 for details.

5. See Mini-Warehouses, Section 21-34.07 for details.

6. See Nursing Homes, Section 21-34.09 for details.

7. See Outdoor Storage, Section 21-34.04 and 21-36.03 for details.

8. See Community Residential Homes, Section 21-34.02 for details.

9. See Adult Living Facilities (ALF), Section 21-34.03 for details.

10. Multifamily residential is permitted in BPUD only as part of a single business/residential development plan – See Article V, Section 21-57 for details.

11. See Salvage Yards, Section 21-34.04 for details.

12. Residential Professional offices may be permitted as a conditional use in the R-2 district for certain properties abutting State Road #442. See Section 21-34.10 for details.

13. No artificial lights or recreational activity within 25 feet of the perimeter of the property line shall be permitted adjacent to residential property.

14. Places of Worship – Schools/Child Care, see Section 21-36.05 for details.

15. Attached and detached aircraft hangars permitted in residential districts adjacent to airport taxiways.

16. Outside application of flammable finishes and/or environmentally sensitive finishes (spray painting) is strictly prohibited.

17. State license required.

18. Mining/Excavation is defined as the exploration for or extraction of surface or subterranean compounds; which shall include oil and gas exploration and production, and the mining of metallic and non-metallic minerals, sand, gravel, fill dirt, and rock.

19. Adult Entertainment is permitted in the I-1 (Light Industrial) zoning district with the exception of properties with frontage on Park Avenue.

20. Internet/Sweepstakes Cafés, Pawn Shops and Tattoo Parlors/Body Piercing Studios are permitted in the I-1 (Light Industrial) zoning district with the exception of properties with frontage on Park Avenue. This section shall not apply to any existing Internet/Sweepstakes Café locations, in operation and in compliance with chapter 205 and 849 Florida Statute, and Pawn Shops and Tattoo Parlors/Body Piercing Studios in compliance with Florida Statute at the time of the passage of this ordinance, or has submitted an application to the City for relocation prior to the passage of this ordinance and said application is subsequently approved by the City. Such use may be continued within the present zoning category as a nonconforming use subject to all restrictions, limitations and requirements set forth in Article VII, Land Development Code, and all other applicable provisions of the Code of Ordinances. However, any change in ownership will remove said business or operation from this exception. Change in ownership in the case of a partnership or corporation, for the purpose of this section only, means more than fifty percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date of passage of this ordinance. For purposes of any Internet/Sweepstakes Café deemed a non-conforming use as described above, the provisions of Article VII, Land Development Code pertaining to expansion and relocation shall be modified to allow the non-conforming use to continue if expanded or relocated on a one-time basis within the present zoning category if 1) the Internet/Sweepstakes Café deemed a nonconforming use dedicated less than 25% of its square footage to internet/sweepstakes activity in the original location prior to the expansion or relocation, and 2) the Internet/Sweepstakes Café dedicates less than 25% of its square footage to internet/sweepstakes activity after the expansion or relocation.

    a. No person or entity shall propose, cause or permit the operation of, or enlargement of Internet/Sweepstakes Cafés, Pawn Shops and Tattoo Parlors/Body Piercing Studios that would or will be located within, 1,000 feet of a preexisting Internet/Sweepstakes Cafés, Pawn Shops and Tattoo Parlors/Body Piercing Studios, within 500 feet of a preexisting commercial establishment that in any manner sells or dispenses alcohol for on-premises consumption, within 500 feet of a preexisting religious institution, within 500 feet of a preexisting park, or within 2,500 feet of a preexisting educational institution. In this subsection the term "enlargement" includes, but is not

limited to, increasing the floor size of the establishment by more than ten percent.

b. In addition to the distance requirements set forth in the subsection above, Internet/Sweepstakes Cafés, Pawn Shops and Tattoo Parlors/Body Piercing Studios shall not be allowed to open anywhere except in the I-1 district (with the exception of parcels having frontage on Park Avenue) where Internet/Sweepstakes Cafés, Pawn Shops and Tattoo Parlors/Body Piercing Studios are an expressly permitted use.

c. The aforementioned distance requirements are independent of and do not supersede the distance requirements for alcoholic beverage establishments which may be contained in other laws, rules, ordinances or regulations.

21. See Pain Clinics, Section 21-39 for details.

SECTION 21-34 – SPECIAL USE REQUIREMENTS

The following uses are subject to the special restrictions described below in addition to the applicable natural resource standards described in Article IV and the project design standards described in Article V.

21-34.01 – Home Occupations

The purpose of this Section is to provide criteria under which a home occupation may operate in the City's residential districts. The Home Business Tax Receipt is designed to allow for office type uses within a residence. No home business tax receipt shall be issued unless the City determines the proposed home occupation (business) is compatible with the criteria shown below:

a. The use must be conducted by a member, or members, of the immediate family residing on the premises and be conducted entirely within the living area of the dwelling unit, not to exceed twenty percent (20%) of the dwelling unit space (excluding garage/carport) for the home occupation.

b. No manufacturing, repairing, storing, or other uses that are restricted to commercial and industrial districts are allowed.

c. No chemicals/equipment, supplies or material, except that which is normally used for household domestic purposes, shall be used or stored on site.

d. Noise, dust, odors or vibrations emanating from the premises shall not exceed that which is normally emanated by a single dwelling unit. Activities that cause a nuisance shall not be permitted in residential areas.

e. No electrical, electro-magnetic or mechanical equipment that causes any interference or excessive noise to adjacent dwelling units shall be installed or operated.

f. No products, services, or signage may be displayed in a manner that is visible from the exterior of the dwelling unit, except signage required by state law.

g. Except as provided in the City of Edgewater Code of Ordinances, no commercial vehicles or equipment shall be permitted in the driveway, or adjacent public right-of-way, including commercial vehicles used for mobile vending and no delivery of commercial products for the use of the business tax receipt shall be allowed. Normal/routine UPS, FedEx, or over-night mail shall not be considered commercial deliveries.

h. The use of typewriters, computers, printers, photocopiers and fax machines will be permitted for office use and small machinery such as hand drills and small jigsaws for hobbyist uses. Hobbyist uses shall be limited to $500 in total inventory.

i. All home occupations shall be required to obtain a home business tax receipt pursuant to the requirements of Chapter 11 of the City Code of Ordinances prior to initiating operation.

j. Garages, carports or similar structures, whether attached or detached shall not be used for storage of material or manufacturing concerning the home occupation (other than storage of an automobile).

k. Any home business tax receipt that generates more than 10 vehicle trips per day shall require a City fire inspection. Excessive traffic shall not be permitted other than routine residential traffic.

l. An applicant may appeal the denial of an application to the City Council pursuant to the requirements of the Land Development Code.

m. No home business tax receipt shall be issued for any property until such time that any Code Compliance issues are resolved.

n. If the applicant does not own the property, said applicant shall provide a signed and notarized affidavit from the property owner permitting a Home Occupation on their property, provided the use is permitted by the City.

21-34.02– Community Residential Homes (CRH)

The purpose of this Section is to establish criteria for the placement of Community Residential Homes.

a. All facilities shall comply with the minimum parcel area and dimensional requirements of the zoning district in which the facility is located.

b. Community Residential Homes shall be used only for the purpose of providing rehabilitative or specialized care, and may not be used for administrative or related office-type activities, other than those in support of the facility.

c. No counseling or other client services for non-residents shall be permitted in a CRH.

d. A CRH shall be similar in appearance to the prevailing character of the area in which the proposed site is located. Similar means within 125 percent of the average floor area, height, and/or architectural style of any other dwelling units in the adjacent area.

e. On-site signage shall be a low profile sign with a maximum height of 8 feet and a maximum area of 16 square feet.

f. The CRH shall provide a minimum 4-foot (4') high fence on all property lines.

g. The CRH shall comply with the appropriate project design standards described in Article V.

h. The CRH shall comply with all appropriate Florida Fire Prevention Codes and Building Code requirements.

i. The minimum dwelling unit size for each resident shall be 750 square feet.

j. There shall be no more than fourteen (14) residents permitted in a structure.

k. Each CRH shall provide a responsible supervisory person on duty at all times while residents are on the premises. The minimum staffing levels required by the State, or other licensing agency, shall be maintained at all times.

l. Failure to substantially comply with all these criteria shall subject the property owner, and/or the applicant, to the enforcement provisions of Chapter 10, City of Edgewater, Code of Ordinances.

m. A Community Residential Home shall not be located closer than 1,200 feet (1,200') to another CRH.

n. All distance requirements shall be measured from the nearest point of the existing CRH property line, or the zoning district described above, whichever is greater.

o. The City will inspect facilities for compliance with Florida Fire Prevention Codes.

21-34.03 – Adult Living Facilities (ALF)

The purpose of this Section is to provide regulations to protect the adjacent property values while allowing the ALF to operate.

a. A minimum 4 foot (4') high fence shall be provided at all times.

b. Full time on-site management shall be provided at all times.

c. Minor on-site medical care may be provided at the option of the operator.

d. Each resident shall have the minimum square footage of personal living area for their use, as required by the State.

e. Each facility shall be required to obtain an appropriate license prior to receiving a business tax receipt from the City and Volusia County. The City will inspect facilities for compliance with Florida Fire Prevention Codes.

21-34.04 – Salvage Yards

The purpose of this Section is to control the operation of salvage yards and similar uses.

a. Salvage yards shall comply with the conditional use standards for the I-2 zoning district.

b. The site shall be a minimum of 40,000 square feet and a maximum of 200,000 square feet, and shall conform to the buffer yard requirements described in Article V, Section 21-54.

c. All sites shall be enclosed by an eight foot (8') high stockade fence, vinyl fence or masonry wall. Existing sites with chain link fence may be enclosed with slatting. New sites shall require stockade fencing or masonry wall.

d. Nothing stored shall be visible above the height of the fence or wall.

e. A City of Edgewater Business Tax Receipt shall be required.

f. No storage or parking of items under control of the salvage yard shall be permitted outside of the fence or wall.

21-34.05 – Refuse and Dumpsters

The purpose of this Section is to control the placement and operation of refuse and dumpsters and similar such uses.

a. Dumpsters on commercial, industrial and multi-family properties shall be enclosed from view with a six foot (6') high stockade fence, vinyl fence or masonry wall and gate. Existing sites with chain link fence may be enclosed with slatting. New sites shall require stockade fencing or masonry wall. Dumpsters and dumpster pads shall not be required for properties zoned RP (Residential Professional).

b. No dumpsters, containers or containment areas shall be permitted in any public right-of-way.

c. Gates shall be kept closed at all times except on designated pick up days.

d. Non-residential properties located within 150-feet of a residential property line or noise sensitive zone (as defined in the Noise Ordinance) shall not have dumpsters and/or containers delivered, emptied or removed between the hours of seven p.m. (7:00 p.m.) and seven a.m. (7:00 a.m.) on weekdays and seven p.m. (7:00 p.m.) and eight a.m. (8:00 a.m.) on weekends or holidays. Dumpsters and/or containers cannot be delivered, emptied or removed during the hours of ten p.m. (10:00 p.m.) and six a.m. (6:00 a.m.) in non-residential properties which are not within 150-feet of a residential property line or noise sensitive zone.

e. All construction projects shall have a dumpster located on-site for placement of construction debris for all new construction and additions exceeding 600-square feet.

f. Containment areas and construction project areas shall be maintained in a clean and orderly manner at all times so as to not produce a nuisance.

g. Newly developed/redeveloped non-residential projects and multi-family projects over four (4) units shall provide an adequate quantity of on-site dumpsters.

21-34.06 – Kennels

The purpose of this Section is to minimize conflicts of noise, odor, and health hazards created by kennels. In addition to the regulations as set forth within the district(s) in which the use is located, the following minimum regulations shall apply:

a. Commercial kennels are limited to the raising, breeding, boarding, and grooming of domesticated animals. Farm animals such as pigs and chickens or exotic animals such as snakes are expressly prohibited.

b. All runs shall be equipped with drains provided every 10 feet (10’) and connected to a sanitary facility approved by the City Engineer.

c. No animal having a disease harmful to humans shall be boarded or maintained in the facility.

d. No building or other structure nor any dog run shall be located within 150 feet (150’) of any residential use.

e. Dog runs adjacent to a residential use shall not be used between the hours of 10 P.M. and 7 A.M.

f. Kennels are required to receive a commercial kennel license from the Volusia County Animal Control Department and a City of Edgewater Business Tax Receipt after receiving a Certificate of Occupancy from the City.

g. See Chapter 5 of the Code of Ordinances, City of Edgewater, Florida for additional regulations.

21-34.07 – Mini-warehouses

Mini-warehouses may be permitted under the following conditions:

a. Mini-warehouse buildings shall be screened from the public right-of-way by a minimum of a six foot (6') high stockade fence or masonry wall with a ten foot (10') wide landscape buffer planted adjacent to the street side on all boundaries facing residential districts. Existing sites with chain link fence may be enclosed with slatting. New sites shall require stockade fencing, vinyl fence or masonry wall.

b. The project shall be completely fenced, walled, and designed to limit ingress and egress through a controlled and lockable access point. This shall be limited to one (1) two (2) way access points or two (2) one (1) way access points.

c. Mini-warehouse units shall not contain any provision for electrical outlets, potable water, or sewer services within the confines of the warehouse units. Hose bibs for cleaning purposes may be installed outside of the warehouse structures.

d. Bathroom facilities shall be provided at a central facility in accordance with the Standard Plumbing Code.

e. Mini-warehouses are to be used solely for storage purposes. No other commercial use or business shall be permitted within the facility unless permitted as part of a Master Plan. However, one (1) office unit attached by common walls or floors as a part of the mini-warehouse facility may be provided for use of the warehouse manager.

f. No storage of flammables, weapons, ammunition, explosives, hazardous, or illegal substances or materials is allowed.

g. Mini-warehouses may be permitted as a conditional use in the B-3 and BPUD District when located at least 100 feet (100') from the front property line and where in that 100 feet (100') the property is developed.

h. A City Business Tax Receipt shall be required.

21-34.08 – Bed & Breakfasts

a. Bed and breakfast accommodations, as defined in Section 21-20 shall require off-street parking at 1 space/bedroom, plus residential parking requirements.

b. Landscaping shall be provided as required for hotel/motel uses.

c. One (1) sign not to exceed six (6) square feet.

d. A City Business Tax Receipt is required.

21-34.09 – Nursing Homes

a. Nursing home sites shall front on a major collector or arterial roadway.

b. Buffering shall be provided based on land use intensity and comply with the landscaping requirements of Section 21-54.

c. A City Business Tax Receipt is required.

21-34.10 – Residential Professional Offices

Residential Professional Offices are permitted as a conditional use and require site plan approval. Residential Professional Offices are permitted only along S.R. 442, east of Pinedale Road and west of U.S. Highway 1. Residential Professional Office site plans shall be provided with a Zoning Map Amendment application and shall include:

a. The property must have a minimum frontage of 100-feet along S.R. 442.

b. One ground sign not to exceed sixteen (16) square feet of display area and an overall height of eight feet (8').

1. **Ground Sign Planter Specifications.** Vertical structure supports for ground signs shall be concealed in an enclosed base. The width of such enclosed base shall be equal to at least two-thirds (2/3) the horizontal width of the sign surface. A planter structure shall enclose the foot of the base. The planter shall be between two feet (2') and three feet (3') in height above the ground, with a minimum length equal to the width of the sign and a minimum width of three feet (3'). The materials will be consistent with the sign and principal structure. The planter shall be irrigated and planted with low shrubs, ornamentals or flowers. Such plantings shall be maintained indefinitely.

2. **Ground Sign Setback.** The leading edge of the sign shall be setback a minimum of ten feet (10') from the right-of-way.

3. **Movement.** No ground sign nor its parts shall move, rotate or use flashing lights.

4. **Prohibited Signs.** Signs that are prohibited in the Indian River Boulevard Corridor include animated signs, billboards, off-site signs, flashing signs, snipe signs, portable signs (trailer signs), roof signs, beacon lights, bench signs, trash receptacle signs, gutter signs, signs on public property, immoral display, obstruction, streamers, spinners and pennants.

c. Commercial building code requirements shall be met.

d. A City Business Tax Receipt is required.

e. All development and/or redevelopment shall conform to the site design criteria as defined in Article V and Article XVIII of the Land Development Code

f. Professional office uses are restrictive and shall be designed to primarily serve the populace of the general vicinity.

SECTION 21-35 – PROHIBITED USES

21-35.01 – Alcoholic Beverages

No alcoholic beverage establishments, i.e., establishments engaged in the sale of alcoholic beverages for on-premises consumption, shall be located within 500-feet of an established church or school with the following exception:

a. Any location licensed as a restaurant, which derives at least 51-percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to Florida Statutes.

SECTION 21-36 – ACCESSORY USE REQUIREMENTS

21-36.01 – Purpose

This Section includes those accessory uses and detached structures that are subordinate to the main use or building or located on the same lot. The term other accessory buildings shall include, but not be limited to such structures as greenhouses, gazebos, storage buildings, storage shed, garages, carports and the like.

21-36.02 – General Regulations

a. No accessory structure or use shall be permitted on any lot which does not have an established principal use conforming to the requirements of this code and no accessory structure shall be permitted on any lot which does not have a permitted principal or primary structure.

b. All accessory uses, buildings and structures shall be located on the same lot as the principle or permitted use.

c. No accessory use, building or structure shall exceed the height limit shown in that district and shall not exceed the height of the peak of the majority of the roof height of the principle or primary structure in residentially zoned areas.

d. Accessory buildings shall not be rented or otherwise used as a dwelling unit.

e. No accessory structure may be located within a public right-of-way or public easement.

f. All accessory structures are required to obtain a building permit.

g. No accessory structure may be located in any front yard in any zoning district.

h. Accessory buildings shall conform to the setback requirements described in Table V-1 and shall not cause an excess of the maximum building coverage and/or maximum impervious coverage as established for the respective zoning district.

i. No accessory building may be located within any required parking area, landscape area or stormwater facility area.

j. Accessory buildings shall be limited to 2 per parcel.

k. The total square feet of all accessory buildings and/or storage sheds shall not exceed seventy percent (70%) of the total square feet of the principle or primary structure in residentially zoned areas.

l. Storage sheds of 200 sq. ft. or less and not utilized as a garage may be located five (5') feet from rear and side property lines.

m. All accessory uses, buildings and structures located in residentially zoned areas exceeding 350 sq. ft. and located on a parcel of less than five (5) acres shall be consistent with the primary structure in architectural design, roofline and color.

21-36.03 – Outdoor Storage and Display: Commercial/Industrial

The purpose of this Section is to provide regulations for the location of outdoor storage and display facilities where such storage is an accessory use and a part of normal operations on the premises.

a. Outdoor storage and display may be permitted in conjunction with the uses allowed in certain commercial and industrial districts as indicated in Table III-3. Such outdoor storage or display shall not be located adjacent to any residential district or use unless such storage or display is screened from the view of the neighboring residential district or use.

b. No outdoor storage may be located in any required front yard, parking areas, fire zones, loading areas or access lanes.

c. All outdoor storage areas shall be screened from view by a six foot (6') high stockade fence, vinyl fence or masonry wall. However, the wall or fencing shall not interfere with the flow of traffic entering or leaving the site. Existing sites with a chain link fence may be enclosed with slatting. New sites shall require stockade fencing, vinyl fencing or masonry wall.

d. Loose materials such as sand, Styrofoam, cardboard boxes, mulch, compost areas, and similar materials, which are subject to being scattered or blown about the premises by normal weather conditions, shall be contained by an adequate enclosure. No outdoor storage area or building shall be located in a public right-of-way, utility or drainage easement.

e. Commercial outdoor display of merchandise may be permitted as an accessory use within the required front, side or rear yard areas, providing that such outdoor display shall not be located adjacent to a residential street.

f. The sale, storage, or display of all products not normally found or used outdoors shall be conducted from indoor locations only.

g. Outdoor display of products shall be limited to items typically associated due to their nature, size or construction with common outdoor usage or sales and shall be limited to one of any one product or model and shall be located in a designated display area. In addition one (1) ice machine and one (1) LP Gas dispenser shall be permitted in a designated exterior area. Merchandise typically permitted for outdoor display include, but are not limited to: sales, display and rental of vehicles, boats and mobile homes, plant nurseries and sale of landscape materials, swimming pools and spas, lawn mowers, lawn furniture, basketball nets, volleyball equipment, Christmas trees, pumpkins at Halloween, tomato plants, harvested fruits and vegetables etc. Merchandise typically not permitted for outdoor display include, but are not limited to: indoor furniture, stoves, ranges, bathroom fixtures, clothing, bedding mattresses, etc. This section shall not apply to permitted garage/yard sales, authorized farmers/craft markets and permitted special activities/events.

h. Outdoor display of vehicles, watercraft, etc., for sale shall be set back no less than ten feet (10') from the front and side corner property line and five feet (5') from the interior side and rear property line. Landscaping shall be installed in this area on any adjacent local street.

i. All display merchandise and related display equipment shall be removed at the close of business each day. This shall not include vehicles, boats, mobile homes, large lawn/construction equipment and campers displayed for rent or sale. No outdoor display areas shall be permitted within required parking spaces or areas, public sidewalks or pedestrian or vehicular access areas, parking aisles, driveway entrances or exits. At no time shall any exterior display areas impede the entry or means of egress of any doorway. No outdoor display areas shall obstruct visibility triangles at intersections or at points of ingress or egress to the business.

j. All new outdoor garden supply areas shall be screened from public view, the public right-of-way and incorporated into the architecture of the principle building.

k. All unattended machines dispensing a product, with the exception of ice and water machines, LP gas, newspaper machines (general circulation), shall be located indoors.

21-36.04 – Satellite Dishes and Antennas

The purpose of this Section is to control the location of satellite dishes and antennas in order to allow their use without sacrificing property values. Telecommunication tower location and site development standards are found in Article XII.

a. Privately owned ham radio antennas, citizens band radio and/or satellite dish antennas shall be considered accessory uses. All other such facilities belonging to companies whose business involves the reception or transmissions of wireless communication signals shall be considered commercial uses.

b. Pursuant to the Federal Telecommunications Act of 1996, satellite dishes 39 centimeters (approximately 36 inches) or less in diameter shall not require an installation permit.

c. A satellite dish greater than 36 inches (36") in diameter shall require a building permit from the City.

d. Except as provided in Article XII, antennas and satellite dishes greater than 36 inches in diameter shall be set back five feet (5') from side and rear lot lines or easements.

e. No satellite dishes larger than 39 centimeters (approximately 36 inches) or antennas shall be permitted in the front yard of any parcel.

f. The required setback shall be measured from the closest point of the outermost edge of the antenna or satellite dish to the property line.

g. Except as provided in Article XII, the height restrictions for antennas and satellite dishes shall not exceed the height limit in that district.

21-36.05 – Places of Worship – Schools/Child Care

The purpose of this Section is to establish criteria for the operation of schools and recreation facilities as an accessory use associated with places of worship.

a. A school operated by a place of worship shall not be permitted to locate within 25 feet (25') of property used as residential.

b. Recreation areas associated with places of worship shall not use artificial site lighting at night unless shielded from adjacent residential areas.

c. No recreational activity shall be located closer than 25 feet (25') to an adjacent parcel.

d. The front yard of a place of worship shall be on an arterial or collector roadway.

e. The building design for new construction shall be substantially similar to the design of the existing structures. No portables, trailers or like buildings are permitted.

f. Parking and service areas shall be located away from adjacent parcels.

21-36.06 – Boathouses

The following regulations shall apply to boathouses in all the R-1, R-2, R-3, R-4 and R-5 districts.

a. *Height of boathouses:* No boathouse shall be erected or altered to a height exceeding fifteen (15') feet from mean high water.

b. *Boathouse setback:* No boathouse shall be built less than five (5') feet from the established bulkhead line or less than ten (10') feet from any side lot line. If no bulkhead line is established, then the mean high tide watermark shall be used as the line of measurement.

c. *Accessory building attached to boathouse:* No accessory building which is attached to a boathouse and a part thereof shall be erected or altered less than twenty (20') feet away from the established bulkhead line. If a bulkhead line is not established, then the mean high water mark shall be used as the line of measurement.

d. *Detached accessory building to boathouse:* A detached accessory building to a boathouse is prohibited in the R-1, R-2, R-3, R-4 and R-5 residential districts.

e. *Area of boathouses:* No boathouse or similar structure shall exceed twenty (20') feet in width measured on a line parallel to the established bulkhead line or exceed forty (40') feet in depth measured at right angles to the established bulkhead line. If a bulkhead line is not established, then the mean highwater mark shall be used as a line of measurement.

21-36.07 – Boat Docks and Slips

a. Boat docks and slips for mooring pleasure boats, yachts and non-commercial watercraft shall be permitted in accordance with Volusia County's Manatee Protection Plan in any residential district as an accessory use to the residential use.

b. If no bulkhead line is established, then the mean highwater mark shall be used as the line of measurement.

21-36.08 – Canopies/Temporary Carports and Tents

a. Owners of canopies/temporary carports and tents shall be required to secure all components so as to prevent them from becoming airborne or from leaving the property where installed, as well as keep them in a good state of repair. Temporary canopies/carports and tents shall not require a permit if installed and maintained as per the manufacturer's installation instructions. No substantial modifications that would alter the design or integrity of the canopy/temporary carport or tent shall be permitted.

b. The below specifications are intended to be minimum only and are no indication or guarantee of fitness for securing the temporary items covered under this Section. Quantities and sizing will vary by the size of the item being secured.

1. All tie downs must be secured to solid, immoveable objects such as: mobile home anchors, concrete driveways, buildings, etc., or as per manufacturer's installation instructions or engineer's specifications.

2. All tie down leads must be a minimum of 3/16" galvanized or stainless steel cable or a minimum of 3/8" true nylon rope, (not polyethylene, polypropylene or polyester) or sized as per manufacturer's installation instructions or engineer's specifications.

3. It is forbidden to use concrete blocks or weights of any kind as a method of tie down, because attaching weight or other moveable objects to canopies/temporary carports and tents can cause those weights to be catapulted by wind lift.

c. There shall be a limit of two (2) canopies/temporary carports and tents per parcel. Canopies/temporary carports and tents shall be located behind the front building setback line in the rear and side yard setback areas. Canopies/temporary carports and tents located in side yard setback areas shall be screened from view with a six foot (6') high opaque wall or fence.

d. Tarps/tops of temporary structures shall be removed during hurricane warning conditions.

e. Canopies/temporary carports and tents not related to a special activity event pursuant to Section 21-37 and not located in the rear and/or side setback areas shall not be erected for more than a two (2) day period and for no more than ten (10) days total in a six (6) month period.

21-36.09 – Swimming Pools

a. **Definitions**

As used in this Article, the following terms shall have the respective meanings ascribed to them:

Residential swimming pool: Any swimming pool used or intended to be used solely by the owner, operator or lessee thereof and his family, and by guests invited to use it without charge or payment of any fee.

Swimming Pool: A body of water in an artificial or semi-public or private swimming setting or other water-related recreational activity intended for the use and enjoyment by adults and/or children, whether or not any charge or fee is imposed upon such adults or children, operated and maintained by any person, and shall include all structures, appurtenances, equipment, appliances and other facilities appurtenant to and intended for the operation and maintenance of a swimming pool. This definition shall include whirlpools, spas, and hot tubs unless separately identified and shall exclude 110-volt plug-in Jacuzzi/hot tubs.

Wading pool: Any pool with a surface area of less than two hundred fifty (250) square feet and less than twenty-four (24) inches in depth at any point. Wading pools shall not be required to comply with this Article.

b. **Permit – Application; plans and specifications**

1. *Application:* Before the erection, construction or alteration of any swimming pool has begun, an application for a permit shall be submitted to the Building Official for approval.

2. *Plans and specifications:* The application shall be accompanied by two (2) sets of full and complete plans and specifications of the pool, including a survey of the lot showing distance between buildings or structures and the distance from all property lines. Plans must show method of compliance with the Pool Safety Act, F.S. 515.

c. **Structural Requirements**

1. *General:* All swimming pools whether constructed of reinforced concrete, pneumatic concrete, steel, plastic or others, shall be designed and constructed in accordance with the requirements of the Florida Building Code, 424 and accepted engineering principles.

d. **Location**

1. Front yard and side corner yard swimming pools are prohibited.

2. No swimming pool shall be constructed closer than five (5) feet from any building without engineering, nor within any easement or ten (10) feet from any property line, unless a Development Agreement or P.U.D. Agreement is established for the property.

e. **Enclosures**

1. All swimming pools, unless entirely screened in, shall be completely enclosed with a fence or wall at least four feet (4') high, and so constructed as to not be readily climbable by small children. All gates or doors providing access to the pool area shall be equipped with a self-closing and self-latching device installed on the pool side for keeping the gates or doors securely closed at all times when the pool area is not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped, per Child Safety Act, F.S. 515.

2. All whirlpools, spas or hot tubs unless entirely screened in or equipped with a lock down cover shall be completely enclosed with a fence or wall at least four feet (4') high and so constructed as to not be readily climbable by small children, and comply with the Child Safety Act, F.S. 515.

f. **Filtration and recirculation system**

All swimming pools shall be equipped with a filtering and recirculation system and such systems shall be compliant with all applicable requirements as set forth by the American National Standards Institute.

g. **Electrical wiring**

All electrical wiring must comply with the National Electrical Code (NEC).

h. **Plumbing**

When plumbing is connected to City service for water supply, all plumbing shall be in strict accordance with the local plumbing code. When water is supplied from sources other than City connected service to family pools, then plastic pipe stamped and approved one hundred (100) by an ASTM laboratory may be accepted, if inspected and approved by a licensed plumbing inspector.

i. **Discharge water**

Water being discharged from the pool or from the back flushing of the filtering system may be discharged to a storm sewer, dry well, seepage pit, or through an irrigation system or other approved method by the City. Discharge water may not be discharged into a sanitary or combined sewer.

j **Rim height**

The overflow rim of all swimming pools shall be a minimum grade above surrounding ground level and in all cases sufficiently high enough to prevent groundwater from flowing into the pool.

k. **Walkway**

A walkway of concrete or other approved materials shall surround all swimming pools from the overflow rim outward a distance of three feet (3') for at least two-thirds (2/3) of the pool perimeter and shall be so designed that water cannot drain from the walkway into the pool.

l. **Overflow Skimmer**

A beam overflow skimmer shall be required and be designed so that debris caught in it will not be washed back into the pool by water movements.

SECTION 21-37 – SPECIAL ACTIVITY/PERMIT REQUIREMENTS

21-37.01 – Purpose/Scope

To establish policies and procedures pertaining to special activities, including but not limited to, outdoor entertainment, to ensure compliance with all applicable City, County and State

requirements. A special activity permit will be required of all special activities held within the City of Edgewater.

21-37.02 – Definitions

Charitable event/activity – is an event/activity or cause sponsored by a business or non-profit organization for the purpose of soliciting aid, assistance or contributions for benevolent purposes. To qualify as a charitable event/activity; all profits (net difference of gross revenues less expenses) must be given to the charitable cause for which the charitable event/activity was organized. For purposes of this definition, a charitable event/activity cannot exceed one (1) day. Each charitable event/activity permit application shall adhere to the special activity permitting process as defined in Section 21-37.04. For the purposes of this definition, a charitable event/activity does not include an event/activity with the primary purpose of carrying on propaganda or otherwise attempting to influence legislation, and does not include an event/activity with the primary purpose of raising funds or garnering support for a political campaign on behalf of (or in opposition to) any candidate for public office.

City sponsored activity – sponsored or co-sponsored by the City Council or any City Department for the benefit of the residents of the community.

Civic group/non-profit organization – any group that meets for the improvement of the community and whose main function is to make the community a better place to live either by deed, donations of time or finances. A tax-exempt certificate is not necessary if the group meets the above stated criteria.

Community activity - activities which take place on City owned or controlled property in which the general public is invited to participate.

Live entertainment - entertainment in the form of music, singing, speaking or similar activities that are enhanced by amplification equipment. This includes bands, concerts, performances, karaoke and disk jockey functions.

Outdoor entertainment – entertainment in the form of music, singing, speaking and similar activities, amplified or non-amplified that is located outside of or partially outside of the area of the sponsoring property permitted for normal retail sales or services.

Private business - any business enterprise operating for the purpose of creating a profit.

Special activity – any public or private activity held within the City of Edgewater in which it can be reasonably anticipated that the number of persons attending the activity will exceed the on-site parking, seating or sanitary facilities available at the premises upon which activity will take place or that services will be required beyond that which are regularly provided by the City such as additional traffic control, crowd control, fire and/or emergency services, street closures, cleanup or other municipal services.

Special activity permit – a permit issued by the City to authorize a special activity.

Sponsor/promoter – any person, group or entity ultimately responsible in full or part for producing, operating, sponsoring or maintaining a special activity.

21-37.03 – Special Activity Permit Requirements

a. The uses authorized by a Special Activity Permit are temporary and all permitted improvements shall be removed within five (5) days of the completion of the special activity.

b. The number of special activities at any given location or address shall not exceed:

    1. One 10-day period and two 1-day charitable events/activity between the period of January 1st through June 30th; and

    2. One 10-day period and two 1-day charitable events/activity between the period of July 1st through December 31st.

    3. The City Council may grant an exemption to the number events/activities permitted per year for a specific location or address. The exemption shall not be granted for more than a one (1) year period. All other requirements contained in this Section shall apply.

c. Outdoor entertainment/amplified sound in conjunction with a special activity shall be permitted only between the times of 1:00 p.m. to 10:00 p.m., unless otherwise authorized by the City.

21-37.04 – Special Activity Permit Application Process

a. A special activity permit will be required for each special activity held within the City of Edgewater. No special activity permit will be required for any event sponsored or co-sponsored by the City if it is occurring on public property.

b. A special activity permit application must be completed and submitted to the Development Services Department for review by City staff at least 60-days in advance of the activity for special activity permits that are required to go before City Council for approval and 21-days for special activity permits that only require Staff approval. The application must include specific dates and times of the planned activity (including set up and demobilization), number and types of vendors, types and hours of entertainment, specific parking layouts, quantity and number of sanitary facilities. If the application is for a charitable event/activity, sufficient information (financial, medical and/or socio-economic) must be provided for a clear determination that the event meets the criteria of a charitable event/activity. Hours for outdoor entertainment/amplified sound are described in Section 21-37.03 of this Article.

c. The completed special activity permit application and staff comments will be provided to the City Council for review and consideration at the next regularly scheduled meeting for those events that exceed an anticipated attendance of 2,000 people. City staff will notify affected

property owners within 500-feet of the site requesting the special activity permit from City Council and the date and time of the City Council meeting in which the application will be reviewed. The applicant shall provide names and addresses of each affected property owner, obtained from the Volusia County Property Appraiser's office.

21-37.05 – Special Activity Permit Criteria

a. The proposed activity will not result in unsafe ingress/egress for either pedestrians or vehicles.

b. The proposed activity shall comply with the appropriate Florida Fire Prevention Codes conditions.

c. The proposed activity shall comply with the City's Land Development Code and noise ordinance conditions.

d. The proposed activity will direct on-site lighting away from adjacent parcels and roadways.

e. The proposed activity shall have adequate sanitary facilities.

f. The applicant shall post a bond or provide insurance in the amount of $500,000 if no on-site alcohol consumption is proposed and $1,000,000 if on-site alcohol consumption is permitted and/or pyrotechnics are proposed to indemnify and hold the City harmless of any and all liabilities.

g. The City Council may waive the requirements as contained in Section 21-35.01 for alcohol sales and/or consumption associated with a special activity.

h. The City Council may add other conditions to protect the health, safety and welfare of the residents.

21-37.06 – Temporary Structures

It shall be the responsibility of the applicant of the special activity permit to ensure the structural integrity of all temporary structures erected for special activities. The structures are to be safe, structurally sound and of adequate capacity to service the number of persons proposed to use the structure and must be removed with five (5) days of completion of the special activity. The Building Official and Fire Marshal shall verify such compliance is obtained.

21-37.07 – Inspections to Ensure Compliance

The City shall provide scheduled and unscheduled inspections prior to and/or during the special activity by police, fire, code enforcement, building and/or City administration representatives to monitor and ensure compliance with all applicable City, County and State codes. Special activity permits that include outdoor entertainment may require a code enforcement officer to remain on site during the activity. The cost of said officer shall be reimbursed to the City by the

sponsor/promoter. Appropriate State agencies are responsible for the inspection of amusement rides and public food preparation facilities.

21-37.08 – Penalties

Any person or entity who shall conduct, operate or maintain a special activity and fails to obtain a special activity permit shall be ordered to cease and desist and be punished by a fine of three times the cost of the application fee as well as all associated City fees. No further special activities shall be authorized until all penalties are current. A repeat offender shall not be eligible for a special activity permit for a one-year period. A repeat offender is defined as a sponsor/promoter who violates any of the conditions of the special activity permit more than one time in a six-month period.

21-37.09 – Exceptions

Any special activity sponsored/promoted by a civic group or non-profit organization or co-sponsored by the City of Edgewater may be exempt from any and all fee requirements. This decision shall be rendered by the City Council and any waiver granted regarding these requirements is only binding and applicable upon that one activity or portion thereof and shall not mean that the sponsor/promoter has any rights to future waivers.

SECTION 21-38 – FENCES, WALLS and HEDGES

21-38.01 – Purpose

The purpose of this Section is to set forth the standards necessary to regulate the use of fences.

21-38.02 – General Requirements

The following regulations shall apply to the erection of fences, walls and hedges.

a. All fencing materials must comply with the definition in Article II and shall be consistent with or similar to other fencing in the vicinity.

b. All fences shall comply with the provisions of the applicable building codes and are required to obtain a building permit.

c. Fences may be located in all front, side and rear yard setback areas and directly on property lines, provided that if a fence encroaches into a utility access easement or right-of-way, the City shall not be responsible.

d. The maximum allowable height of all fences located between the front property line and the primary building frontage line of residential properties and river front lots of residential property not subject to site plan review shall be four feet (4’). Fences located in these areas must be non-opaque (50% visibility). The maximum allowable height of all other fences in residential areas shall be six feet (6’) including side corner yards and meet the site triangle

requirements. Six (6') foot fences on side corner lots shall be setback ten feet (10') from the property line. In commercial and industrial areas no fence shall exceed ten feet (10') feet in height unless otherwise approved as part of a development plan and meet the site triangle requirements. The filling or berming of property solely for the purpose of creating a barrier that exceeds the height requirements contained herein is prohibited.

e. Concrete block walls shall be constructed with appropriate reinforcement as determined by the Building Official. Block walls shall be stucco and painted to compliment the surrounding character of the area.

f. All fences shall be erected with the finished side facing outward or away from the enclosed screened area. The "good-side" (side without posts) of fence shall be facing public view.

g. Approval to exceed maximum height limitations may be granted by the Development Services Director/Planning Director subject to either of the following:

    1. The enclosed or screened area is sufficiently lower than adjoining lands to render a fence of the maximum allowable height inadequate for its intended purpose.

    2. The area to be enclosed or screened contains a nuisance or a hazard that cannot adequately be encompassed or obscured by a fence of the maximum allowable height.

h. Fences with barbed wire shall be prohibited in conjunction with residential development. In nonresidential development, up to three (3) strands of barbed wire may be installed at the top of a fence. For regulatory purposes, barbed wire shall not be included in the measurement of the fence height. In no case shall barbed wire be allowed to overhang or extend outside of the property lines of the site on which the fence is installed, nor shall any barbed wire be installed at a height of less than six-feet (6') with the exception of agriculturally zoned property.

i. Electric or electrified fences and/or any fencing containing chicken wire shall be prohibited except in agriculturally zoned districts for the containment of livestock.

j. Customary fencing around public recreational amenities shall be exempt from height restrictions.

k. Opaque fencing shall not be permitted on lots fronting on large lakes, rivers, golf courses or other common areas deemed as an aesthetic amenity.

l. Fences shall conform to the "site-triangle" requirements as set forth below:

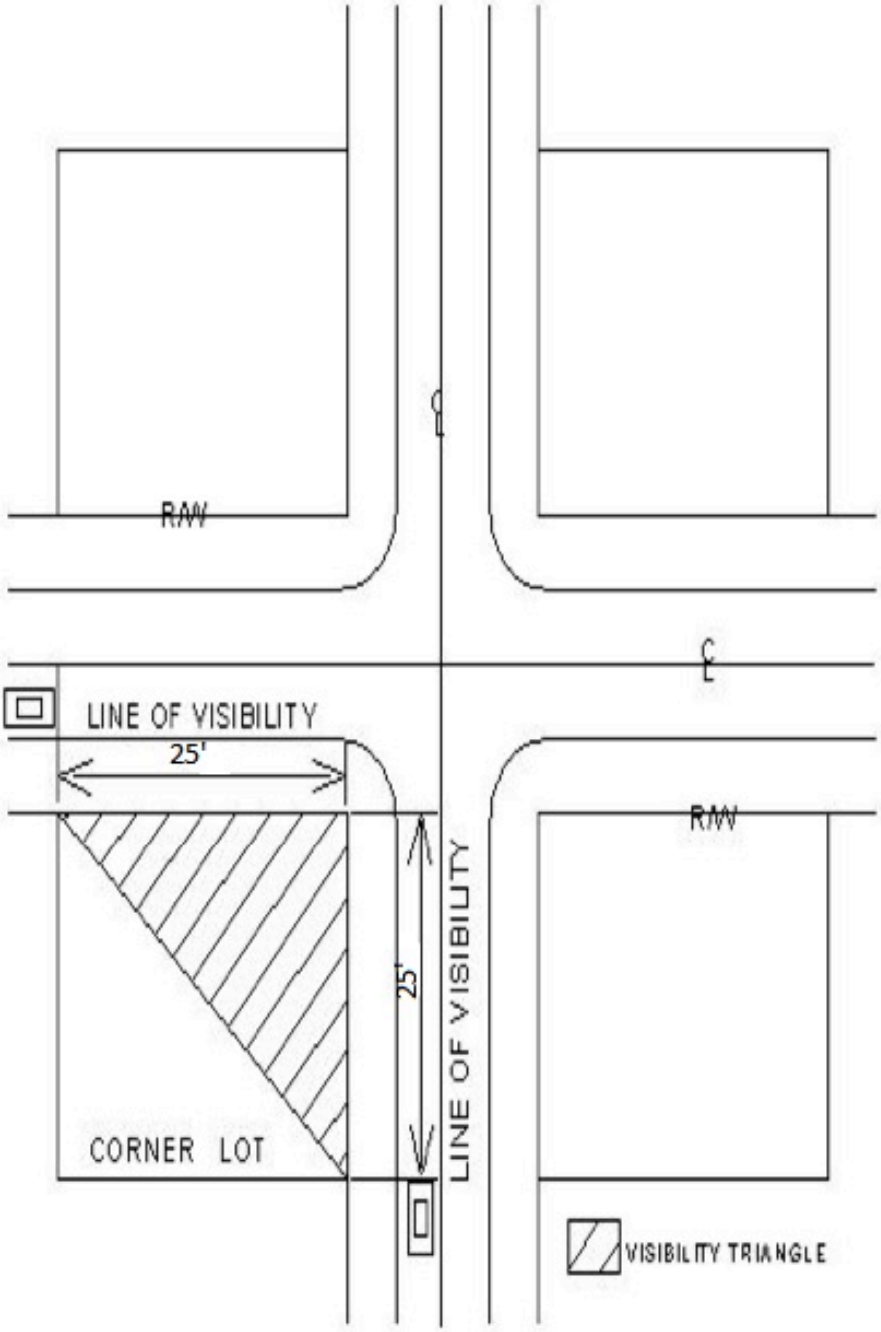
21-38.03 – Site Triangle Requirements

a. Nothing shall be erected, planted or placed in a manner as to materially impede vision between a height of two and one-half feet (2 ½') to ten feet (10') above the intersecting street

right-of-way lines. The site triangle shall be measured twenty five feet (25') in each direction from the intersecting right-of-way lines.

These regulations may also apply in commercial ingress and egress driveway areas if the TRC determines that a safety hazard may exist.

(See Site Triangle Diagram on the following page)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25'
LINE OF VISIBILITY
CORNER LOT
VISIBILITY TRIANGLE

SECTION 21-39 – PAIN CLINICS

21-39.01 – Purpose

The purpose of this Section is to set forth the standards necessary for the regulation of pain clinics.

21-39.02 – General Requirements

a. Pain Clinics shall not have employees, full-time, part-time, contract, independent or volunteers who have been convicted of or who have pled guilty or nolo contendere at any time to an offense constituting a felony in this state or in any other state involving the prescribing, dispensing, supplying, selling or possession of any controlled substance within a five (5) year period prior to the date of the application for a Certificate of Use and that the Pain Clinics shall not employ any such persons thereafter.

b. The Pain clinic shall be operated by a medical director who is a licensed physician in the State.

c. The Pain Clinic shall not limit the form of payment for services or prescriptions to cash only.

d. Pain Clinics are prohibited from having any outdoor seating areas, queues or customer waiting areas or permitting patients to wait on the Pain Clinic property outside the Pain Clinic building. There shall be no loitering outside of the Pain Clinic building, including any parking area, sidewalk, right-of-ways or adjacent properties. No loitering signs shall be posted in conspicuous areas on all sides of the building. All activities of a Pain Clinic, including sale, display, preparation and storage shall be conducted entirely within a completely enclosed building.

e. The Pain Clinic shall not be operated by or have any contractual or employment relationship with a physician:

    1. Whose drug enforcement administration number has ever been revoked.

    2. Whose application for a license to prescribe, dispense or administer a controlled substance has been denied or revoked by any jurisdiction.

f. The owner or physician shall not have been convicted of violating a pain management ordinance in a different city, county or state.

g. Pain Clinics are prohibited from having an on-site pharmacy for Controlled Substance Medication.

h. There shall be no on-site sale or consumption of alcoholic beverages on the property containing a Pain Clinic.

i. No Pain Clinic shall be located within five hundred (500) feet within an established private or public school, church or daycare facility.

j. No Pain Clinic shall be located within one thousand (1,000) feet of another Pain Clinic.

k. Within thirty (30) days of the removal of a Pain Clinic from a building, site or parcel of land for any reason, the property owner shall be responsible for removing all signs, symbols or vehicles identifying the premises as a Pain Clinic. In the event of noncompliance with this provision the City may remove such signs at the expense of the property owner.

l. Pain Clinics shall remain in compliance with all federal, state, county and municipal laws and ordinances as may be amended from time to time

m. Pain Clinics may operate Monday through Friday during the hours of 9:00 a.m. and 5:00 p.m. only.

n. Pain Clinics shall have a waiting room of at least three hundred (300) gross square feet in area and each examination room shall consist of at least one hundred (100) gross square feet in area.

o. Pain Clinics shall provide one (1) parking space per ten (10) gross square feet of waiting room area, two (2) parking spaces per one (1) examination room and one (1) parking space per two hundred fifty (250) gross square feet of the remaining building area.

p. All Pain Clinics shall allow representatives of the City to enter and inspect their places of business during business hours or at any time the business is occupied for the purpose of an initial inspection to verify compliance with the requirements of the City Land Development Code, Code of Ordinances, Florida Building Code and Florida Fire Prevention Code prior to Certificate of Use approval and thereafter on an annual basis in conjunction with the Certificate of Use renewal.

ARTICLE IV

RESOURCE PROTECTION STANDARDS

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ARTICLE IV

RESOURCE PROTECTION STANDARDS

SECTION 21-40 - GENERAL PROVISIONS

21-40.01 - Purpose

The purpose of this Article is to establish the criteria for the protection, maintenance, enhancement and utilization of natural resources within the City of Edgewater in accordance with the adopted Comprehensive Plan. In conformance with the requirements of the Comprehensive Plan, standards and criteria contained herein implement the specific Comprehensive Plan.

In addition to City-wide resource protection standards contained in this Article, the City of Edgewater has adopted the Indian River Boulevard Corridor Design Regulations and the Ridgewood Avenue Corridor Design Regulations which are incorporated as Article XVIII and Article XX respectively in this Land Development Code. Requirements contained in Article XVIII, Indian River Boulevard Corridor Standards and Article XX, Ridgewood Avenue Corridor Design Regulations include specific treatment for conservation lands located adjacent to Indian River Boulevard and Ridgewood Avenue. While Article XVIII shall generally supercede the requirements set forth in Article IV, Resource Protection Standards, the intent and purpose of resource protection standards plus all applicable comprehensive plan policies for conservation areas shall be adhered to for development within the designated Indian River Boulevard Corridor and Ridgewood Avenue Corridor.

SECTION 21-41 - WETLANDS

21-41.01 - Comprehensive Plan Reference

The provisions of Section 21-41 - Wetlands are consistent with and implement the Comprehensive Plan contained in the Future Land Use Element, Utilities Element, Coastal Element and Conservation Element.

It is the intent of this Article to provide for the protection, maintenance, enhancement and utilization of wetlands within the City recognizing the rights of property owners to use their lands in a reasonable manner as well as the right of all citizens for the protection and purity of the waters of the City. It is the policy of the City to minimize the disturbances of wetlands and to encourage their use only for the purposes that are compatible with their natural functions and environmental benefits.

21-41.02 - Wetland Identification

Wetlands are defined in Section 21-20. Where the natural boundary of wetland vegetation is unclear, the line of demarcation may be approximated at a surveyed elevation measured at a location in the same wetland where the natural line is clear. In the event an undeveloped area

has been recently cleared of all vegetation, the wetland boundary may be determined by soil type, aerial mapping, photography, hydrology or other historical information as appropriate and approved by the City. The most restrictive wetland boundary as determined by authorized regulatory agencies shall be accepted.

21-41.03 - Permit Requirements

It is hereby unlawful for any person to engage in any activity which will remove, fill, drain, dredge, clear, destroy or alter any wetland or wetland buffer as defined in Article II on any lot or portion thereof without obtaining a wetland alteration permit in accordance with the provisions of this Article. An applicant must obtain all other required permits from all appropriate agencies. Unless proper Federal/State approval has been granted a Wetland Alteration Permit must be obtained from the City and/or Volusia County. Wetland Alteration Permits may be issued concurrent or in conjunction with other land development permits. It is the intent of this Section that construction of a single-family dwelling on upland areas which do not alter by removing, filling, draining, dredging, clearing or destroying any wetland or wetland buffer shall not require a separate wetland alteration permit pursuant to this Section.

21-41.04 - Buffer Requirements

a. A minimum buffer of fifty feet (50') upland from the mean high water line and a minimum of twenty-five feet (25') upland from the wetland boundary shall be established adjacent to and surrounding all wetlands. The buffer may coincide with the required setback on a lot pursuant to Article V. There shall be no development activities in the buffer, except for direct access to water bodies.

b. Maintenance activities which do not have a significant adverse effect on the natural function of the buffer may be allowed within the buffer. The activities which may be permitted include but are not limited to pruning, planting of suitable native vegetation, removal of exotic and nuisance pioneer plant species and the creation and maintenance of walking trails. See Section 21-53.07 for shoreline protection standards.

SECTION 21-42 - FLOOD PLAINS

21-42.01 - Comprehensive Plan Reference

The provisions of Section 21-42 - Flood Plains are consistent with and implement the Comprehensive Plan contained in the Future Land Use Element, Coastal Element and Conservation Element.

21-42.02 – Administration

a. General

1. Title - These regulations shall be known as the *Floodplain Management Ordinance* of the City of Edgewater, hereinafter referred to as “this Section.”

2. Scope - The provisions of this Section shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

3. Intent – Development within flood prone areas is strongly discouraged. The purposes of this Section and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

    (a) Minimize unnecessary disruption of commerce, access and public service during times of flooding;

    (b) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;

    (c) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;

    (d) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;

    (e) Minimize damage to public and private facilities and utilities;

    (f) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;

    (g) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

    (h) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

4. Coordination with the *Florida Building Code* - This Section is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code.*

5. Warning - The degree of flood protection required by this Section and the *Florida Building Code*, as amended by the City, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring the City to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guarantee of vested use, existing use, or future use is implied or expressed by compliance with this Section.

6. Disclaimer of Liability - This Section shall not create liability on the part of the City Council of the City of Edgewater or by any officer or employee thereof for any flood damage that results from reliance on this Section or any administrative decision lawfully made there under.

b. Applicability

1. General - Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

2. Areas to which this Section applies - This Section shall apply to all flood hazard areas within the City of Edgewater, as established in Section 21-42.02b.3 of this Section. No structure or land shall hereafter be located, extended, converted, or structurally altered within identified special flood hazard areas without compliance with the terms of this Section and all other applicable regulations. Provisions for flood hazard reduction shall be enforced upon all proposed development and re-development located within the City independent of proposed land use. No grandfathering provisions will be allowed for lots of record, platted subdivisions, etc.

3. Basis for establishing flood hazard areas - The "Flood Insurance Study for Volusia County, Florida and Incorporated Areas" dated February 19, 2014, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this Section and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City Development Services Department, 104 North Riverside Drive, Edgewater, FL 32132.

   (a) Submission of additional data to establish flood hazard areas - To establish flood hazard areas and base flood elevations, pursuant to Section 21-

42.02e. of this Section the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

(1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this Section and, as applicable, the requirements of the *Florida Building Code*.

(2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

4. Other laws - The provisions of this Section shall not be deemed to nullify any provisions of local, state or federal law.

5. Abrogation and greater restrictions - This Section supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between this Section and any other ordinance, the more restrictive shall govern. This Section shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this Section.

6. Interpretation - In the interpretation and application of this Section, all provisions shall be:

   (a) Considered as minimum requirements;

   (b) Liberally construed in favor of the governing body; and

   (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

c. Duties and Powers of the Floodplain Administrator

1. Designation - The Development Services Director and/or the designee thereof is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

2. General - The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this Section. The Floodplain Administrator shall have the authority to render interpretations of this Section consistent with the

intent and purpose of this Section and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this Section without the granting of a variance pursuant to Section 107 of this Section.

3. Applications and permits - The Floodplain Administrator, in coordination with other pertinent offices of the City, shall:

   (a) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

   (b) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this Section;

   (c) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;

   (d) Provide available flood elevation and flood hazard information;

   (e) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;

   (f) Review applications to determine whether proposed development will be reasonably safe from flooding;

   (g) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this Section is demonstrated, or disapprove the same in the event of noncompliance; and

   (h) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this Section.

4. Substantial improvement and substantial damage determinations - For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

   (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the

building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this Section is required.

5. Modifications of the strict application of the requirements of the *Florida Building Code* - The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 21-42.02g of this Section.

6. Notices and orders - The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this Section.

7. Inspections - The Floodplain Administrator shall make the required inspections as specified in Section 21-42.02f of this Section for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

8. Other duties of the Floodplain Administrator - The Floodplain Administrator shall have other duties, including but not limited to:

(a) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 21-42.02c.4 of this Section;

(b) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of

such notifications to the Federal Emergency Management Agency (FEMA);

(c) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;

(d) Review required design certifications and documentation of elevations specified by this Section and the *Florida Building Code* and this Section to determine that such certifications and documentations are complete; and

(e) Notify the Federal Emergency Management Agency when the corporate boundaries of the City are modified.

9. Floodplain management records - Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this Section and the flood resistant construction requirements of the *Florida Building Code,* including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this Section; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this Section and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the City Development Services Department, 104 North Riverside Drive, Edgewater, FL 32132.

d. Permits

1. Permits required - Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this Section, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this Section and all other applicable codes and regulations has been satisfied. The standards for issuing development permits shall comply with Title 44 Code of

Federal Regulations Chapter 1, Section 60.3 Parts (A), (B), and (C), and are described in this Section.

2. Floodplain development permits or approvals - Floodplain development permits or approvals shall be issued pursuant to this Section for any development activities not subject to the requirements of the *Florida Building Code,* including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

    (a) Buildings, structures and facilities exempt from the *Florida Building Code* - Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of this Section:

        (1) Railroads and ancillary facilities associated with the railroad.

        (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.

        (3) Temporary buildings or sheds used exclusively for construction purposes.

        (4) Mobile or modular structures used as temporary offices.

        (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.

        (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term “chickee” means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

        (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

        (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

(9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

3. Application for a permit or approval - To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

   (a) Identify and describe the development to be covered by the permit or approval.

   (b) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

   (c) Indicate the use and occupancy for which the proposed development is intended.

   (d) Be accompanied by a site plan or construction documents as specified in Section 105 of this Section.

   (e) State the valuation of the proposed work.

   (f) Be signed by the applicant or the applicant's authorized agent.

   (g) Give such other data and information as required by the Floodplain Administrator.

4. Validity of permit or approval - The issuance of a floodplain development permit or approval pursuant to this Section shall not be construed to be a permit for, or approval of, any violation of this Section, the *Florida Building Codes*, or any other ordinance of the City. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

5. Expiration - A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

6. Suspension or revocation - The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this Section or any other ordinance, regulation or requirement of the City.

7. Other permits required - Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

   (a) The St. Johns River Water Management District; section 373.036, F.S.

   (b) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.

   (c) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.

   (d) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

   (e) Federal permits and approvals.

e. Site Plans and Construction Documents

1. Information for development in flood hazard areas - The site plan or construction documents for any development subject to the requirements of this Section shall be drawn to scale and shall include, as applicable to the proposed development:

   (a) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development. Topographic and special flood hazard area mapping shall provide a minimum accuracy to a tenth of a foot (i.e. 1-foot topographic contour interval and base flood elevation to one decimal accuracy). USGS Quadrangle maps depicting 5-foot topographic contours are not adequate to comply with these design standards.

   (b) Where base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 21-42.02e.2(b) or (c) of this Section.

   (c) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 21-42.02e.2(a) of this Section.

   (d) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.

   (e) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

   (f) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended

purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

(g) Existing and proposed alignment of any proposed alteration of a watercourse.

(h) The SHGWT shall be established by drilling a sufficient number of geotechnical borings whereas the SHWL shall be determined by an ecological assessment of hydric soils, vegetative cover, wetland species, lichen lines, etc. The SHWL and/or SHGWT shall be determined for all wetlands, depressions, and any other low areas within the property boundary that are capable of impounding stormwater runoff on the undeveloped property.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this Section but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this Section.

2. Information in flood hazard areas without base flood elevations (approximate Zone A) - Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

(a) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.

(b) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.

(c) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

(1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or

(2) Specify that the base flood elevation is three (3) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than three (3) feet.

(d) Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA,

and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

3. Additional analyses and certifications - As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

   (a) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 21-42.02e.4 of this Section and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

   (b) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

   (c) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 21-42.02e.4 of this Section.

4. Submission of additional data - When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

f. Inspections

1. General - Development for which a floodplain development permit or approval is required shall be subject to inspection.

(a) Development other than buildings and structures - The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this Section and the conditions of issued floodplain development permits or approvals.

(b) Buildings, structures and facilities exempt from the *Florida Building Code* - The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this Section and the conditions of issued floodplain development permits or approvals.

(1) Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection - Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator**:**

(a) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or

(b) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 21-42.02e.2.(c)(2) of this Section, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(2) Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection - As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 21-42.02f.1.(b)(1) of this Section.

(c) Manufactured homes - The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to

determine compliance with the requirements of this Section and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

g. Variances and Appeals

1. General - Any Variances to the requirements of this Section shall be administered pursuant to the requirements of Section 21-100. Any appeals of the decisions of any City officials shall be in accordance with the procedure contained in Article I of the Land Development Code..

2. Restrictions in floodways - A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 21-42.02e.3 of this Section.

3. Historic buildings - A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

4. Functionally dependent uses - A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this Section, provided the variance meets the requirements of Section 21-42.02g.2, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

5. Considerations for issuance of variances - In reviewing requests for variances, Consideration shall be given to all relevant factors, all other applicable provisions of the *Florida Building Code*, this Section, and the following:

   (a) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

   (b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;

(d) The importance of the services provided by the proposed development to the community;

(e) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

(f) The compatibility of the proposed development with existing and anticipated development;

(g) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

(h) The safety of access to the property in times of flooding for ordinary and emergency vehicles;

(i) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

6. Conditions for issuance of variances - Variances shall be issued only upon:

(a) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this Section or the required elevation standards;

(b) Determination by the Planning and Zoning Board that:

(1) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

(2) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and

(3) The variance is the minimum necessary, considering the flood hazard, to afford relief;

(c) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

(d) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as $25 for $100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

h. Violations

1. Violations - Any development that is not within the scope of the *Florida Building Code* but that is regulated by this Section that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this Section, shall be deemed a violation of this Section. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this Section or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

2. Authority - For development that is not within the scope of the *Florida Building Code* but that is regulated by this Section and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

3. Unlawful continuance - Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed in Section 1-8 of the City Code of ordinances regarding "General Penalty, continuing violations".

21-42.03 – Definitions

a. General

1. Scope - Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Section, have the meanings shown in this section.

2. Terms defined in the *Florida Building Code* - Where terms are not defined in this Section and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

3. Terms not defined - Where terms are not defined in this Section or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

b. Definitions

Alteration of a watercourse - A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal - A request for a review of the Floodplain Administrator's interpretation of any provision of this Section or a request for a variance.

ASCE 24 - A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood - A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation - The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 1612.2.]

Basement - The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 1612.2.]

Design flood - The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

1. Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
2. Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation - The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard

map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 1612.2.]

Development - Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Encroachment - The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure - Any buildings and structures for which the "start of construction" commenced before September 3, 1980. [Also defined in FBC, B, Section 1612.2.]

Existing manufactured home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 3, 1980.

Expansion to an existing manufactured home park or subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA) - The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or flooding - A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 1612.2.]

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials - Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 1612.2.]

Flood hazard area - The greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

1. The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
2. The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Flood Insurance Rate Map (FIRM) - The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 1612.2.]

Flood Insurance Study (FIS) - The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 1612.2.]

Floodplain Administrator - The office or position designated and charged with the administration and enforcement of this Section (may be referred to as the Floodplain Manager).

Floodplain development permit or approval - An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this Section.

Floodway - The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 1612.2.]

Floodway encroachment analysis - An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Florida Building Code - The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.*

Functionally dependent use - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Highest adjacent grade - The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure - Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings.

Letter of Map Change (LOMC) - An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

1. Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
2. Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
3. Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
4. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck - As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
3. Available with special features enabling off-street or off-highway operation and use.

Lowest floor - The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or ASCE 24. [Also defined in FBC, B, Section 1612.2.]

Manufactured home - A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when

attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or “park trailer.” [Also defined in 15C-1.0101, F.A.C.]

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

Market value - The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this Section, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

New construction - For the purposes of administration of this Section and the flood resistant construction requirements of the *Florida Building Code*, structures for which the “start of construction” commenced on or after September 3, 1980 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 3, 1980.

Park trailer - A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]

Recreational vehicle - A vehicle, including a park trailer, which is: [see in section 320.01, F.S.)

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

Special flood hazard area - An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]

Start of construction - The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation,

addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

Substantial damage - Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]

Substantial improvement - Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Variance - A grant of relief from the requirements of this Section, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by this Section or the *Florida Building Code*.

Watercourse - A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

21-42.04 – Flood Resistant Development

a. Compensatory Storage – Compensatory storage for encroachments to the special flood hazard area shall be provided in accordance with the following methodology:

1. Encroachment to the special flood hazard area shall be computed for all fill placed within the special flood hazard area below the base flood elevation and above the predicted SHGWT or SHWL

2. Compliance will be based upon a volume for volume (cup for cup) methodology, with the volume of compensation equal to the volume of encroachment at each and every elevation (1-foot contour interval). Providing compensating storage equal to the volume of encroachment at each elevation will provide equivalent flood plain management for all storm events of magnitude less than the base flood event and is intended to prevent cumulative water quantity impacts.
3. Storage creation must occur below the existing base flood elevation and above the predicted SHGWT and/or SHWL.
4. Compensation must occur within dedicated storage areas excavated contiguous to the existing special flood hazard area.
5. Under no circumstances will compensatory flood storage be allowed within ponds that also provide stormwater management (retention and/or detention) for the proposed development.
6. The City may approve the creation of off-site compensatory storage areas located outside the property boundary on a case-by-case basis.
7. The City reserves the right to enforce additional criteria upon any project that is located within what the City considers a special flood hazard area. At the City's discretion, additional flood control measures may be required to adequately protect upstream systems, downstream systems and/or off-site properties.

b. Buildings and Structures

1. Design and construction of buildings, structures and facilities exempt from the *Florida Building Code* - Pursuant to Section 21-42.02d.2.(a) of this Section, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 21-42.04h of this Section.

c. Subdivisions

1. Minimum requirements - Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:
   (a) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
   (b) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
   (c) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

2. Subdivision plats - Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

   (a) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;

   (b) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 21-42.02e.2.(a) of this Section; and

   (c) Compliance with the site improvement and utilities requirements of Section 21-42.04d of this Section.

d. Site Improvements, Utilities and Limitations

1. Minimum requirements - All proposed new development shall be reviewed to determine that:

   (a) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

   (b) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

   (c) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

2. Sanitary sewage facilities - All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

3. Water supply facilities - All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

4. Limitations on sites in regulatory floodways - No development, including but not limited to site improvements, and land disturbing activity involving fill or

regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 21-42.02e.3.(a) of this Section demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

5. Limitations on placement of fill - Subject to the limitations of this Section, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the *Florida Building Code*.

e. Manufactured Homes

1. General - All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this Section.

   (a) Limitations on installation in floodways - New installations of manufactured homes shall not be permitted in floodways.

2. Foundations - All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the *Florida Building Code Residential* Section R322.2 and this Section.

3. Anchoring - All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

4. Elevation - Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 21-42.04e.4.(a) or (b) of this Section, as applicable.

   (a) General elevation requirement - Unless subject to the requirements of Section 21-42.04e.4.(b) of this Section, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or

subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A).

(b) Elevation requirement for certain existing manufactured home parks and subdivisions - Manufactured homes that are not subject to Section 21-42.04e.4.(b) of this Section, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

(1) Bottom of the frame of the manufactured home is at or above the elevation required in the *Florida Building Code, Residential* Section R322.2 (Zone A); or

(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

5. Enclosures - Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential* Section R322 for such enclosed areas.

6. Utility equipment - Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the *Florida Building Code, Residential* Section R322.

f. Recreational Vehicles and Park Trailers

1. Temporary placement - Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

(a) Be on the site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

2. Permanent placement - Recreational vehicles and park trailers that do not meet the limitations in Section 21-42.04f.1 of this Section for temporary placement shall

meet the requirements of Section 21-42.04e of this Section for manufactured homes.

g. Tanks

1. Underground tanks - Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

2. Above-ground tanks, not elevated - Above-ground tanks that do not meet the elevation requirements of Section 21-42.04g.3 of this Section shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

3. Above-ground tanks, elevated - Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

4. Tank inlets and vents - Tank inlets, fill openings, outlets and vents shall be:

   (a) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

   (b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

h. Other Development

1. General requirements for other development - All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this Section or the *Florida Building Code,* shall:

   (a) Be located and constructed to minimize flood damage;

   (b) Meet the limitations of Section 21-42.04d.4 of this Section if located in a regulated floodway;

   (c) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(d) Be constructed of flood damage-resistant materials; and

(e) Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

2. Fences in regulated floodways - Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 21-42.04d.4 of this Section.

3. Retaining walls, sidewalks and driveways in regulated floodways - Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 21-42.04d.4 of this Section.

4. Roads and watercourse crossings in regulated floodways - Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 303.4 of this Section. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 21-42.02e.3.(c) of this Section.

SECTION 21-43 - WELLFIELD PROTECTION

21-43.01 - Comprehensive Plan Reference

The City finds there is need to protect the existing and future water supplies from adverse impacts of contamination. The City also finds that its potable water wellfields are a resource that may be subject to irreversible degradation if not adequately protected.

The provisions of Section 21-43 – Wellfield Protection Areas are consistent with and implement the Comprehensive Plan contained in the Future Land Use Element, Utilities Element, Coastal Element, Conservation Element and Intergovernmental Coordination Element.

21-43.02 - Designation of Wellfield Protection Zones (WPZ)

The primary and secondary potable water wellfield Protection Zones are hereby established as five hundred feet (500') radius from the well as the primary zone and one thousand feet (1,000') radius from the well as the secondary zone. These zones, and the regulations that follow, are established to protect the potable water supply from possible contamination. A permit is required for any development or occupational use within the wellfield protection zone.

a. Except as otherwise provided in this Section, any use, handling, production or storage of hazardous materials shall be prohibited in the primary protection zone. Any existing use, or

handling, production or storage of hazardous materials shall be considered a nonconforming use and shall apply for a wellfield protection permit as provided in Section 21-43.03 and be subject to the containment standards in Section 21-43.04.

b. Except as otherwise provided in this Section, any new or existing nonresidential use, or the handling, production or storage of hazardous substances in the secondary protection zone shall apply for a wellfield protection permit as provided in Section 21-43.03.

21-43.03 - Wellfield Protection Zone Permits

a. The Director of Environmental Services shall be responsible to administer the wellfield protection zone permit program.

b. Application for a wellfield protection permit shall be signed by the applicable owner or agent.

c. The City shall issue, or renew such permit, upon the applicant's satisfactory demonstration that all standards required by this Section and other applicable regulations have been met and the appropriate fee as established by resolution have been paid.

d. A potential applicant is required to arrange a pre-application conference with the Director of Environmental Services to discuss the permit application criteria and process.

e. The City shall review applications, for compliance with the requirements of this Section and no application shall be approved unless compliance is demonstrated. Permits or business tax receipts issued in violation of this Section confer no right or privilege to the grantee.

f. The following information shall be submitted by the applicant seeking a wellfield protection zone permit:

    1. A current survey signed and sealed by a licensed surveyor that, at a minimum, depicts all existing structures, adjacent streets, water bodies and public water supply wells.
    2. A legal description of the subject property.
    3. A description of the proposed activity at the proposed location, including a list of all known hazardous substances that may be utilized, generated and/or stored at the subject property.
    4. Construction plans and specifications for hazardous substance storage system, including but not limited to, details of tanks, conveyance and pumping systems, secondary containment, leak protection, overfill protection and access and an operating plan.

g. Any person owning or operating a non-residential activity regulated by this Section at the time of adoption of this Article shall apply for a wellfield protection zone permit within one year and shall thereafter come into full compliance with the requirements of this Section.

21-43.04 - Wellfield Protection Zone Standards

a. A proposed project, construction activity or business tax receipt use shall not adversely affect the quality and quantity of the potable water supply within the primary and secondary wellfield protection zone. In assessing the impacts of a proposed activity, the City shall consider the cumulative impacts of other projects or uses permitted in, or adjacent to, the Secondary Protection Zone.

b. No discharge or disposal of hazardous substances into the soils, groundwater or surface water within either the Primary or Secondary Protection Zone will be allowed.

c. Hazardous substance storage tanks are prohibited in the Primary Protection Zone.

d. Hazardous substance storage tanks in the Secondary Protection Zone shall be constructed and operated in compliance with 17-762 Florida Administrative Code.

e. The commercial and residential application of certain regulated substances such as pesticides, herbicides, rodenticides and fungicides shall be permitted in the protection zones subject to the following conditions:

    1. The application is in compliance with the use requirements on the EPA substances list and as indicated on the containers in which the substances are sold.
    2. The application is in compliance with the requirements of Chapters 482 and 487, Florida Statutes and Chapters 5E-2 and 5E-9, Florida Administrative Code.
    3. The application of any of the pesticides, herbicides, fungicides and rodenticides shall be noticed in the records of the certified operator of the use. The certified operator shall provide specific notification to the applicators that special care is required. Said public records shall include, at a minimum, the amount of substances used, the location of use and the date of the application.
    4. Septic disposal systems are prohibited in both protection zones.
    5. Existing underground storage facilities in either protection zone shall meet the construction retrofit standards of Chapter 17-761, F.A.C.

21-43.05 - Exemptions

The following activities or uses are exempt from the provision of this Article:

a. The transportation of any hazardous substance through either the primary or secondary well field protection zone, provided the transporting vehicle is in transit.

b. Agricultural uses, including mosquito control, except that said uses shall comply with Florida Statutes Chapter 487, Section 487.011 et seq., the Florida Pesticide Law, and the Florida Pesticide Application Act of 1974 and Rule 5E 2.001 et seq., and Rule 5E-9.001 et seq., F.A.C.

c. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.

d. Storage tanks which are constructed and operated in accordance with the storage tank regulations as set forth in the Florida Administrative Code.

e. Geotechnical borings.

21-43.06 - Enforcement and Appeals

a. Any violation of the provisions of this Section may subject the property owner, and/or facility operator, to the enforcement provisions of Article X.

b. The appeals process is described in Article I.

SECTION 21-44 - GROUNDWATER RECHARGE AREAS

21-44.01 - Comprehensive Plan Reference

Chapter 373, F.S. declares that the protection of groundwater is necessary to protect future potable water supplies. Chapter 163, Part II, F.S. requires each local government to protect identified recharge areas. The provisions of Section 21-44 – Groundwater Recharge Areas are consistent with and implement the City's Comprehensive Plan contained in the Future Land Use Element, Utilities Element, Coastal Element and Intergovernmental Coordination Element.

21-44.02 - Designation of Recharge Areas

The mapped recharge areas subject to the regulations herein are designated by the St. Johns River Water Management District and are available for review at City Hall.

21-44.03 - Recharge Area Development Standards

The following standards are required for development projects within the Recharge Area.

a. All stormwater runoff shall be retained on-site in compliance with all applicable state and local regulations.

b. Any use that manufactures or stores hazardous materials/substances as defined in Section 21-20 shall be prohibited.

c. Landfills, sludge disposal and incinerators shall be prohibited.

d. Spray irrigation of treated sewage effluent may be permitted in compliance with applicable Florida Department of Environmental Protection permit criteria.

e. All agricultural and/or silvicultural uses, shall employ the latest applicable Best Management Practices and Integrated pest Management Plans available from either the Soil Conservation Service and/or the Florida Department of Agriculture and Consumer Services.

f. All underground storage tanks shall comply with the requirements of Chapters 62-761 and 62-762, F.A.C and shall be triple walled with impervious material and designed for one hundred twenty percent (120%) of the proposed capacity.

g. All uses existing at the time of adoption of this Code shall come into compliance with these requirements by January 1, 2003.

SECTION 21-45 - SENSITIVE HABITAT AREAS

21-45.01 - Comprehensive Plan Reference

The purpose of this Section is to protect the City's significant natural resources. These regulations are supplemental to and do not supercede applicable State and/or Federal regulations. The provisions of Section 21-45 - Sensitive Habitat Areas are consistent with and implement the Comprehensive Plan contained in the Utilities Element, Coastal Element, Conservation Element and Intergovernmental Coordination Element.

21-45.02 - Development Thresholds & Exemptions

a. The Listed Species requiring protection are those described as endangered or threatened by Federal and State regulatory agencies.

b. Nothing in this Section exempts any proposed development activity from complying with all appropriate State and Federal regulations.

21-45.03 - Listed Species Assessment Procedures

a. When the pre-application conference for a proposed project determines the possibility of one or more listed species inhabiting a site, the applicant shall submit an assessment to the Development Services Department on the forms provided by the Department. This application shall be completed by a qualified professional and include the following:

    1. The name, address and signature of the property owner;
    2. The name, address and signature of the applicant;
    3. A legal description of the subject property;
    4. A recent property survey;
    5. A description and location of the listed species found on the proposed site;
    6. A description of the field surveying techniques used; and
    7. Other material as may be deemed appropriate by the Development Services Director.

b. When a listed species is found, the applicant may be required to submit a mitigation program to protect the listed species. The mitigation program shall be evaluated as follows:

    1. Approval by Florida Fish and Wildlife Commission;
    2. Provision of any permits needed from State and/or Federal agencies;
    3. The dedication of a conservation easement to the City and/or any other applicable agencies.

SECTION 21-46 – OPEN SPACE

21-46.01 - Comprehensive Plan Reference

The purpose of this Section is to protect the City's designated open space. These regulations are supplemented to and do not supercede applicable State and/or Federal regulations. The provisions of Section 21-46, Open Space, are consistent with and implement the Comprehensive Plan in the Future Land Use Element and the Recreation and Open Space Element.

21-46.02 - Open Space Standards

a. All proposed development/redevelopment shall be designed to ensure the protection of existing designated open space areas.
b. All proposed residential development/redevelopment shall provide a minimum of twenty five percent (25%) common open space as defined in Article II.

Sections 21-47 through 21-48 reserved for future use.

ARTICLE V

SITE DESIGN CRITERIA

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ARTICLE V

SITE DESIGN CRITERIA

SECTION 21-50 - GENERAL PROVISIONS

21-50.01 - Purpose

The purpose of this Section is to establish site design and development criteria for all public/private development and redevelopment. Pursuant to the requirements of Florida Statutes, all plans submitted for review by the City shall be signed and sealed by the appropriate professional person.

In addition to City-wide site design criteria contained in this Article, the City of Edgewater has adopted the Indian River Boulevard-S.R. 442 Corridor Design Regulations and the Ridgewood Avenue Corridor Design Regulations, which are incorporated as Article XVIII and Article XX respectively in this Land Development Code. Requirements contained in Article XVIII, Indian River Boulevard-S.R. 442 Corridor Design Regulations and Article XX, Ridgewood Avenue Corridor Design Regulations, are applicable to properties within each respective design overlay district and include site design and architectural design criteria that supersede the requirements set forth in this Article. A copy of these regulations and illustrations for design are available for purchase at City Hall. It is the Developer's responsibility to obtain a copy of the regulations for the Overlays prior to conceptual design layout.

21-50.02 - Minimum Site Dimensions

Table V-1 depicts the minimum lot size, setbacks, height, building coverage and floor area requirements for each zoning category.

Minimum site dimensions may be administratively waived if non-conforming sites are created by eminent domain activities (State, County or City).

TABLE V-1
SITE DIMENSIONS

Zoning Category	Min. Lot Sq.Ft. (12)	Min. Lot Width Ft.	Min. Lot Depth Ft.	Min. Front Yard Ft. (1) (4) (15)	Min. Rear Yard Ft. (1) (4)	Min. Side Yard Ft. (1) (4) (8) (10) (11) (15)	Max. Height Ft.	Max % Bldg Coverage	Max. % Imp. Coverage	Min. Floor Area Sq. Ft.
AG, Agriculture	2.5 acres	200	N/A	50	50	25	35	15	N/A	1,200
CN, Conservation	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
P/SP, Public/Semi-Public	N/A	N/A	N/A	30	20	10	35	40	60	NA
R T, Rural Transitional	1 acre	100	N/A	40	40	25	35	25	60	1,200
R-1, Single Family Residential	12,000	100	120	40	30	(5) 10	26	30	60	1,300
R-2, Single Family Residential (13)	10,000	80	125	30	20	10	26	30	60	1,200
R-3, Single Family Residential	8,625	75	115	30	20	10	26	30	60	1,000
R-4, Multifamily Residential (9)	N/A	(14)	(14)	(2) 40	(2) 25	(2) 10	35	30	60	1,000
R-5, Multifamily Residential (9)	N/A	(14)	(14)	(2) 35	(2) 25	(2) 10	35	35	60	850
RPUD, Residential PUD	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
RP, Residential Professional	10,000	80	125	N/A	N/A	N/A	26	N/A	60	N/A
MH-1, Mobile Home Park - 5 acres	N/A	N/A	N/A	15	10	10 (between units)	N/A	N/A	60	N/A
MH-2, Manuf. Home Sub.50 acres	N/A	60	110	25 (6)	10	8	15	30	60	N/A
B-2, Neighborhood Business	10,000	80	125	40	20 (3)	10 (3)	26	30	75	N/A
B-3, Highway Commercial	N/A	150	N/A	40	25 (3)	25 (3)	45	30	75	N/A
B-4, Tourist Commercial - 2 acres	N/A	100	N/A	40	40(3)(5)	25	50	40	75	N/A
BPUD, Business PUD	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
I-1, Light Industrial	N/A	75	N/A	25	20 (3) (7)	10 (3)	45	50	80	N/A
I-2, Heavy Industrial	N/A	N/A	N/A	25	20 (3) (7)	10 (3)	45	60	80	N/A
IPUD, Industrial PUD	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
MUPUD, Mixed Use PUD	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SCD/PUD, Sustainable Community Development PUD	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

TABLE V-1 FOOTNOTES

(1) 50 feet upland from mean high water line.

(2) Setbacks for single family homes in multifamily zoning districts shall be the same as the R-2 District.

(3) 50 feet when adjacent to residential zoning/use.

(4) 25 feet upland from wetlands vegetation.

(5) 2 story dwellings shall increase side setback additional 5 feet on river, lakes, golf course & common open space.

(6) From cartway.

(7) Zero setback abutting RR.

(8) Abandoned/non-developed streets in Florida Shores require a ten (10) feet side corner setback.

(9) 3 or more units shall comply with density and other requirements for site plan approval.

(10) Side corner lots shall have two (2) side yard setbacks, no rear.

(11) Side corner setbacks shall be the same as front yard.

(12) Minimum lot square footage shall be calculated based on the minimum lot width, minimum lot depth, and/or uplands area.

(13) All properties located on SR 442 shall have a forty foot (40') setback from the new right-of-way lines.

(14) Single family or duplex uses in the R-4 and R-5 district shall have a minimum lot size of 75 feet by 115 feet.

(15) Commercial gasoline pump island canopies setbacks shall be at least 20-feet from the front property line and five (5)-feet from the side property line.

SECTION 21-51 - UTILITIES

21-51.01 - Comprehensive Plan Reference

The provisions of Section 21-51 - Utilities are consistent with and implement the Comprehensive Plan contained in the Future Land Use Element and Utilities Element.

21-51.02 - General Requirements

a. All development shall comply with the appropriate sections of Article XI (Concurrency Management System).

b. All new development shall connect to the City's water and sewer system. Temporary package plants may be permitted if City-owned water and sewer collection and distribution system improvements are planned.

c. All new development shall be required to connect to the reclaimed water system, if available. Drylines may be required for future reclaimed water system service.

d. All groundwater used in water-to-air heating and air conditioning systems must be directed to landscape irrigation systems, groundwater injection or exfiltration systems.

e. All development shall comply with the current SJRWMD water conservation requirements.

f. All development shall pay the adopted City and County impact and development fees.

g. All multifamily, commercial and industrial development shall be required to install backflow preventers.

h. All multifamily, commercial and industrial development shall be required to locate and install fire protection appliances pursuant to the criteria established in Article XVI.

i. The developer shall obtain approved plans from appropriate electrical utility provider for street light design. All new developments shall be required to create a streetlight assessment district to fund installation and operation/maintenance expenses. The streetlight district will be under the control of the homeowner's association. Streetlights shall be generally provided at all intersections and at intervals of no more than 300 feet apart along each street.

j. All utility lines including wastewater, potable water, reclaim water, gas, electrical power, telephone, television, telecommunications, video, internet, broadband and similar services (collectively used herein as "utility facilities") in new residential developments shall be installed underground.

k. All utility facilities for new non-residential developments shall be placed underground from the property line to the structure.

l. Substantial improvements, additions or renovations to structures on non-residential properties that exceed 50 percent of the structure's assessed value and require upgraded or relocated utility facility service shall relocate existing overhead utility facility service to an underground service.

m. Existing overhead electrical service lines shall be relocated underground for any electrical service upgrades equal to or exceeding 250 amps for non-residential properties.

n. Non-residential developments may be exempt from placing all or a portion of utility services underground if such initiative will require the addition of utility poles outside of the property line. The Technical Review Committee (TRC) shall make the final determination.

k. The City may require the oversizing of a utility line to serve future customers. The City shall be responsible for payment of the oversizing of the utility line.

l. Valves shall be spaced at a maximum of 1,000 feet along all water mains.

m. All water mains shall be looped to provide adequate pressure and system redundancy.

n. All water systems designs shall maintain 20 psi residual pressure during maximum demand on the system.

o. Manholes shall be spaced at all change in pipe slope and direction and at intervals no greater than 400 feet.

p. Fire hydrants shall be installed only on a water main of six (6) inch and larger.

q. All construction shall comply with the City's Standard Construction Details.

21-51.03 - Utility Easements

a. All new electric, telephone, fiber optics, cable television and other such lines (exclusive of transformers or enclosures containing electrical equipment) and gas distribution lines shall be placed underground within easements or public rights-of-way

b. Lots abutting existing easements or public rights-of-way where overhead electric, telephone or cable television distribution supply lines and service connections have previously been installed may continue to be supplied with such services using the overhead facilities.

c. When a developer installs or causes the installation of water, sewer, gas, electrical power, telephone or cable television facilities and intends that such facilities shall be owned, operated or maintained by a public utility, the developer shall transfer to such utility the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

SECTION 21-52 - VEHICLE/PEDESTRIAN CIRCULATION REQUIREMENTS

21-52.01 - Comprehensive Plan Reference

The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by such streets. The provisions of Section 21-52 - Vehicle/Pedestrian Circulation are consistent with and implement the Comprehensive Plan contained in the Future Land Use Element and Transportation Element.

The regulations and requirements as herein set forth are intended to provide legal access to all parcels of land or development within the City and to control vehicular movements thereof to facilitate safe vehicle and pedestrian patterns.

21-52.02 - Access/Driveways

a. Prior to issuance of a building permit, all parcels, lots or new development shall have access to an improved public road or private road.

b. Driveway access to any corner lot located on a local street (City maintained) shall be located or relocated a minimum of forty feet (40') from the intersection of right-of-way lines of other local streets and a minimum of one hundred feet (100') from the intersection of right-of-way lines on all other functionally classified streets.

c. New driveway connections on arterial and collector roads shall adhere to FDOT access management standards in Section 14-97 Florida Administrative Code. Driveways shall conform to current FDOT turning radius standards.

d. The City shall have the authority to require the creation, use and maintenance of common, joint-use driveways or other common ingress/egress facilities which provide access to two (2) or more lots, parcels or developments, when such joint use driveways are needed to protect, maintain or improve public traffic safety (see 21-57.04). Creation of joint use driveways shall be by recorded legal agreement provided that in all cases the agreement must:

    1. Hold the City harmless from any and all claims or potential liability; and
    2. Be recorded in the public records of Volusia County, Florida prior to issuance of a building permit; and
    3. Must run with the lands involved and be binding on the parties to agreement, their successors or assigns.

e. Adjacent (same side of the roadway) single family and duplex residential driveways shall be paved with materials approved by the City including the apron and separated by a minimum of ten feet (10') as measured driveway edge to driveway edge. No driveway shall be closer than five feet (5') to any lot line or encroach into any side or rear easement. At a minimum,

access driveways to vacant lots shall be paved in the right-of-way from existing pavement to the lot line.

f. Adjacent nonresidential driveways shall be separated by a minimum of forty feet (40') as measured driveway edge to driveway edge, unless there is a recorded joint access agreement.

g. To the extent reasonably possible, driveway access to nonresidential land uses shall line up with driveways across the street.

h. All non-residential parcels shall be limited to one access point per street.

i. Non-residential land uses or developments (including parking lots) shall not connect to, have access to or primarily use any local residential street, unless:

    1. No other site access (including joint use driveways with other parcels) is possible.
    2. All traffic, site, and environmental conditions of the subject site, street, and neighborhood are, or will be suitable and compatible to accommodate the anticipated traffic, environmental and aesthetic impacts of the proposed nonresidential use or development without significant adverse impacts to neighborhood and the City as a whole. The site evaluation/traffic analysis report shall be submitted by the project applicant for the City's review and approval.

j. The City may require dedication of access rights to the City to control future ingress and egress.

k. Driveways shall have a minimum width of nine feet (9') for access way serving residential uses, a minimum width of twenty feet (20') for double access ways and twelve feet (12') for single access ways serving multi-family or non-residential areas.

l. The City shall have the authority to require the reduction of the number of or width of existing driveways for any modifications to an existing structure, parking area or current property uses.

m. Driveways for single-family residential properties equal to or greater than one (1) acre shall be paved from the access point to the minimum front yard setback for the property's respective zoning district.

n. Driveways for single-family residential and two-family residential properties less than one (1) acre shall be paved from the access point and extend into an enclosed area for the primary garage or carport. In the absence of a garage or carport, the driveway shall be paved from the access point and extend to the primary building frontage line.

o. All additional and/or secondary garages and/or carports located on single-family residential and two-family residential properties less than one (1) acre shall require an apron paved from the access point extending at least three feet (3') into the property and a stabilized pathway and/or wheel path to the enclosed area of said garage and/or carport.

p. All construction shall comply with the City's Standard Construction Details.

21-52.03 - Drive-Up Facilities Standards

All facilities providing drive-up or drive-through service shall provide on-site stacking lanes in accordance with the following standards:

a. The facilities and stacking lanes shall be located and designed to minimize turning movements in adjacent streets and intersections.

b. The facilities and stacking lanes shall be located and designed to minimize or avoid conflicts between vehicular traffic and pedestrian areas such as sidewalks, crosswalks or other pedestrian access ways.

c. A by-pass lane shall be provided so that the full aisle width is provided for parking maneuvers.

d. Stacking lane distance shall be measured from the point of entry nearest the drive-through area to the center of the farthest drive-through services window area.

e. Minimum stacking lane distance shall be as follows:

    1. Financial institutions shall have a minimum of one stacking lane with a minimum distance of one hundred seventy five feet (175') per lane.
    2. Restaurants, full service car washes and day care facilities shall have minimum stacking distance of two hundred feet (200').
    3. Self service car washes (per bay) and dry cleaners shall have a minimum stacking distance of sixty-five feet (65').
    4. Other uses may require the City to determine the stacking distance on a case-by-case basis.
    5. Facilities not listed above with more than one (1) drive-through lane shall provide one hundred feet (100') of stacking distance per lane measured from the point of entry to the center of the furthest service window area.
    6. Drive-Through Separate from Other Circulation: The drive-through lane shall be a separate lane from the circulation routes and aisles necessary for ingress and egress from the property or access to any off-street parking spaces.

f. Alleys or driveways in or abutting areas designed, zoned, or developed for residential use shall not be used for circulation of traffic for drive-up facilities.

g. Where turns are required in the exit lane, the minimum distance from any drive-up station to the beginning point of the curve shall be thirty-four feet (34'). The minimum inside turning radius shall be twenty-five feet (25').

21-52.04 - Sidewalks

A system of sidewalks shall be provided by the developer to provide safe movement of pedestrians separately from motor vehicles.

a. Sidewalks shall be required on both sides of streets in all new development projects and redevelopment projects. In lieu of sidewalk installation, funds may be paid to the Pedestrian System Development Fund. Installation of the sidewalk or payment into the above referenced Fund shall be at the discretion of the TRC.

b. The sidewalk shall be constructed in the dedicated right-of-way.

c. All sidewalks shall have a minimum width of four feet (4') and be separated by at least four feet (4') from the road edge and comply with the City's Standard Construction Details.

d. As an alternative in residential areas, sidewalks may be provided within rear lot easements or common open space areas as part of an approved development plan.

e. Sidewalks shall connect to existing pedestrian circulation facilities for all projects within a distance and/or radius of 1,000-feet.

21-52.05 - Street Design Standards

a. The arrangement, character, extent, width, grade and location of all new and improved streets shall conform to the adopted Comprehensive Plan now in existence or as may hereafter be adopted and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by such streets.

   Where such is not shown in the Comprehensive Plan now in existence or as may hereafter be adopted, the arrangement of streets in a subdivision shall either:

   1. Provide for the continuation or appropriate projection of existing major streets in surrounding areas, or
   2. Conform to a plan for the neighborhood or be aligned to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

b. All new streets to be established within a subdivision shall meet the following minimum design standards.
   1. *Local streets.* Local streets shall be laid out so that use by through traffic will be discouraged.
   2. *Subdivisions on arterial streets.* Where a subdivision abuts or contains an existing or proposed arterial street, the subdivider shall provide reverse frontage lots with a planting screen contained in a non-access reservation along the rear property lines or such other treatment as may be necessary for adequate protection of

residential properties and to afford separation of through and local traffic.

3. *Intersection designs.* Streets shall be laid out and aligned to intersect as nearly as possible at right angles and no street shall intersect at less than sixty (60) degrees. Street jogs and intersections with centerline offsets of less than one hundred fifty feet (150') shall be prohibited. Multiple intersections involving the juncture of more than two (2) streets shall be prohibited. A minimum sight distance of two hundred feet (200') from any intersection shall be maintained on intersecting streets; however, this requirement shall not be construed as requiring an increase in the minimum allowable intersection separation of one hundred fifty feet (150').
4. Proposed streets shall be designed to provide access to adjoining unsubdivided tracts at logical locations for future subdivisions.
5. A minimum of two points of access shall be provided into each subdivision of twenty-five (25) lots or more. Where adjoining existing development and code requirements preclude the development of two public street access points, an unobstructed driveable access way may be substituted.
6. Right-of-way line intersections shall be rounded with a minimum radius of twenty-five feet (25'). A greater radius may be required on collector or arterial roads, or where road construction details require.
7. *Minimum street design specifications.* All streets to be established in a subdivision shall be graded to their full required right-of-way width and designed in accordance with the following minimum right-of-way specifications:

Arterial	150 ft.
Collector	100 ft.
Local	60 ft. (open drainage) 50 ft. (curb and gutter)

8. *Cul-de-sac.* All cul-de-sacs shall comply with the requirements contained in the Standard Construction Details.
9. *Street access to adjoining property.* Street stubs to adjoining unplatted areas shall be provided when required to give access to such areas or to provide for proper traffic circulation. Street stubs in excess of two hundred fifty feet (250') shall be provided with a temporary cul-de-sac turnaround. The developer of the adjoining area shall pay the cost of restoring the street to its original design cross-section and extending the street.
10. *Street names.* Street names shall not be used which will duplicate, be phonetically similar or be confused with the names of existing or other proposed streets, except that new streets which are an extension or in alignment with existing streets shall bear the same name as that borne by such existing streets. All courts and circles shall have one name only. All street names shall be submitted with the preliminary plat to the County of Volusia prior to final plat approval for 911 verification.
11. *Street name signs, pavement markings and regulatory signs.* Required signs shall be in place prior to acceptance by the City. All signing and pavement markings shall be in accordance with "USDOT Manual on Uniform Traffic Control

Devices". All pavement markings shall be thermoplast. Street name signs shall be a minimum of six inches (6") in height with letters four inches (4") in height. At cross-section intersections, two (2) street signposts shall be located diagonally across the intersection from each other. Only one street signpost shall be required at T-street intersections. Thirty inch (30") "STOP" signs shall be required at each street intersection unless otherwise approved or required by the TRC.

c. *Construction*

Basic construction requirements for roads are as follows:

1. Residential roadway pavement shall consist of 1-1/4 inches of compacted Type S-I asphalt over an eight inch (8") soil cement or limerock base, over an eight inch (8") compacted subbase. Alternative concrete pavements may be approved.
2. Commercial roadway pavement shall consist of two inches (2") of compacted Type S-I or S-III asphalt, over an eight (8") compacted limerock or six inch (6") compacted soil cement base over a twelve inch (12") compacted shellrock stabilized subbase.
3. All new roads shall have concrete curbs. Miami curbs are required on local streets with vertical curbs for enclosed drainage on major collector and arterial roads.
4. The remainder of the right-of-way shall be cleared, graded and sodded.
5. Signs for street identification and traffic control shall be installed by the City at the developer's expense. Signs shall be based on the requirements of the Federal Highway Administration Manual of Uniform Traffic Control Devices, current edition or other City specifications.

d. *Alleys.* In single-family residential districts alleys shall be discouraged, but may be required in other than residential districts to provide for proper traffic circulation. When provided in any district, alleys shall have a minimum right-of-way width of thirty feet (30').

e. *Easements.* Easements for utilities, including water, wastewater, electric, cable, telephone and gas and drainage easements, shall be provided as follows:

1. *Utilities.* Utility easements centered on side or rear lot lines shall be provided where deemed necessary and shall be at least fifteen feet (15') in width. Additional width may be required for wastewater and/or drainage easements. Side lot line easements may be decreased to ten feet (10') in width when serving a single electric or telephone utility.
2. *Drainage.* Where a proposed subdivision is transversed (traversed) by or abuts a watercourse, drainage way or stream, a conservation and stormwater easement or drainage way, canal or stream and such further width or construction or both as will be adequate for the purpose shall be provided. Where a drainage way or canal exists or is proposed, a maintenance easement approved by the City shall be provided.
3. *Access waterways.* Waterways which are constructed or improved for the purpose of providing access by the water to lots within a subdivision shall have a minimum easement or right-of-way width of one hundred feet (100'), except

where adequate shoreline protection is provided, the minimum right-of-way may be reduced to sixty feet (60').

f. *Turn lanes* - A left turn lane shall be provided at each access point with an average daily trip end of 1,000 vehicles and/or more than 25 peak hour left turn movements. A right turn/deceleration lane shall be provided when the posted speed limit equals or exceeds 35 miles per hour or if the proposed development will generate 100 or more peak hour right turn movements. Turn lane requirements shall be provided on all immediately adjacent roadways affected by any development/redevelopment project unless deemed unfeasible/impractical by the TRC.

21-52.06 - Public Recreation

a. *Requirements.* If a proposed development exceeds the required Level of Service standards for Public Recreation, as set forth in Section 21-46 and 21-135, the developer shall deed said land to the City or Homeowner's Association, pay a fee in lieu thereof or provide a combination of the above at the option of the City Council. This condition shall be met prior to final plan approval.

b. *General Standard*
Recreation impacts of proposed development shall be based on the anticipated population within said development and is calculated by the following formula:

Unit Type	Pop./Unit
Single Family Residential	2.5
Duplex	2.3
Multi-Family Residential	2.0
Mobile/Manufactured Home	2.0

c. *Formula for fees in (lieu of) land conveyance.*

1. If it is determined that the proposed development does not include any land designated by the Edgewater Comprehensive Plan as Recreation, to serve the immediate and future needs of the city residents and the developers are unable to provide Recreation lands outside the proposed development that are so designated and is required by Section 21-135, then the developer shall, in lieu of conveying land, pay a fee to the city equal to the value of land acreage as provided by the current Volusia County Property Appraiser's assessed value for the nearest park or land deemed open space.

d. *Use of Fees.* The fees collected hereunder shall be paid to the City of Edgewater. All such fees shall be placed in a reserve account in trust with the general fund and shall be known as the reserve trust for lands for parks and open space. Moneys within the reserve account shall be used and expended solely for the acquisition, improvement, expansion of city parks and open space land and to provide recreational equipment, facilities and land improvements as determined by the City Council. (Ord. No. 84-O-37, FS, 1-7-85).

e. *Criteria for requiring both conveyance and fee.* In any development of over twenty-five (25)

dwelling units, the developer may be required to convey the land and pay a fee in accordance with the following formula:

1. When only a portion of the land which the developer is required to convey for parks is to be conveyed, such portion shall be conveyed for parks or a fee computed pursuant to the provisions set out herein shall be paid to the City for any additional land that the developer would otherwise have been required to convey hereunder.

2. When most of the land designated as parks in the vicinity of the proposed development is needed to complete the site, such remaining portion shall be conveyed by the developer and a fee shall be paid by the developer in lieu of conveying the additional land which the developer would otherwise be required to convey and such fees to be used for the improvements of other city park land in the area serving the development.

f. *Determination of land or fee.* The City Council shall determine whether to accept land or require payment of the fee in lieu thereof, after consideration of the following:

1. Topography, geology access and location of land in the development available for dedication;
2. Size and shape of the development and land available;
3. The feasibility of conveyance;
4. Availability of previously acquired parks property;
5. Whether the developer owns or controls other land designated in the Edgewater Comprehensive Plan or other lands; and
6. Accessibility.

g. *Procedure.* In subdivisions requiring plat approval, the developer shall agree in writing to convey land for parks or pay a fee in lieu thereof or a combination of both. The City Council shall consider the request after a recommendation from the Leisure Services Department and the Planning and Zoning Board at the time of approval of the preliminary plat. At the time of approval of the final subdivision plat the developer shall convey the land and pay the fees as previously determined by the City Council, but not later than issuance of a building permit.

SECTION 21-53 - STORMWATER MANAGEMENT REQUIREMENTS

21-53.01 - Comprehensive Plan Reference

The intent of this Section is to provide regulations that ensure post-development stormwater runoff rates/volumes that do not exceed the pre-development rates/volumes and to prevent erosion, sedimentation and flooding to the maximum extent possible, and to prevent illicit discharge and/or illicit connections to the stormwater system. The provisions of Section 21-53-Stormwater Management are consistent with and implement the Comprehensive Plan contained in the Future Land Use Element, Utilities Element, Coastal Element, Conservation Element and the National Pollutant Discharge Elimination System Permit (NPDES).

21-53.02 - Permit Authority

No development activity can occur without obtaining a stormwater permit from the City and/or the St. Johns River Water Management District (SJRWMD) as provided herein. It is the intent of the City to accept stormwater permits issued by the SJRWMD in lieu of a City required permit. Development below thresholds of the SJRWMD shall require a City stormwater permit.

The following activities may potentially alter or disrupt existing stormwater runoff patterns and shall require a permit prior to the initiation of any project:

a. Clearance and/or draining of land as an adjunct to construction;
b. Clearance and/or draining of nonagricultural lands for agricultural purposes;
c. Subdivision of land;
d. Replatting of recorded subdivisions;
e. Changing the use of land, or construction of a structure or a change in the size of one or more structures;
f. Filling of depression areas;
g. Construction of a driveway that crosses a public swale or ditch.
h. Altering the shoreline or bank of any surface water body.

21-53.03 – Exemptions to Permit Requirements

The following activities shall be exempt from the formal stormwater permitting procedures of this article:

a. Maintenance work on utility or transportation systems, if performed on established rights-of-way or easements; provided such maintenance work does not alter the purpose and intent of the system as constructed.

b. Maintenance work performed on mosquito control drainage canals.

c. Any maintenance, alteration, renewal, use or improvement to any existing structure not changing or affecting the rate or volume of runoff or the impervious surface area.

d. The acceptance of a plat by the City Council in accordance with the subdivision regulations or approval of a site plan, shall be construed to include an approval of the stormwater management system and a separate permit under this Section is not required. Subsequent changes or additions not reflected by the accepted plat, or site plan, however shall be subject to the terms of this Article.

e. Any maintenance, alteration, renewal, use or improvement to an existing structure that does not increase the rate or volume of stormwater runoff. The City will recognize exemptions given by the SJRWMD, provided the exemption and design standards comply with the City Land Development Code and/or Standard Construction Details.

f. Construction of any new structure that consumes less than 1,000 square feet of impervious surface per parcel. The total impervious surface per parcel shall not exceed 1,000 square feet

to qualify for this exemption.

21-53.04 - General Design Standards

a. In general, the latest revision of the U.S. Department of Agriculture, Soil Conservation Service's Technical Release No. 55 entitled A Urban Hydrology for Small Watersheds shall be used in the stormwater designs described herein. However, the City Engineer may authorize the use of alternative methodology if similar results are produced.

b. Three (3) copies of the stormwater calculations prepared by a licensed professional engineer shall be submitted for all proposed development permits not requiring a SJRWMD permit.

c. Innovative approaches to stormwater management shall be encouraged and the concurrent control of erosion, sedimentation and flooding shall be mandatory. Best Management Practices (BMPs) shall be used in controlling stormwater runoff prior to discharge to the City's MS4 or waters of the United States.

d. On-site pollution abatement shall be provided for no less than one-half-inch runoff depth over the entire project area.

e. Pollution abatement shall be provided through retention where the project soils allow the process to occur. If one hundred percent (100%) of the retention volume is not capable of evacuation within seventy-two (72) hours through percolation and evapo-transpiration, detention with filtration shall be used. A minimum factor of safety of 2.0 shall be used for all drawdown calculations.

f. Other alternative methods, such as wet detention with controlled bleed down, are acceptable at the discretion of the City Engineer, provided a permit from the SJRWMD is obtained.

g. All project areas greater than one quarter (1/4) acre shall also calculate the retention volume based upon the runoff generated from the first one inch (1") of rainfall and be calculated as the total percentage of impervious surface, including pond surface area, multiplied by one inch of rainfall. If the runoff depth does not exceed one half-inch, one-half inch shall be used as the runoff value.

h. The use of filtration systems is not permitted. If no other stormwater treatment method is available, the TRC may approve the use of filtration systems (underdrain or exfiltration) and shall require a minimum of two (2) soil borings that detail soil profile, seasonal high water table and any pertinent percolation rates at the filter site location by a certified geotechnical engineer registered in the State of Florida.

i. All projects that qualify for Environmental Resource Permits and/or Surface Water Management Permits issued through SJRWMD, FDEP, or other State or Federal agencies shall provide copies of the permit application and calculations to the Development Services Department as part of the site review process. Final approval of required State and Federal permits shall be granted prior to issuance of Development Order or any construction permits.

j. All projects that qualify for a FDEP - NPDES Permit pursuant to Chapter 62-621, F.A.C. shall provide copies of the Notice of Intent and all attachments to the Development Services Department prior to issuance of any building permit. Two (2) copies of the Erosion & Sediment Control Plan shall also be submitted.

k. The post-development discharge rate and volumes shall not exceed the pre-development rates in a 100 year/3 day storm event for land-locked basins and 25 year/24 hour storm event for a positive outfall basin.

l. All rainfall amounts shall be interpolated from the hydrograph contour in the latest version of TR- 55 for the particular area of the City.

m. The peak discharge rate from a developed or redeveloped site shall not exceed the peak discharge rate prior to development or redevelopment.

n. No site alteration shall cause siltation of wetlands, pollution of downstream wetlands, reduce the natural retention or filtering capabilities of wetlands.

o. No site alteration shall allow water to become a health hazard or contribute to the breeding of mosquitoes.

p. All stormwater design shall be consistent with the City's Standard Construction Details.

21-53.05 - Site Attenuation Standards

a. Proposed stormwater management facilities must be designed to meet the minimum design performance criteria, for both water quality treatment and attenuation, established by the SJRWMD within Chapters 40C-4, 40C-40, 40C-41 and 40C-42, F.A.C. (or current chapters). Plans and computations shall be signed, sealed and dated with a readable signature.

    1. Stormwater management systems shall comply with accepted engineering practices to minimize pollution, remove oils and suspended solids and other objectionable material contained within the stormwater runoff to acceptable limits, as well as employ Best Management Practices.

21-53.06 - Positive Outfall Standards

a. A positive drainage outfall system shall be provided to a public conveyance which does not adversely impact downstream owners or adjacent lands, nor redirect preexisting runoff to previously unaffected lands. A drainage easement shall be required for outfall systems which affect private property.

b. In the case of preexisting flooding downstream, the City Engineer may allow the relocation of the natural outfall if it can be shown that:

    1. Redirection of water will help mitigate downstream flooding problems.

2. Land receiving new upstream discharge demonstrates the capability to handle additional upstream discharge.
3. The owner(s) of new receiving land presents an acknowledgment and acceptance of the outfall flows.
4. All stormwater discharge to Class II Waters, principally the Indian River Lagoon, shall meet the requirements of Chapter 62-302, F.A.C.
5. The seasonal high water table shall not be reduced if adverse effects on wetlands or increased flows to the detriment of neighboring lands result.

c. Stormwater Discharges to the MS4 and Waters of the United States

1. Discharges to the City's MS4 shall be controlled to the extent that such discharges will not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any local, state or federal requirements, including but not limited to, NPDES Permit ID No.FLR04E016. Discharges to the waters of the United States shall be controlled to the maximum extent practicable as defined in the NPDES Permit ID NO. FLR04E016.
2. Any person responsible for discharges determined by the City to be contributing to the failure of the City's MS4 or waters within the City shall comply with the provisions and conditions of NPDES Permit ID No. FLR04E016 and shall provide corrective measures within 30 days of notification by the City and shall be subject to payment of fines and damages.

d. Stormwater Discharges from Industrial and Construction Activities

1. Stormwater discharges from industrial activities shall be treated or managed on site, in accordance with appropriate federal, state or local permits and regulations prior to discharge to the City's MS4 or to waters of the United States.
2. Stormwater discharges from construction activities shall be treated or managed on site in accordance with appropriate federal, state or local permits and regulations prior to discharge to the City's MS4 or to waters of the United States. Erosion, sediment and pollution controls for the construction site shall be properly implemented, maintained and operated according to a pollution prevention plan required by an NPDES permit for the discharge of stormwater from construction activities or according to a state permit issued by the Florida Department of Environmental Protection or the St. Johns River Water Management District.
3. The owners or operators of industrial facilities and construction sites which will discharge stormwater to the City's MS4 or to waters of the United States within the City limits shall provide written notification of the connection or discharge prior to the discharge from the industrial activity or construction activity.

e. Prohibition of Illicit Discharges and Illicit Connections

1. Illicit discharges and illicit connections not exempt under the provisions of this Article are prohibited.
2. Failure to report a connection from industrial activities or construction activities

to the City's MS4 or to waters of the United States constitutes an illicit connection.

3. Failure to report a discharge from industrial activities or construction activities to the City's MS4 or to waters of the United States constitutes an illicit discharge.
4. Any discharge to the City's MS4 or to waters of the United States which is in violation of federal, state or local permits or regulations constitutes an illicit discharge.
5. Persons responsible for illicit discharges or illicit connections shall immediately, upon notification or discovery, initiate procedures to cease the illicit discharge or illicit connection, or obtain appropriate federal, state, or local permits for such discharge or connection.

f. Exemptions for Illicit Discharges and Illicit Connections

The following activities shall not be considered either an illicit discharge or illicit connection unless such activities cause, or significantly contribute to, the impairment of the use of the City's MS4 or the violation of the conditions of NPDES Permit No. FLR04E016.

a. Water line flushing
b. Flushing of reclaimed water lines
c. Street cleaning
d. Construction dust control
e. Landscape Irrigation
f. Diverted stream flows
g. Rising ground waters
h. Foundation and footing drains
i. Swimming Pool Discharges
j. Uncontaminated ground water infiltration
k. Uncontaminated pumped ground water
l. Discharges from potable water sources
m. Air conditioning condensate
n. Springs
o. Individual residential car washing
p. Flows from riparian habitat and wetlands
q. Discharges or flows from emergency firefighting activities and emergency response activities done in accordance with an adopted spill/response action plan.

21-53.07 - Shoreline Protection Standards

a. Vertical seawalls and bulkheads are prohibited unless a variance is approved pursuant to the requirements of Section 21-100. Hardening of the estuarian shoreline shall be permitted only when other stabilization methods are not practical and erosion is causing a significant threat to real property. Permits from the appropriate regulatory agency are required.

b. A 50 foot wide shoreline buffer zone upland from the mean high water mark along the Indian

River Lagoon is hereby established. Except as provided in subsection "d" below, the native vegetation shall be maintained and no development shall be permitted.

c. All portions of the shoreline containing wetlands vegetation are subject to the requirements of Section 21-41.

d. No more than twenty percent (20%) or twenty-five feet (25'), whichever is greater, of the shoreline within property boundaries may be altered for reasonable access. Reasonable access may include docks, boat ramps, pervious walkways and elevated walkways.

21-53.08 - System Maintenance Standards

a. Except for systems accepted for City maintenance, property owners and/or occupants shall ensure that all stormwater facilities are maintained in proper working condition.

b. The property owners of private systems shall execute an access easement to permit the City to inspect and, if necessary, to take corrective action should the owner fail to properly maintain the system(s).

c. Should the owner fail to properly maintain the system(s), the City shall give such owner written notice of the nature of the corrective action necessary.

d. Should an owner fail to complete corrective action within thirty (30) days of the written notice from the City, the City may enter the parcel, complete the corrective actions and assess the costs of the corrective action to the owner.

e. All areas and/or structures to be maintained by the City must be dedicated to the City by plat or separate instrument and accepted by the City Council upon a recommendation from the City Engineer and Development Services Director.

21-53.09 - Stormwater Permit Application

a. A stormwater permit application is required for development activity as described in Section 21-53.02. The application shall include:

    1. Non-residential Sites:
        a. Detailed site plan prepared by a professional engineer or architect registered in the state of Florida.
        b. Topographic maps of the site before and after the proposed alteration, as prepared by a professional engineer or land surveyor registered in the state.
        c. General vegetation maps of the site before and after the proposed alteration.
        d. Construction plans, specifications, computations and hydrographs necessary to indicate compliance with the requirements of this Article, as prepared by a professional engineer registered in the State of Florida. Construction plans shall be readable with a minimum scale of one-inch (1") equals thirty feet (30').

2. Residential Sites:
    a. Map of the site as prepared by a professional engineer or land surveyor registered in the state.
    b. Proposed alterations with all impervious surface areas shown to scale on the survey.
    c. All proposed pond and/or swale dimensions and depths.
    d. A statement expressing the intent and scope of the proposed project.

21-53.10 - Plan Adherence

a. Upon issuance of a stormwater permit, the applicant shall be required to adhere to the permit as approved. Any change or amendments to the plan must be approved by the City Engineer in accordance with the procedures set forth above.

b. All stormwater conveyance appurtenances including ponds and swales to rough grade shall be in place prior to construction of any other improvements. Sodding or other erosion control measures may be required during construction in order to control erosion and sediment.

c. Structural controls and other BMPs used for controlling the discharge of pollutants to the City's MS4 or to waters of the United States shall be operated and maintained so as to function in accordance with permitted design or performance criteria and in compliance with federal, state or local permit conditions and regulations.

d. After the completion of the project, the applicant or his engineer shall submit as-built plans to the Development Services Department.

21-53.11 - Enforcement

Whenever the code enforcement officer or City Engineer finds any work being performed in a manner either in violation to the provisions of the code or unsafe or in conflicting with permitted work, the code enforcement officer or City Engineer is authorized to issue a stop work order. The stop work order shall be in writing and posted on the property. Upon posting the stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and conditions under which the cited work will be permitted to resume. Any person who continues work after the property has been posted, except such work as that person is directed to perform to remove or secure a violation or unsafe condition, shall be unlawful and constitutes a civil penalty as outlined in Chapter 1, of the City of Edgewater Code of Ordinances.

SECTION 21-54 - LANDSCAPING REQUIREMENTS

21-54.01 - Comprehensive Plan Reference

The intent of this Section is to improve the appearance of the City, protect and improve property values and establish an integrated system of landscaping and horizontal corridors that provide

visual accessibility to businesses. The provisions of Section 21-54 - Landscaping are consistent with and implement the Comprehensive Plan contained in the Future Land Use Element, Utilities Element and Recreation & Open Space Element

This Section applies to all proposed development and redevelopment. New subdivisions are subject to the requirements of Article XIII. Properties located within the Indian River Boulevard Overlay are subject to the requirements contained in Article XVIII - Indian River Boulevard Corridor Design Regulations. Landscaping plans must be submitted as a component of development approval.

The City of Edgewater encourages innovative water conservation planning, design and techniques, including xeriscape landscaping methods as defined in Article II.

21-54.02 - Installation Standards

a. The property owner shall be responsible for the installation of required landscaping in conformance with accepted commercial planting procedures.

b. The property owner shall be responsible to ensure that all required landscaping is maintained in a healthy condition, including but not limited to, sufficient watering and trimming.

c. All plant materials used in conformance with the requirements of this Section shall be Florida grade #1, as established, and periodically revised by the Florida Department of Agriculture and Consumer Affairs.

d. Ground cover shall be planted so as to present a finished appearance and complete coverage within twelve (12) months of installation.

e. Shrubs and hedges shall be non-deciduous species, shall be a minimum of twenty-four inches (24”) in height immediately after planting. Plants shall be spaced no more than three feet (3’) apart measured center to center. The number of shrubs required shall be determined by the linear length of the lot perimeter divided by three.

f. Sod shall be used in road right-of-ways, swales, stormwater management areas and other areas subject to erosion. All new development or expansions must sod all disturbed areas of the lot prior to the time the Certificate of Occupancy is issued in accordance with all applicable regulatory agency requirements.

g. Landscaped areas required by this Section shall not use either the trees listed in Table V-6 nor the plants listed in Table V-2.

TABLE V- 2
PROHIBITED PLANTS

COMMON PLANT NAME	BOTANICAL NAME
Acacia	Acacia spp.
Air Potato Vine	Dioscorea bulbifera
Caster Bean	Ricinus communis
Hydrilla	Hydrilla verticillata
Kudzu Vine	Paeraria lobate
Mimosa	Albizia julibrissin
Paper Mulberry	Broussonetia papyrifora
Rice Paper Plant	Tetrapanex papyriferus
Rosewood	Dalbergia sissoo
Taro	Colocasia esculenta
Water Hyacinth	Eichhornia spp.
Cogongrass	Imperata cylindrical
Tropical Soda Apple	Solanum viarum
Catclaw mimosa	Mimosa pigra
Old World climbing fern	Lygodium microphyllum
Skunk vine	Paederia foetida

21-54.03 - Parking Lot Landscaping Requirements

The requirements of this subsection shall apply to new parking areas, altered or improved parking areas and parking areas that are altered due to a change in use of the primary structure.

a. A minimum ten foot (10') wide landscaped area shall be provided between vehicular use areas and any adjacent public roadway.

b. Landscaped areas shall be protected from vehicular encroachment with effective curbs. Wheel stops are permitted only when certain stormwater system conditions warrant their use. Wheel stops are permitted on the perimeter of the parking area only and shall be maintained by the property owner in a manner as to not cause any bodily injury or property damage. Wheel stops shall be avoided in principle areas of pedestrian movement.

c. Parking areas shall be designed so that in areas other than industrial zoned property no more than ten (10) spaces in a row occur and shall have a minimum ten foot (10') landscaped island in between.

d. Parking lots shall have a minimum of a ten foot (10') landscape area abutting the stalls unless abutting sidewalks.

21-54.04 - Buffer Yard Determination Process

The City shall utilize a matrix to determine buffer requirements.

a. Determine the type of proposed use.

b. Identify the type(s) of uses adjacent to the proposed site, except the side adjacent to a public roadway.

c. Identify the use intensity classification from Table V-3, i.e., Class I, II, III, IV, V or VI.

d. Determine the buffer yard classification from Table V-4, i.e., A, B, C or D. For example, a Class III land use adjacent to a Class II land use requires a B buffer yard.

e. Select the desired buffer yard components for each perimeter of the site from the B buffer yard options in Table V-5. For example, a project needing a B buffer yard has the following options to meet the buffer yard requirement:

    1. Install a 35 foot wide buffer yard with 24 plants per 100 linear feet and one tree for each 1500 sq. ft. of lot area and no wall (e.g. 200-foot wide lot = 48 shrubs/five (5) trees); or
    2. Install a 20 foot wide buffer yard with 32 plants per 100 linear feet and one tree per 1500 sq. ft. of lot area and a 6 foot high masonry wall (e.g. 200-foot wide lot = 64 shrubs/three (3) trees); or
    3. Install a 15 foot wide buffer yard with 40 plants per 100 linear feet and one tree per 1500 sq. ft. of lot area and a 6-foot high masonry wall (e.g. 200-foot wide lot = 80 shrubs/ two (2) trees).

f. Where walls are selected, they shall be inside the buffer area with plantings on the outside.

g. A project could have different buffer yard requirements for the rear and each side depending upon the adjacent uses.

h. The buffer yard plan shall be included in the landscaping plan.

h. Planting of trees in buffer areas may satisfy the total number to meet the one tree per 1,500 square feet of lot area requirements.

TABLE V-3
USE INTENSITY CLASSIFICATION

Class I	Class II	Class III	Class IV	Class V	Class VI
Single Family	Townhouses	Day Care - Children or Adults	Restaurant	Places of Assembly	
Duplex	Community Residential Homes	Manufactured Home Subdivisions	Bars, Lodges	Outdoor Recreation	Outdoor Storage
Multifamily Dwellings less than 4 units	Multifamily Dwellings	Professional Offices	Schools - Public Private No spec.	Warehouse & Distribution	Body Shops Auto Service/Repair
					Machine Shops
			Automobile Sales	I-1 Uses Not Specified	I-2 Uses Not Specified
	Nursing Homes/ALF's		Retail - Not Specified	BPUD uses not specified	IPUD uses not specified
	Bed & Breakfast	Personal Service Establishments	Indoor Recreation		
	Manufactured/ Mobile Homes	Places of Worship	Hotels & Motels		
		Medical, Dental & Veterinary Clinics	Shopping Centers		
			Theaters		
		Mini-warehouse	B-3 & B-4 Uses Not Specified		
		Marinas/Fish Camps			

TABLE V-4
BUFFER YARD CLASSIFICATIONS

Adjacent (Existing) Use Intensity Class From Table V-3	Proposed Use Intensity Class From Table V-8					
	I	**II**	**III**	**IV**	**V**	**VI**
Class I	N/A	A	B	C	C	D
Class II	A	A	B	C	C	D
Class III	B	B	A	A	A	A
Class IV	C	C	A	N/A	N/A	A
Class V	C	C	A	N/A	N/A	N/A
Class VI	D	D	A	A	N/A	N/A

TABLE V- 5
BUFFER YARD PLANTING OPTIONS

Table V-4 Buffer Class	Min. Buffer Yard Width Ft.	Plants/ 100 Ft.	Req. Screening	Req. Trees
Class A	20	20	None	(1)
	15	27.5	None	(1)
	10	37.5	None	(1)
Class B	35	24	None	(1)
	20	32	(2)	(1)
	15	40	(2)	(1)
Class C	50	30	None	(1)
	40	40	(2)	(1)
	30	50	(2)	(1)
Class D	70	36	(2)	(1)
	50	48	(2)	(1)
	40	60	(2)	(1)

(1) One tree per 1500 sq. ft. of buffer yard.
(2) 6 foot masonry wall (inside buffer) plus required plantings and trees (outside of wall) unless part of an approved Master Development Plan.

21-54.05 - Buffer Yard Installation Standards

a. Buffer yards shall be located at the perimeter of the property and shall not be located in an existing or proposed public road right-of-way.

b. When additional plants or trees are required in areas with existing natural vegetation, it shall be planted to minimize disturbance of suitable native plants.

c. In the event it is impractical to install landscaping outside of a required wall, fifty percent (50%) of the required buffer yard plantings may be located on either side of a required wall on the same parcel.

SECTION 21-55 - TREE PROTECTION REQUIREMENTS

21-55.01 - Comprehensive Plan Reference

The intent of this Section is to protect certain trees to aid in the stabilization of soil by the prevention of erosion and sedimentation, reduce stormwater runoff and assist with the replenishment of groundwater supplies. The provisions of this Section are intended to provide a haven for wildlife, protect and increase property values, provide a noise buffer and enhance the City's physical and aesthetic environment.

Policy statements implementing these intents were adopted in the Comprehensive Plan. The provisions of Section 21-55 - Tree Protection are consistent with and implement the Comprehensive Plan policies contained in the Future Land Use Element and Recreation/Open Space Element.

21-55.02 - Tree Removal Permit

a. **Standard Permits:** A tree removal permit shall be required for trees of six inches (6") DBH (diameter at breast height measured 4 ½ feet from base of tree) or larger on all property within the City limits. Trees shall be defined by Section 21-20.02. Trees to be removed in this category will be required to be replaced if there are an insufficient number of trees left on the lot.

b. Replacement trees shall be a minimum of 2 ½ inches in diameter measured 6 inches above the soil line or 10 feet in height above the soil line. An application for the permit is available in the Development Services Department. Fifty-percent (50%) of replacement trees shall be specimen trees as identified in Section 21-55-06.

c. **Historic Tree Permits:** A tree so designated as historic per Section 21-55.05 shall only be removed by special permit granted by the City Council under Section 21-55.03 (b).

d. Specimen and Historic trees, regardless of location, shall only be removed upon the issuance of a tree removal permit.

e. Any tree listed in Table V-6 may be removed without a tree permit and shall be prohibited from use in landscaping areas.

TABLE V-6
PROHIBITED TREES

COMMON TREE NAME	BOTANICAL NAME
White Mulberry	Morus rubra
Australian Pine/Beefwood	Casuarina spp.
Brazilian Pepper	Schinus terebinthifolia
Cajeput or Punk Tree/Melaleuca	Melaleuca quinquenervia
Camphor	Cinnamomum camphora
Chinaberry	Melia azedararach
Chinese Tallow	Sapium sebiferum
Ear Tree	Enterolobium cyclocarpum
Eucalyptus	Eucalyptus spp.
Jacaranda	Jacaranda acutifolia
Silk Oak	Grevillea robusta
Woman's Tongue/Mimosa	Albizia lebbeck spp.
Norfolk Island Pine	Araucaria heterophylla
Paper Mulberry	Broussonetia papyrifera
Golden Raintree	Koelreuteria paniculata
Orchid Tree	Bauhinia spp.
Carrotwood	Cupaniopsis anacardioides

21-55.03 - Tree Removal Permit Standards

a. Existing trees may be relocated to suitable areas on same site in accordance with sound industry practices, refer to Section 21-311.

b. All mitigated (replaced or relocated) trees shall be a minimum of 2.5 inches measured six inches (6") above the soil line or 10-feet in height above the soil line. Historic tree removal permits granted by the City Council shall have the following options:

1. Determine the tree to be removed is in such a condition that it is hazardous to the

surrounding area or structure(s) that no replacement is necessary, or
2. Require the replacement of historic trees at a ratio of one inch (1") diameter to one inch (1") diameter of replacement trees, or
3. Require the payment of money per Section 21-311 equivalent to the replacement cost of the replacement trees.

c. Relocated trees shall be planted in landscape buffer areas or parking island areas provided with irrigation systems.

d. All tree plantings shall be replaced if they die within two (2) years after installation. The health of a replacement tree shall be maintained for a period of two (2) years from the date of planting. The two (2) year maintenance period shall begin anew whenever a tree is replaced.

e. Replacement trees shall be sufficiently spaced to allow adequate growth room for the species.

21-55.04 - Exemptions

Notwithstanding any other provision of this Section to the contrary, any person may cut down, destroy, replace or authorize removal of one or more trees, whose trunks lie wholly within the boundaries of property owned by said person without a tree removal permit if any of the following criteria are met:

1. The property is engaged in active silviculture uses; or
2. The property contains trees which may have been determined by the Building Department to be deteriorated as a result of age, hurricane, storms, fire, freeze, disease, lightning or other natural acts; or
3. The trees are within an existing public or private right-of-way or maintenance easement and requires action to maintain traffic visibility at intersecting public streets or such other trees which may disrupt public utilities, such as powerlines, drainage ways or other public needs.

21-55.05 - Historic Trees

Historic trees shall only be removed upon approval of a Tree Removal Permit granted by the City Council. Historic trees are those listed in Section 21-55.06 that reach 36-inches DBH with the exception of the Laurel Oak.

21-55.06 - Specimen Trees

Specimen trees shall not be removed without a Tree Removal Permit or as part of an approved development plan. The following trees are designated as Specimen Trees.

Common Name	Botanical Name	Inches (DBH)
Elm	Ulmus spp.	12 plus
Hickory	Carya spp.	12 plus
Loblolly Bay	Gordonia lasianthus	12 plus
Magnolia	Magnolia grandiflora	12 plus
Maple	Acer spp.	12 plus
Other Oak Species	Quercus spp.	12 plus
Red Bay	Persea borbonia	12 plus
Red Cedar	Juniperus silicicola	12 plus
Swamp Bay	Persea palustris	12 plus
Sweet Bay	Magnolia virginiana	12 plus
Sweet Gum	Liquidambar styraciflua	12 plus
Sycamore	Platanus occidentalis	12 plus
Turkey Oak	Quercus laevis	12 plus
Cypress	Taxodium spp.	12 Plus
Sugarberry/Hackberry	Celtis laevigata	12 Plus
Slash Pine	Pinus elliottii	18 Plus
Longleaf Pine	Pinus palustris	18 Plus

21-55.07 - Historic and Specimen Tree Protection Requirements

a. All development projects shall provide a plan to protect historic and/or specimen trees after construction has occurred on a site. Such plan may include, but not be limited to conservation easements, common open space, tree protection easements, deed restrictions and homeowner association documents. The minimum protection requirements for historic and specimen trees are as follows:

Number of Trees	Minimum Tree Protection
less than 2.9 per acre	80 percent
3.0 to 5.0 per acre	65 percent
5.1 to 8.0 per acre	50 percent
8.0 plus per acre	4 per acre

b. All proposed development projects shall be required to include a tree survey by either a licensed Surveyor or Arborist, locating all Specimen and Historic Trees.

c. Statistical tree survey information may be considered at the direction of the TRC. However,

such statistical surveys shall be limited to sites containing an overstory consisting predominantly of trees uniform in age, species and distribution which do not contain specimen or historic trees. Statistical surveys must be conducted in compliance with accepted forestry practices.

d. All trees to be preserved shall be identified on site by harmlessly marking or banding.

e. All trees to be preserved shall have their natural soil level maintained. Tree wells and/or planter islands shall be provided if necessary to maintain the natural existing soil levels. All efforts shall be made to maintain the natural drainage of trees in the grading and drainage plan.

f. Prior to construction, the developer shall erect protective barriers around all trees to be preserved. These barriers shall be sufficient to prevent intrusion on that area within the drip line of the canopy of the tree.

g. During construction, no signs, attachments or permits may be attached to any protected tree.

h. No existing or replacement trees shall be removed after a Certificate of Occupancy is issued.

21-55.08 – Area Tree Protection Requirements

Fifteen percent (15%) of the square footage of any development shall be designated for the protection of trees. The area required to protect historic/specimen trees may be included to satisfy this requirement. This required area may be constituted as one or more sub-areas within the development. Said area may include any landscape buffer or other areas as required by the City on a development. Such designated areas shall contain sufficient land area to comply with minimum tree protection standards to adequately protect the trees contained within the areas. A minimum of fifty percent (50%) of the required minimum number of trees as provided in Section 21-55.07 shall consist of existing trees within said areas. The City may provide for a waiver or modification of this requirement if the development contains an insufficient amount of existing trees to meet this requirement or, if the City determines that modification of this requirement is warranted by specific on-site conditions.

21-55.09- Installation Requirements

a. Single-family and duplex lots shall have a minimum of one (1) tree per 1,500 square feet of lot area.

b. All development projects requiring site plan approval shall contain a minimum of one (1) tree for every 1,500 square feet of lot area.

c. If the lot contains an insufficient number of existing trees to meet these requirements, replacement trees shall be provided per Section 21-55.02(b).

d. In the event it is impractical to install the required number of replacement trees due to lot

size, building configuration or other impediments, the Development Services Department may:

1. Allow up to a forty percent (40%) modification in the number required as long as the overall caliper requirements are fulfilled; or
2. Allow the required trees to be planted on City property.

e. Existing trees shall meet the definition provided in Article II to be counted in minimum requirements.

21-55.10 - Enforcement

a. The Development Services Director, Building Official, Code Enforcement Officer or designee shall issue a stop-work order to any person found in the act of cutting down, destroying, damaging or removing trees in violation of this Section.

b. Historic/specimen trees removed in violation of this Section shall be replaced at a ratio of 2 inches per inch of caliper lost. In lieu of physical replacement, City Council may impose a fee of $37.00 per cross sectional square inch lost or combination thereof.

SECTION 21-56 PARKING AND LOADING REQUIREMENTS

21-56.01 - Comprehensive Plan Reference

Chapter 163.3202, F.S. requires adoption of land development regulations to include safe and convenient off-street parking and loading provisions. The provisions of Section 21-57 - Parking and Loading Requirements are consistent with and implement the Comprehensive Plan contained in the Future Land Use Element and Utilities Element.

Properties located in the Indian River Boulevard-S.R. 442 Corridor Overlay and Ridgewood Avenue Corridor Overlay are also subject to the regulations contained in Article XVIII and Article XX respectively for parking and loading design layout.

21-56.02 - Off-Street Parking Standards

a. All required off-street parking shall be located a minimum of ten feet (10’) behind the right-of-way line of the adjacent street and on the same parcel as the building which they are intended to serve, unless a joint parking area agreement is executed as described in Section 21.56.04.

b. No building permit, site plan, conditional use, planned unit development or business tax receipt application shall be approved unless the required number of spaces are provided in compliance with the requirements herein unless a variance has been approved.

c. Any use that becomes non-conforming as to parking requirements upon adoption of this

Article shall be required to come into compliance if the use changes or the structure is expanded by more than twenty percent (20%).

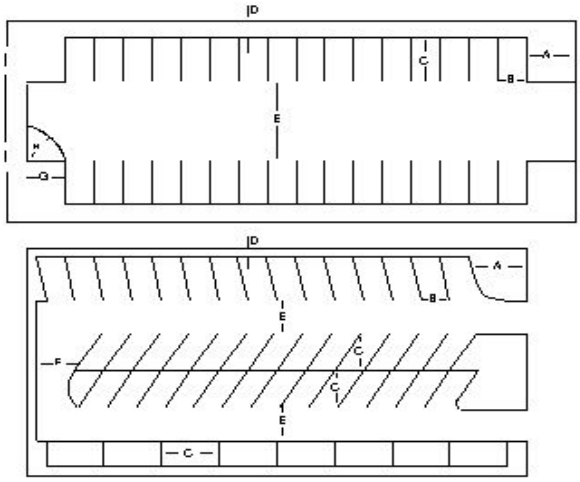
d. The parking lot design standards are depicted in Table V-7 and Figure V-7A.

TABLE V-7
Parking Lot Design Standards

Stall Angle / Requirements (ft)	**45 Dgres**	**50 Dgres**	**55 Dgres**	**60 Dgres**	**90 Dgres**	**180 Dgres**
Offset - A	18’	16’	13’	10’	10’	10’
Space Width - B	12’	12’	13’	10’	10’*	10’
Space Depth - C	18’	18’	19’	20’	20’*	22’
Landscape Area - D	10’	10’	10’	10’	10’	10’
Aisle Width - E	13’	15’	16’	18’	24’	15’
Turning Area - F	17’	16’	15’	14’	14’	14’
Maneuver Depth - G					15’	
Maneuver Radius - H					15’	

*Note 2’ overhang is permitted when parking stalls are curbed.

FIGURE V - 7A



e. Maneuvering areas shall be designed to permit vehicles to enter and leave the parking area in a forward direction.

f. Any vehicle backup areas shall be fifteen feet (15') deep and have a minimum fifteen foot (15') turning radius.

g. Driveways shall be considered parking spaces on parcels developed for single-family residences. All driveways shall be paved including the aprons and shall be constructed no closer than five feet (5') to any lot line or encroach into any side or rear easement.

h. When the parking calculations described in Table V-8 result in a fractional parking space, fractions less than ½ shall be disregarded and fractions greater than ½ shall require a full space.

i. Each parking lot shall have direct access to a public street or legal easement as part of an approved development plan.

j. All parking areas shall be landscaped as provided in Section 21-54.

k. Parking areas shall be hard-surfaced using material approved by the City.

l. All site plans shall include FDOT standard traffic control signs and pavement markings necessary to ensure safe traffic and pedestrian flow, including but not limited to, fire lanes.

m. All customer generated parking areas shall be used for vehicle parking only.

n. No door or pedestrian entrance at ground level shall open directly upon a driveway or access aisle unless the doorway of the entrance is at least three feet (3’) from said driveway or access aisle or unless improvements are provided to allow for safe doorway access.

o. All parking spaces shall have lines between each space and shall be maintained by the property owner.

p. Public rights-of-way shall not be used to satisfy on-site parking or loading requirements.

q. Development may be required to provide fire lanes in accordance with the Florida Fire Prevention Code

TABLE V -8
OFF-STREET PARKING REQUIREMENTS

Land Use Category	Spaces	Unit of Measure
Adult Living Facility	2	Each largest shift employee plus 1/5 beds
Assembly Places With Fixed Seats	1	per 4 seat plus 1 per employee
Assembly Places w/o Fixed Seats	1	40 SFGFA of main assembly area space
Auto Sales *	1 1	400 SFGFA plus 1 space for each vehicle for sale/lease
Auto Service/Repair	3 1	Service bay plus 200 SFGFA non bay area
Beauty/Barber Shops	1.5	per chair
Bed &Breakfast	1	per each room rented plus residential requirements
Community Residential Homes	1	Employee plus 5 visitor spaces
Convenience Stores	1	200 SFGFA
Day Care - Children or Adults	1 1	Employee plus a 5 space drop area plus per 25 students
Restaurants/Bars/Lodges	1 1	4 Seats plus per 2 employees
Financial Institutions	1 1	250 SFGFA on ground floor plus 200 SFGFA on other floors
Funeral Homes	1 2	4 Seats in main assembly area plus business vehicle
Furniture, Appliance and Similar	1 1	400 SFGFA to 10,000 SFGFA 750 SFGFA over 10,000 SFGFA
Health/Fitness	1	150 SFGFA
Hotel/Motel	1 1	each bedroom unit plus per 2 employees
Lab/Research Facilities	1	each employee
Machine Shop/Repair	1	400 SFGFA
Manufacturing - General	1	2 employees on largest shift
Marinas/Fish Camps	1 4	Boat slip plus 4 boat trailer spaces per boat ramp plus any accessory requirements
Medical/Dental or Veterinary Facilities	1 2	Each employee plus Examination rooms
Mini-warehouse	1	Per office
Residential, Institutional/Multi-Family	1.5	Unit plus 5% for visitors
Personal Service Not specified	1	300 SFGFA
Pool Hall/Billiards	2 1	per pool table plus employee
Professional Offices	1	250 SFGFA
Recreation - Outdoor - Indoor	1 1 1	Each employee plus 4 patrons capacity 400 SFGFA
Retail Not Specified	1	250 SFGFA
Schools - Other Than High School - High School & Community College	1 1 1 1	Each employee plus 4 spaces per instructional room 4 students plus each employee
Single Family, Duplex & Mobile Homes	2	Unit
Shopping Centers	5	1000 SFGFA
Theaters	1	10 Seats
Warehouse, Storage & Similar	1	1000 SFGFA

*Auto Sales to have display parking requirements of 8'x16' all other parking 10' x 20'

Notes:

SFGFA = Square Feet of Gross Floor Area, i.e., the total floor area inside the outside walls of the structure(s).

21-56.03 - Handicapped Parking Standards

a. Development must meet Florida Accessibility Codes.

21-56.04 - Joint Parking Use Agreements

a. The Development Services Director may authorize a reduction in the parking requirements for two or more uses jointly providing off-street parking.

b. A reduction may be authorized in such cases if the developer submits sufficient data to demonstrate that the hours of maximum demand for parking at the respective uses do not normally overlap.

c. The City shall have the authority to require the creation, use and maintenance of joint-use parking and/or joint-use driveways or other common ingress-egress facilities for multifamily, commercial and/or industrial uses.

d. A joint-use parking or access agreement shall be recorded in the public records of Volusia County prior to issuance of a building permit and shall at a minimum include:

    1. A statement holding the City harmless from any and all claims or potential liability; and
    2. Shall run with the land involved and be binding on the parties to the agreement, their successors and/or their assigns.

21-56.05 - Loading Berth Standards

a. Each required off-street loading space shall have a minimum dimension of fourteen (14') feet by forty (40') feet and a minimum overhead clearance of fourteen (14') feet above the paving grade.

b. All commercial and industrial uses shall provide the number of off-street loading and unloading spaces described in Table V-10.

TABLE V-10
LOADING BERTH STANDARDS

Use Category	Floor Area (sq.ft.)	Berths Required
Retail and/or Service Uses	5,000 to 24,999	One
	25,000 to 59,999	Two
	60,000 to 119,999	Three
	120,000 to 199,999	Four
	200,000 to 289,999	Five
	290,000 plus	One/90,000 sq.ft
Storage or Wholesale Uses	5,000 to 24,999	One
	25,000 to 59,999	Two
	60,000 to 119,999	Three
	120,000 to 199,999	Four
	200,000 to 289,999	Five
	290,000 plus	One/90,000 sq.ft.
Places of Assembly, Hotels, Motels, Office Buildings, Long Term Health Care Facilities	10,000 to 39,999	One
	40,000 plus	One/60,000 sq.ft.
Automotive, Recreation	2,000 to 14,999	One
	15,000 to 39,999	Two
	40,000 plus	One/10,000 sq.ft.
Manufacturing Uses	0 to 14,999	One
	15,000 to 39,999	Two
	40,000 to 64,999	Three
	65,000 plus	One/80,000 sq.ft.

c. Where a building is used for more than one use or for different uses, the loading space requirement shall be based on the use for which the most spaces are required.

d. All loading areas shall be paved and clearly marked and delineated.

e. All loading berths and maneuvering areas shall be separated from required off-street parking facilities and shall include traffic flow directional information.

f. Delivery truck berths may be located within required parking spaces, provided they are marked as reserved for loading purposes. Access aisles may serve both parking and loading facilities.

g. All loading and delivery areas shall be designed to prevent backing into streets, pedestrian ways or bikeways.

h. Off-street loading spaces shall be directly accessible from a street without crossing or entering any other loading space and may not extend into any street.

SECTION 21-57- PLANNED UNIT DEVELOPMENT DESIGN CRITERIA

21-57.01 - Comprehensive Plan Reference

The provisions of Section 21-57- Planned Unit Developments are consistent with and implement the Comprehensive Plan policies contained in the Future Land Use Element, Coastal Element, Conservation Element and Recreation & Open Space Element.

21-57.02 - Residential Planned Unit Development (RPUD)

a. **Purpose**

The Residential Planned Unit Development (RPUD) District is intended to provide a flexible approach for unique and innovative land development, which would otherwise not be permitted by this Code. Notwithstanding the specific criteria identified herein, RPUDs should accomplish the following purposes, to the greatest extent possible:

1. Provide a variety of housing types with a broad range of housing costs allowing for the integration of differing age groups and socioeconomic classes;
2. Promote innovative site and building design, including traditional neighborhood developments;
3. Provide efficient location and utilization of infrastructure through orderly and economical development, including a fully integrated network of streets and pedestrian/bicycle facilities;
4. Establish open areas set aside for the preservation of natural resources, significant natural features and listed species habitats;
5. Create usable and suitably located public spaces, recreational facilities, open spaces and scenic areas; and
6. Provide for other limitations, restrictions and requirements as deemed necessary by the City to ensure compatibility with adjacent neighborhoods and effectively reduce potential adverse impacts.

b. **Permitted Uses**

All uses in conjunction with Residential Planned Unit Developments are considered conditional and require Planning and Zoning Board and Council approval. Permitted uses are listed in Article III, Table III-3.

c. **Density and Intensity**

1. Variable up to 4.0 dwelling units per net acre in areas designated Low Density Residential on the Future Land Use Map.
2. Variable between 4.1 and 8.0 dwelling units per net acre in areas designated Medium Density Residential on the Future Land Use Map.
3. Variable between 8.1 and 12.0 dwelling units per net acre in areas designated High Density Residential on the Future Land Use Map.
4. Proposed residential projects containing over 500 dwelling units shall include internally oriented retail commercial uses with a minimum of 250 sq. ft. of land area per dwelling unit.

5. Medium and high-rise residential projects shall not exceed a Floor Area Ratio of 0.4 nor an Impervious Surface Ratio of 0.3.

d. **Conceptual Development Plan**

A Conceptual Development Plan shall be submitted along with a Development Agreement, see Section 21-101. The Conceptual Development Plan shall contain the following:

1. Minimum dimensional requirements, including proposed lot area and width, setbacks, building heights and minimum floor areas;
2. Landscaping, parking and signage;
3. Project phasing, if applicable;
4. Infrastructure improvements;
5. Common/open space areas and their use, including any resource protection areas as defined in Article IV;
6. Proposed street layout, names and lot numbers; and
7. Overall stormwater/drainage master plan.

e. **Master Plan Approval**

A master plan shall be submitted in conjunction with Article XIII.

21-57.03 - Business Planned Unit Development (BPUD)

a. **Purpose**

The Business Planned Unit Development District is intended to provide a flexible approach for unique and innovative land development proposals, which would otherwise not be permitted by this Code. Notwithstanding the specific criteria identified herein, proposals should accomplish the following purposes, to the greatest extent possible:

1. Provide for mixed use commercial, office and residential development such as shopping centers, office parks and multi-family residential developments;
2. Promote innovative site and building design;
3. Provide efficient location and utilization of infrastructure through orderly and economic development;
4. Establish open areas set aside for the preservation of natural resources, significant natural features and listed species habitats;
5. Provide for a visually attractive environment through consistency of architectural styles, landscaping designs and other elements of the built environment; and
6. Provide for requirements to ensure compatibility with adjacent neighborhoods and effectively reduce potential adverse impacts.

b. **Permitted Uses**

All uses in conjunction with Business Planned Unit Developments are considered conditional and require Planning and Zoning Board and Council approval. Permitted uses are listed in Article III, Table III-3. If residential uses are provided, the residential floor area shall be no greater than forty percent (40%) of the gross commercial floor area.

c. **Conceptual Development Plan**
A Conceptual Development Plan shall be submitted along with a Development Agreement, see Section 21-101. The Conceptual Development Plan shall contain the following:

1. Lot layouts for commercial and residential development including lot areas and widths, setbacks, building heights, lot coverage and minimum floor areas;
2. Landscaping, fencing, parking, loading areas, signage and lighting;
3. Project phasing, if applicable;
4. Infrastructure improvements;
5. Common/open space areas and their use including any resource protection areas as defined in Article IV;
6. Proposed street layout, names and lot numbers; and
7. Overall stormwater master plan.

d. **Site Plan Approval**
A site plan shall be submitted in conjunction with Section 21-93.

21-57.04 - Industrial Planned Unit Development (IPUD)

a. **Purpose**
The Industrial Planned Unit Development (IPUD) District is intended to provide a flexible approach for unique and innovative land development proposals, which would otherwise not be permitted by this Code. Notwithstanding the specific criteria identified herein, proposals should accomplish the following purposes to the greatest extent possible:

1. Provide for mixed-use industrial development such as industrial office parks, aircraft and marine related uses and limited commercial;
2. Promote innovative site and building design;
3. Provide efficient location and utilization of infrastructure through orderly and economic development;
4. Establish open areas set aside for the preservation of natural resources, significant natural features and listed species habitats;
5. Provide for a coherent and visually attractive physical environment through coordination and consistency of architectural styles, landscaping designs and other elements of the built environment; and
6. Provide for other limitations, restrictions and requirements as deemed necessary by the City to ensure compatibility with adjacent neighborhoods and effectively reduce potential adverse impacts.

b. **Permitted Uses**
All uses in conjunction with Industrial Planned Unit Developments are considered conditional and require Planning and Zoning Board and Council approval. Permitted uses are listed in Article III, Table III-3.

c. **Conceptual Development Plan**
A Conceptual Development Plan shall be submitted prior to site plan approval. The

Conceptual Development Plan shall include the following:

1. The lots areas for industrial and/or commercial development, including lot widths, setbacks, building heights, building footprint and minimum floor areas;
2. Landscaping, fencing, parking, loading areas, signage and lighting;
3. Project phasing, if applicable;
4. Infrastructure improvements, all utility lines shall be installed underground;
5. Common/open space areas and their use including resource protection areas as defined in Article IV; and
6. Overall stormwater master plan.

d. **Site Plan Approval**
A site plan shall be submitted in conjunction with Section 21-93.

21-57.05 – Mixed-Use Planned Unit Development (MUPUD)

a. **Purpose**
The Mixed-Use Planned Unit Development (MUPUD) is intended to provide a flexible approach for mixed use and innovative land use techniques, which would otherwise not be permitted by this Code. Notwithstanding the specific criteria identified herein, proposals should accomplish the following purposes, to the greatest extent possible:

1. Provide a variety of land uses including non-residential, residential, public/civic and recreational
2. Provide innovative site and building design, including traditional neighborhood developments;
3. Provide efficient location and utilization of infrastructure through orderly and economical development, including a fully integrated network of streets and pedestrian/bicycle facilities;
4. Establish open areas set aside for the preservation of natural resources, significant natural features and listed species habitats;
5. Create usable and suitably located public spaces, recreational facilities, open spaces and scenic areas; and
6. Provide for other limitations, restrictions and requirements as deemed necessary by the City to ensure compatibility with adjacent neighborhoods and effectively reduce potential adverse impacts.

b. **Permitted Uses**
All permitted uses in conjunction with Mixed-Use Planned Unit Developments are listed in Article III, Table III-3.

c. **Density and Intensity**
The densities and intensities of Mixed-Use Planned Unit Developments vary. Specific requirements are contained in the City's Comprehensive Plan.

d. **Conceptual Development Plan**

A Conceptual Development Plan shall be submitted along with a Development Agreement, see Section 21-101. The Conceptual Development Plan shall contain the following:

1. Minimum dimensional requirements, including proposed lot area and width, setbacks, building heights and minimum floor areas;
2. Landscaping, parking and signage;
3. Project phasing, if applicable;
4. Infrastructure improvements;
5. Common/open space areas and their use, including any resource protection areas as defined in Article IV;
6. Proposed street layout, names and lot numbers; and
7. Overall stormwater/drainage master plan.

e. **Master Plan Approval**

A master plan shall be submitted in conjunction with Article XIII.

21-57.06 - Sustainable Community Development Planned Unit Development (SCD/PUD)

a. **Purpose**

The Sustainable Community Development Planned Unit Development (SCD/PUD) is intended to provide a flexible approach for mixed use and innovative land use techniques, which would otherwise not be permitted by this Code. Notwithstanding the specific criteria identified herein, proposals should accomplish the following purposes, to the greatest extent possible:

1. Provide a variety of land uses including residential, office, commercial, public/civic and recreational which complement and serve residential uses while reducing transportation needs and conserving energy and natural resources;
2. Provide a socially and economically diverse community with a wide range of housing types including but not limited to, single-family, multi-family and townhouse homes as well as some residential inventory to be located above retail or commercial uses with various price points;
3. Provide innovative site and building design, including design principles that are consistent with Traditional Neighborhood Design, Transit-Oriented Development and New Urbanism;
4. Provide efficient location and utilization of infrastructure through orderly and economical development, including a fully integrated network of streets arranged and designed to promote a pleasant, pedestrian and bicycle-friendly environment with an emphasis on convenient access to surrounding neighborhoods and community amenities;
5. Conserve large areas of uninterrupted environmentally sensitive areas which shall be managed as part of a system for habitat, wetlands, surface water

protection and to provide scenic areas and recreational opportunities (both active and passive); and

6. Provide for other limitations, restrictions and requirements as deemed necessary by the City to ensure compatibility with adjacent neighborhoods and effectively reduce potential adverse impacts.

b. **Permitted Uses**

All permitted uses in conjunction with Sustainable Community Development Planned Unit Developments are listed in Article III, Table III-3.

c. **Density and Intensity**

The densities and intensities of Sustained Community Development Planned Unit Developments vary. Specific requirements are contained in the City's Comprehensive Plan.

d. **Conceptual Development Plan**

A Conceptual Development Plan shall be submitted along with a Development Agreement, see Section 21-101. The Conceptual Development Plan shall contain, but not be limited to the following:

1. Minimum dimensional requirements, including proposed lot area and width, setbacks, building heights and minimum floor areas;
2. Landscaping, parking and signage;
3. Project phasing, if applicable;
4. Infrastructure improvements;
5. Common/open space areas and their use, including any resource protection areas as defined in Article IV;
6. Proposed street layout, names and lot numbers; and
7. Overall stormwater/drainage master plan.

e. **Master Plan Approval**

A master plan shall be submitted in conjunction with Article XIII.

ARTICLE VI

SIGN REGULATIONS

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ARTICLE VI

SIGN REGULATIONS

SECTION 21-60 – GENERAL PROVISIONS

21-60.01 - Purpose

The purpose of sign regulations is to protect, preserve and improve the character and appearance of the City and to provide opportunity to advertise in commercial and industrial areas. It is further the intent to limit signs in residential and agricultural areas to essential signs, primarily for the purpose of identification and information. These regulations shall be the minimum requirements necessary to accomplish these purposes and to protect the public health, safety and general welfare.

In addition to City-wide sign regulations contained in this Article, the City of Edgewater has adopted the Indian River Boulevard-S.R. 442 Corridor Design Regulations and the Ridgewood Avenue Corridor Design Regulations which are incorporated as Article XVIII and Article XX respectively in this Land Development Code. Requirements contained in Article XVIII, Indian River Boulevard Corridor-S.R. 442 Design Regulations and Article XX, Ridgewood Avenue Corridor Design Regulations, shall supersede and compliment the requirements set forth in this Article. Properties located within the Indian River Boulevard Corridor-S.R. 442 Overlay and/or the Ridgewood Avenue Corridor Overlay must adhere to the sign design regulations contained in the Indian River Boulevard Corridor Design Regulations and the Ridgewood Avenue Corridor Design Regulations. A copy of these regulations and illustrations for design are available for purchase at City Hall. It is the Developer's responsibility to obtain a copy of the regulations for the Overlays prior to conceptual design layout.

21-60.02 - General Provisions

The following general provisions shall apply to every sign erected in the City.

a. The name and address of the company or person installing any sign and the name and address of the company or person maintaining any sign, the date of erection and the voltage of any electrical apparatus shall be permanently affixed on a weather resistant label.

b. Any light from any illuminated sign shall be shaded, shielded or directed so that the light intensity or brightness shall not affect adversely the safe vision of operations of vehicles in any public or private road, highway, driveway or parking area. Such light shall not shine directly on or into any residential structure.

c. All signs shall be designed and constructed to withstand a wind load pressure of not less than twenty-five (25) pounds per square foot of area or as required by any applicable code or ordinance, whichever is more restrictive.

d. Vegetation shall be kept cut around the base of any ground sign for a distance of fifteen feet

(15') from any portion of such sign touching the ground and the area around ground sign shall be kept free of any material that might constitute a fire or health hazard.

e. The numeric street address of the property upon which the sign is located shall be identified on the side and front of the sign. The street address numbers shall be between six (6) to twelve (12) inches in height.

f. All signs shall be maintained in good condition and repair. Signs shall be deemed as non-maintained if any part thereof is broken, tattered, torn, faded, letters or graphics are completely or partially missing, or otherwise in disrepair.

21-60.03 - Permits

a. No person shall operate, maintain, erect, alter, repair or relocate any signs until the Development Services Director and Building Official has determined that the proposed sign substantially complies with the requirements of this Article.

b. Application for a sign permit shall be on forms provided by the City Building Official.

c. All signs shall be erected, altered, operated and maintained in compliance with the Standard Building Code and the National Electrical Code. Signs 32 square feet, or less, in area shall be deemed to comply with the wind load requirements of the Florida Building Code by submission of plans and specifications to the Building Official.

d. The Development Services Director and Building Official shall conduct a timely review of the sign permit application and shall either issue the permit or provide the applicant with a written statement of the reasons for denial.

e. Appeals of Building Official decisions regarding construction issues shall be made to the Special Magistrate. Appeals of other sign related issues shall be made in accordance with Article I.

21-60.04 - Prohibited Signs

The following signs are prohibited in the City:

a. Unless otherwise noted, no person shall erect a sign on or over any public property or public right-of-way, except in accordance with a banner sign or franchise agreement approved by the City Council. Any sign(s) installed on public property shall be forfeited to the public and subject to confiscation at the owners' cost.

b. The operation or placement of any vehicle for the sole purpose of advertising is prohibited within the City of Edgewater.

c. Unless otherwise noted, roof signs, billboards, inflatable signs, snipe signs, banners, pennants, wind operated devices, sandwich signs, moving signs, freestanding signs, flashing

signs, beacon light signs with moving or alternating or traveling lights are prohibited, except as limited elsewhere in this Article. Time and temperature signs and lighted moving message boards less than 35 square feet in area shall not be subject to this prohibition.

d. Projecting signs within an area bounded by the intersection of two rights-of-way and points fifty feet (50') from such intersections measured along the rights-of-way except as permitted elsewhere in this Article.

e. Pursuant to Chapter 316.077, F.S., no sign shall be permitted which is an imitation of or resembles an official traffic control device.

f. Commercial Mascots, as defined in Article II.

21-60.05 - Exemptions

The following signs shall be exempt from the permitting requirements of this Article.

a. Signs less than six (6) square feet in area, used only to identify the residential property address and resident(s) name and shall not include any advertising.

b. Legal notices posted by authorized persons of a governmental body.

c. Any informational sign directing vehicular traffic, parking or pedestrian traffic on private property, provided that such sign shall contain no advertising material and shall not exceed 4 square feet in total area. The letters shall not exceed eight inches (8") in height. If the sign includes any advertising or logo, a sign permit shall be required.

d. Identification signs, information signs or traffic control devices erected or permitted by any governmental body. In addition, emergency warning signs erected by a government agency, private utility company or a contractor doing authorized or permitted work within a public right-of-way.

e. Wall graphics/murals may be an integral decoration of a building, but shall not include letters, trademarks, moving parts or moving lights and shall not cover more than thirty percent (30%) of any single wall surface area per building. Works of art, such as murals approved by the Development Services Director, that do not include a commercial message, comply with the additional sign wind and sight visibility code and do not violate any design overlay standards as contained in the City Land Development Code.

f. On-site signs five (5) square feet or less in area that offers a specific property for sale, lease or rent by the owner or his authorized agent. One on-site open house flag for said specific property shall be permitted shall be placed not more than one (1) hour prior to the open house and removed not more than one (1) hour after the open house.

g. The flag of the United States shall be displayed in accordance with the United States of America Flag Code (P.L. 94-344).

h. Holiday lights and decorations with no commercial messages between November 1st and February 1st.

i. Two open house flags, not exceeding fifteen (15) square feet each in area, displayed during times model homes are open to be viewed by the general public for residential subdivisions or planned residential developments. Maximum height shall be eight (8) feet and may be displayed at the main entrance to a residential subdivision or planned residential development.

j. Two off-site open house signs five (5) square feet or less in area that offers a specific property for sale, lease or rent by the owner or his authorized agent. All off-site open house signs shall only be placed with the property owner's permission on private residential property and located within one (1) mile of the authorized sale location. Signs may not be displayed more than one (1) hour prior to the open house and shall be removed within one (1) hour after the conclusion of the open house.

k. Off-site open house signs placed in the right-of-way or signs found in violation of this Section shall be considered abandoned snipe signs and shall be removed.

l. Two on-site feather-flag style signs used for the purpose of promoting special activities/ events authorized by the City by either a special activity/event permit or other formal agreement approved by the City Council may be displayed during time of special activity/ event but must be removed at the conclusion of the event for each day.

21-60.06 - Variances

Variances to the requirements of this Article may be granted by the Planning and Zoning Board in conformance with the requirements of Article IX.

SECTION 21-61 - ON-SITE SIGNS

21-61.01 - Construction Signs

a. One construction sign, including the names of persons or firms furnishing labor, services or materials to the construction site, shall be allowed for each project where an active building permit has been obtained for the project.

b. Such sign shall be removed no later than the date of issuance of a certificate of occupancy and/or final inspection of the construction project.

c. No such sign shall exceed thirty-two (32) square feet in area.

21-61.02 - Development Signs

a. One sign, not to exceed sixty-four (64) square feet in area for nonresidential projects or forty-eight (48) square feet in area for residential projects, may be permitted on each site for which a site plan, or subdivision plat, has been approved.

b. A development sign permit may be issued for no longer than one (1) year. However, the Building Official may renew the permit if it is determined that promotion of the site is still active.

21-61.03 - Pole Signs

a. Pole signs shall be limited to two (2) square feet of signage per one (1) linear foot of addressed building frontage and shall not exceed 60 square feet, except as provided in Section 21-61.07.

b. Pole signs shall be a maximum of twenty feet (20') high with a minimum nine foot (9') clearance above the ground or sidewalk. No pole sign shall be located closer than fifty feet (50') from any existing pole sign.

c. Except for shopping centers as described in Section 21-61.07, there shall be only one (1) pole sign per parcel.

d. The sign area shall be calculated to include the outside edge of the sign cabinet or frame.

e. Except as provided in Section 21-62, a pole sign shall only be used to advertise a business on the same site.

21-61.04 - Ground Signs

a. Ground signs shall be limited to two (2) square feet of signage per one (1) linear foot of addressed building frontage and shall not exceed sixty (60) square feet, except as provided in Section 21-61.07.

b. Ground signs shall be a maximum of ten feet (10') high and shall be located in an approved landscaped buffer area. Ground signs shall not impede traffic visibility as outlined in Article III, "Site Triangle Requirements".

c. The height of a ground sign shall be measured from the crown of the adjacent roadway.

d. Except for shopping centers as described in Section 21-61.07, there shall be only one (1) ground sign per parcel. No ground sign shall be located closer than fifty feet (50') from any existing ground sign.

e. The sign area shall be calculated to include the outside edge of the sign cabinet or frame.

f. Ground signs shall only be used to advertise a business on the same site.

21-61.05 - Projecting Signs

a. A projecting sign shall not extend more than four feet (4') beyond the surface of the building to which it is attached.

b. The surface area of a projecting sign shall not exceed twenty-four (24) square feet per building.

c. There shall be a minimum of nine feet (9') clearance between the bottom of a projecting sign and the ground surface or sidewalk.

21-61.06 - Real Estate Signs

a. A non-illuminated sign advertising the sale or lease of a business or parcel on which the sign is located shall be permitted in any zoning district.

b. The maximum sign size shall be thirty-two (32) square feet.

c. Model home signs shall not exceed sixteen (16) square feet.

21-61.07 - Shopping Center Signs

a. Ground or pole signs for shopping centers may be constructed subject to compliance with the criteria described below. No other signage shall be permitted for these uses, except wall signs.

Sign Criteria	**Parcel Width Less Than 150 Ft.**	**Parcel Width Greater Than 150 Ft.**
Number of Signs per Parcel	One	Two
Maximum Allowable Area of All Signage On the Site	100 sq. ft. per side 200 sq. ft. total	Anchor Structure Sign 100 sq. ft. per side 200 sq. ft. total Tenants Sign 100 sq. ft. per side 200 sq. ft. total
Maximum Height Above Ground	Poles - 20 feet Ground - 10 feet	Poles - 20 feet Ground - 10 feet
Minimum Clearance From Ground	Poles - 9 feet	Poles - 9 feet
Area Allowed For Center Name	20 percent maximum	20 percent maximum
Area Allowed For Tenants Name	80 percent minimum	80 percent minimum

21-61.08 - Wall Signs

a. The total amount of wall signs allowed shall be two (2) square feet of signage per one (1) linear foot of addressed business frontage, not to exceed sixty-four (64) square feet.

b. The area of a wall sign shall be calculated by summing the area of each letter and the corporate logo in the sign.

21-61.09 - Window Signs

The window area and the glass door area between four feet (4') and seven feet (7') above the adjacent ground shall not be covered by opaque signage.

21-61.10 - Subdivision Signs

A maximum one hundred (100) square feet in area ground sign identifying a subdivision may be located at each subdivision entrance provided the site triangle requirements of Article III are met.

21-61.11 – Electronic Message Centers/Signage

a. Electronic message center signs are permitted only along U.S. 1, Park Avenue and S.R. 442/Indian River Boulevard. No more than one electronic message center sign is permitted for each property frontage located on the above-referenced roadways.

b. Signs must be set back a minimum of ten feet (10') from the right-of-way to the closest edge of the sign.

c. Signs must be constructed as ground sign.

d. The maximum electronic panel area shall not exceed 50% of the sign size.

e. A sign with a sign face on two sides and no more than 4.5' feet of separation between faces shall be considered a single sign.

f. Sign copy may change only at intervals of not less than five (5) seconds. Continuous scrolling, animation, or flashing of lights is prohibited.

g. Obscene, immoral and/or lewd graphics and/or language shall not be displayed at anytime on the display screen area.

h. The display screen area shall provide a high-resolution picture quality with pixel spacing of 16 millimeters or less.

i. Maximum brightness is 5,000 nits during the day and 500 nits from dusk to dawn.

j. A malfunctioning sign must be turned off or display a blank screen.

k. Electronic message center signs shall not be added to any nonconforming sign.

l. All power to the sign shall be supplied via underground carrier, inside an improved conduit

and installed to City requirements.

m. The signage shall be maintained in a good operating condition and external appearance.

n. Government electronic message center signs shall provide necessary public information, including but not limited to directions, schedules or information regarding public facilities or places of interest. The City Council may waive the standards in this section for a government sign provided that the deviation promotes the public health, safety and welfare.

o. Any electronic message center/signage in existence prior to adoption of the standards set forth in this Section and are not in conformance with said Section shall be deemed non-conforming pursuant to Article VII.

SECTION 21-62 - OFF-SITE SIGNS

Off-site signs that advertise products or businesses located at a site other than the location of the business are deemed by this Article to constitute a separate use. The control and regulation of the display of such advertising deemed to be appropriate to the character and surrounding development shall be considered. It is intended that such advertising be confined to certain commercial and industrial properties.

21-62.01 - General Requirements

All off-site signs, with the exception of special activity/event signs advertising special activities/ events authorized by the City, shall require approval by the City Council upon a recommendation from the Development Services Director.

a. Off-site signs shall not be located closer than one thousand feet (1,000') to another off-site sign.

b. All off-site signs shall conform to the Standard Building Code construction requirements.

21-62.02 - City Franchise Signs

The City Council may approve off-site signs for certain franchise agreements. The criteria for approval of off-site selection shall be consistent with the conditions contained in the Sign Franchise Agreement and shall be subject to City Council approval. Minimum standards include:

a. A leading edge of a franchise sign shall not be closer than ten feet (10') to a paved surface of a public right-of-way, unless approved by the City Manager.

b. Signs bearing public information, as designated by the City Manager, may be placed in any zoning district.

c. A franchise sign shall have a minimum clearance of nine feet (9') above the ground and a maximum height of sixteen feet (16') except those placed on public transportation benches

and shelters as approved through a competitive selection process pursuant to City standard procedures.

21-62.03 - Public Information Signs

Public information signs containing no commercial message and installed by the City, may be located anywhere in the City.

21-62.04 - Off-Site Wall Signs

City Council may approve off-site wall signs subject to the following:

a. The business/development has no other off-site signs.

b. Signs shall not exceed thirty-two (32) square feet each.

c. No more than one (1) wall sign per each side of the building with a maximum of two (2) signs per building.

d. The total square footage allowed for all wall signs per building shall not exceed the requirements contained in Section 21-61.08.

e. Off-site wall signs are temporary and will be permitted for six (6) months.

SECTION 21-63 - TEMPORARY SIGNS

21-63.01 - Portable Signs

a. The Building Official may issue a portable sign permit to a business for a maximum of thirty (30) days per year to announce special events or grand openings.

b. The maximum size of a sign shall be thirty-two (32) square feet.

c. Only one (1) sign shall be permitted on a parcel at any one time.

d. A sign shall not occupy any required parking space nor restrict on-site traffic flow.

e. A portable sign shall not be located closer than ten feet (10’) to the paved portion of a public right-of-way.

f. Portable signs shall not have flashing or moving lights and shall not be affixed to another sign or structure or mounted for the purpose of making it a permanent sign.

21-63.02 - Banner Signs

a. The Building Official may issue only one (1) banner sign per street frontage at a time on a given parcel, for a special event such as grand openings.

b. Banner signs shall not be permitted in residential zoning districts and the B-4 district.

c. The maximum sign area shall be thirty-two (32) square feet.

d. Banners may display business or product logos and generic messages, but not specific sales information.

e. Banners may be erected up to seven (7) days prior to the event, shall be removed within two (2) days after the event and shall be limited to ten (10) days per event two (2) times per year.

f. The City Council may approve banners that do not comply with these requirements for citywide functions.

21-63.03 - Political Campaign Signs.

a. Political campaign signs shall be permitted as temporary signs and, as such, shall be removed within ten (10) days after the advertised candidate has been finally elected or defeated. A sign may remain through any primary or run-off election as to any candidate who is subject thereto.

b. An applicant for a political campaign sign shall be issued one sign permit for an unlimited number of signs. The fee shall be as established by resolution.

c. Signs shall not be placed in any public right-of-way, on any public property, attached to any utility pole nor attached to any tree. Signs located on private property shall have the written authorization of the property owner.

d. Signs placed on private property shall be securely erected to prevent displacement by heavy winds and so placed as to not interfere with traffic visibility.

e. Political campaign signs shall not exceed eight (8) square feet in area.

f. Upon determination of the Code Compliance Officer, illegal signs shall be removed within twenty-four (24) hours after notification to the applicant.

g. The City shall retain removed illegal political campaign signs for five (5) working days after notification before their destruction. An applicant may retrieve the signs during this period.

21-63.04 - Special Activity/Event Signs

a. The maximum height of special activity/event signs shall be ten (10) feet.

b. Special activity/event signs shall not exceed thirty-two (32) square feet in area and there shall be a maximum of ninety-six (96) square feet on-site signage per special event.

c. No special activity/event sign may be used for the purpose of off-site advertising without the authorization of the property owner/occupant. No special activity/event sign shall be placed on lots or parcels of any vacant property without written authorization of the property owner.

d. No sign prohibited in this Article shall be authorized under this section as a special activity/event sign.

e. No special activity/event sign shall be placed so as to obscure visibility of any permanent freestanding sign, unless such placement has been approved by the property owner whose freestanding sign is obscured.

f. No special activity/event sign shall be placed so as to obscure vehicular sight visibility.

g. Special activity/event signs shall be erected not more than twenty-one (21) days prior to the special activity/event. All special activity/event signs shall be removed within two (2) days after the approved special activity/event for which the sign was advertising.

h. The erection and removal of all special activity/event signs shall be the responsibility of the person sponsoring the special activity/event. Failure or refusal to remove said signs within two (2) days after the special activity/event shall authorize the City to remove such signs and dispose thereof.

i. No special activity/event signs shall be placed on City properties unless it is authorized and installed by the City in accordance with the Special Activity/Event Sign Policy.

SECTION 21-64 - NON-CONFORMING SIGNS

Any existing sign that is in violation of this Article at the effective date of this Chapter shall be deemed a legal non-conforming sign. Such signs may be continued subject to the conditions described below.

21-64.01 - Amortization

a. No non-conforming sign shall be altered, moved or repaired in any way except in full compliance with the terms of this Article. This provision shall not apply to the changing of temporary copy of changeable copy signs or to repairs necessary to maintain the structural integrity or safety of a sign so long as such repairs do not exceed fifty-one percent (51%) of the replacement cost of such sign.

b. All non-conforming signs shall be maintained in good repair, subject to the conditions above.

c. Failure to remove non-conforming signs may subject the sign owner to the code enforcement provisions of Chapter 10, City of Edgewater Code of Ordinances. In this regard, a sign owner may enter into a sign agreement as described in Section 21-65.

21-64.02 - Removal

a. An obsolete or deteriorated sign shall be removed by the owner, agent or person having beneficial use of the premises on which sign is located and shall be removed within thirty (30) days of written notification by the Code Enforcement Department.

b. Upon failure to comply with such notice, the Code Enforcement Department shall cause the sign to be removed at the owner's expense, including any interest that may have accrued.

c. Failure to pay such costs within thirty (30) days of the written notification of the removal costs shall create a lien against the sign owner in favor of the City.

SECTION 21-65 - SIGN AGREEMENTS

The purpose of this Section is to provide a process and criteria by which the City can bring illegal and/or non-conforming signs into compliance without adjudication by the Code Enforcement Board or the court system.

21-65.01 - Agreement Process

a. An applicant shall provide a sign agreement that includes the criteria described in Section 21-65.02.

b. The applicant shall submit the required sign agreement not less than forty-five (45) days prior to the Planning and Zoning Board (P&Z) meeting at which the applicant wishes consideration.

c. The P&Z shall conduct a public hearing after providing the following public notice:

    1. Direct mail notice to all property owners of record within one hundred fifty feet (150') of the proposed sign location.

    2. Post the proposed site no less than ten (10) days prior to the subject P&Z meeting.

d. Upon completion of the P&Z deliberations, the agreement shall be scheduled for the next available City Council meeting.

e. The City Council shall hold a public hearing regarding the proposed agreement after public notice in the same manner as provided above.

f. The City Council shall take final action regarding the agreement within thirty (30) days, unless the applicant agrees to additional time.

21-65.02 - Agreement Criteria

At a minimum, the sign agreement shall include:

a. The name, address and phone number of the applicant.

b. The name, address and phone number of the existing sign site property owner.

c. Any appropriate site drawings and plans.

d. A timetable for removal of the existing sign.

e. Any proposed site mitigation activities.

f. The signature of the applicant.

g. The signature of the site property owner.

h. The signature of the appropriate City official.

Sections 21-66 through 21-69 reserved for future use.

ARTICLE VII

NON-CONFORMING USES

SECTION 21-70 - PURPOSE VII-1

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Sections 21-72 through 21-79 reserved for future use.

ARTICLE VII
NON-CONFORMING USES

SECTION 21-70 - PURPOSE

The purpose of this Article is to regulate and limit the continued existence of lots, signs and structures that were lawfully established prior to the effective date of this Code but do not conform to the provisions of this Code. Nonconformities may continue, but the provisions of this Article are intended to curtail substantial investment in nonconformities and to bring about their eventual elimination.

SECTION 21-71 - NON-CONFORMING USES

21-71.01 - Intent

a. **Authority to Continue.** Nonconforming uses of land or structures may continue in accordance with the provisions of this Section.

b. **Ordinary Repair and Maintenance.** Normal maintenance and repair of structures containing nonconforming uses may be performed.

c. **Expansions.** Unless otherwise noted in this Article, nonconforming uses shall not be expanded. This prohibition shall be construed so as to prevent the enlargement of nonconforming uses by an addition to the structure housing the nonconforming use or by the occupation of additional land.

d. **Relocation.** The structure housing a nonconforming use may not be moved unless the entire structure and use shall thereafter conform to the requirements of this Code.

e. **Change in Use.** A nonconforming use shall not be changed to any other use unless such use conforms to the provisions of this Code. A change in use shall mean a substantial change in character involving activities that result in different external impacts. A change only in the items offered for sale or manufactured or a change in the business name shall not constitute a change in use.

f. **Termination.**

1. Abandonment or Discontinuance - when a nonconforming use is discontinued or abandoned for six (6) months, then the nonconforming use may not be restored.
2. Damage or Destruction - if a structure housing a nonconforming use is damaged or destroyed to the extent of fifty percent (50%) or more of the assessed value of the structure, then the nonconforming use of the structure may not be restored, with the following exception:

a. Any existing single-family residential use considered non-conforming and permitted prior to the adoption of this Code may be permitted to restore damaged or destroyed buildings, not to exceed the existing footprint (prior to the damage or destruction), unless approval of a variance is granted by City Council to expand the footprint of the structure. City Council may also consider requests to waive the application fee.

21-71.02 - Non-Conforming Structures

a. **Authority to Continue.** Nonconforming structures may continue in accordance with the provision of this Section.

b. **Ordinary Repair and Maintenance.** Normal maintenance and repair of nonconforming structures may be performed.

c. **Expansions.** Any expansion of a nonconforming structure shall be in conformance with the provisions of this Article. This shall not prevent expansion as long as the nonconformity is not increased. A nonconforming structure may be altered or enlarged into a required setback which already contains an encroachment as long as the existing setback is not reduced further.

d. **Relocation.** A nonconforming structure that is moved shall thereafter conform to the requirements of this Code.

e. **Termination Upon Damage or Destruction.** Any part of a nonconforming structure that is damaged or destroyed to the extent of fifty percent (50%) or more of the assessed value of said structure shall not be restored unless that part conforms to the provisions of this Code, with the following exception:

1. Any existing single-family residential structure considered non-conforming and permitted prior to the adoption of this Code may be permitted to restore damaged or destroyed buildings, not to exceed the existing footprint (prior to the damage or destruction), unless approval of a variance is granted by City Council to expand the footprint of the structure. City Council may also consider requests to waive the application fee.

21-71.03 - Non-Conforming Lots of Record

a. **Legally Nonconforming Lots of Record.** Any lot created prior to June 17, 1974, shall be considered legally nonconforming if the lot has a width of at least forty (40) feet and an area of at least three thousand six hundred (3,600) square feet. Any lot created between June 17, 1974 and the effective date of this Code shall be considered legally conforming only if the lot met the requirements in effect as of the date the lot was created.

21-71.04 - Non-Conforming Lots

a. In any district, principal permitted structures and customary accessory buildings may be erected on any legally nonconforming lot of record or lot rendered nonconforming through the exercise of eminent domain.

b. Such lot shall be in separate ownership and not be contiguous to other lots in the same or substantially the same ownership. This provision shall apply even though such lot fails to meet the requirements of this Article for area, width, depth and frontage or any combination thereof, provided that yard dimensions and requirements other than those applying to area, width, depth or frontage shall conform to the requirements of this Article.

c. Variance of yard dimensions and requirements shall be obtained only through action of the Planning and Zoning Board.

d. If however, the lot has no frontage, then proof of recorded legal ingress and egress acceptable to the City Attorney must be furnished before a Development Order will be issued.

e. If a nonconforming lot is contiguous to another lot in the same or substantially the same ownership, such lots shall be considered to be an undivided parcel for the purpose of this Article.

f. The existence of a roadway dividing a parcel of land shall not determine whether the parcel is considered to be two separate lots. Each portion of the parcel must have a separate legal identity in order for the parcel to be considered two separate lots.

g. All new dwellings built upon nonconforming lots of record shall be placed upon such lots in accordance with the following requirements when adjacent dwellings have existed and have been listed on the tax rolls before July 17, 1974:

    1. In subdivisions where dwellings have been placed on two (2) lots, the new dwellings can be built on the two (2) or more lots. Similarly, where dwellings have been placed on single lots, the new dwellings can be placed on single lots.
    2. New dwellings shall be placed so as to conform to the front setbacks of existing dwellings on the same street.
    3. The side setbacks for new dwellings shall be ten percent (10%) of the width of the lot, except that no such side setbacks shall be less than five feet (5’).
    4. For pie-shaped lots, the side setbacks shall be ten percent (10%) of the figure reached by adding the width of the front and back of lot together and dividing by two (2), except that no such side setback shall be less than five feet (5’).

21-71.05 - Non-Conforming Mobile Home Parks

There exists within the City of Edgewater, Florida, non-conforming mobile home parks, formerly zoned MH-S.

The non-conforming mobile home parks now existing within the City of Edgewater, Florida, to wit: Anchor Garage Trailers, Blue Gables Trailer Park, Carter's Trailer Park, Edgewater Mobile Home Park, Friendly Shores, Pyramid Mobile Park, Riverview Pines and Wolfe's Driftwood Village, shall be hereafter classified as being with the MH-1 zoning classification and shall comply with the following provisions:

a. The mobile home parks as set forth above shall hereafter be allowed to operate in their present number of mobile home spaces and all permanent structures now located in the respective mobile home parks.

b. In the event that any of the mobile home parks as set forth above shall desire to expand the use of said parks, the owners of said parks shall be required to conform to all of the requirements regulating mobile home parks within the City of Edgewater, Florida, at the time of the proposed expansion for the use.

c. Minimum setbacks for nonconforming mobile home parks shall be consistent with the requirements of the State Fire Code.

21-71.06 - Non-Conforming Parking Areas

a. To encourage redevelopment and to avoid requiring an excessive amount of parking spaces to serve a non-residential redevelopment project, the Technical Review Committee (based on reasonable evidence) may defer the provision of some portion of the off-street parking standards required by this Code if previous experience within the City for such a use or information supplied by the developer suggests that the required number of parking spaces and/or other parking standards may not be necessary.

Sections 21-72 through 21-79 reserved for future use.

ARTICLE VIII

ADMINISTRATION

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Sections 21-88 through 21-89 reserved for future use.

ARTICLE VIII

ADMINISTRATION

SECTION 21-80 - PURPOSE

The purpose of this Article is to identify the roles of City Council, City staff and advisory boards that are responsible for the administration and integration of this Land Development Code.

SECTION 21-81 - CITY COUNCIL

21-81.01 – Authority

The City Council's authority and duties relative to Chapter 21, the Land Development Code, are as follows:

a. To initiate, review and adopt amendments to the Comprehensive Plan of the City of Edgewater.

b. To initiate, review and adopt amendments and hear appeals to this Land Development Code.

c. To initiate, review and adopt amendments to the Official Zoning Map.

d. To review and grant /deny applications for subdivision plats.

e. To hear and grant/deny appeals of a decision of the Planning and Zoning Board regarding conditional uses.

f. To hear and grant/deny appeals of a decision of the Planning and Zoning Board regarding variances.

g. To review and grant /deny applications for zoning and development agreements.

h. To review and grant /deny applications for annexation.

i. To review and grant /deny applications for right-of-way abandonment, easements, plat and street vacations.

j. To review and grant /deny applications for mining permits.

k. To hear and grant/deny appeals of a decision of the Construction Board of Adjustment and Appeals regarding contractor discipline.

l. To hear and grant/deny appeals of a decision of the Construction Board of Adjustment and Appeals regarding a decision of the Building Official or Fire Chief.

m. To review and grant/deny applications for site plans for buildings of 25,000 square feet or larger.

n. To review and grant/deny applications for designation of landmarks/sites and historic districts.

o. To review and grant/deny applications for telecommunication towers.

p. To establish by resolution a schedule of fees to cover the costs of technical and administrative activities required by this Code.

SECTION 21-82 - CITY MANAGER

For the purposes of this Code, the City Manager shall direct and supervise the administration and enforcement of this Code.

SECTION 21-83 - CITY ATTORNEY

For the purposes of this Code, the City Attorney's duties shall include the following:

a. Provision of professional advice and support to the City Council.

b. Provision of professional advice and support to the Planning and Zoning Board.

c. Provision of advice to the Code Compliance Board regarding applicable law and procedures, but shall not present cases to the Code Compliance Board. The City Council may select an attorney as the Code Compliance Board attorney.

SECTION 21-84 - TECHNICAL REVIEW COMMITTEE (TRC)

21-84.01 - Purpose

There is hereby established a Technical Review Committee to provide technical review and comment regarding various permit applications described in this Land Development Code.

21-84.02 - Membership

At a minimum, the members of TRC shall include the Development Services Director, the City Engineer, the Department of Environmental Services Director, the Building Official, the Fire Chief and the City Manager's Office or their designees. The TRC may include other City staff as may be necessary for a given issue or project.

21-84.03 - Meetings

The TRC shall meet as necessary, provided that ample public notice is given to the members and applicants. TRC meetings are subject to Sunshine Laws.

21-84.04 - Powers & Duties

a. The TRC members shall provide written comments regarding the technical aspects of annexations, proposed plan amendments, rezonings, subdivision plats, planned unit developments, site plans, conditional use permits, mining permits, development and zoning agreements.

b. The TRC shall have final authority to approve, modify and/or deny, site plans involving projects with less than 25,000 square feet of gross floor area.

SECTION 21-85 - PLANNING & ZONING BOARD (P&ZB)

21-85.01 - Purpose

The purpose of the Planning & Zoning Board is to provide review and recommendations regarding various planning matters to the City Council and to act as the City's Local Planning Agency pursuant to the requirements of Chapter 163, Part II, FS.

21-85.02 - Membership

a. The P&ZB shall consist of seven (7) members appointed by the City Council. Members shall be legal residents of the City.

b. Members shall be appointed to three (3) year staggered terms.

c. Members shall not appear for, nor represent, any other person than himself/herself at the P&ZB meetings for one (1) year after his/her departure.

d. The P&ZB, and its members, are subject to the requirements of the Public Records Law (Ch. 119, FS) and the Sunshine Law (Ch. 286, FS).

e. All members shall serve without compensation, but may receive reimbursement while on official business of the Board.

f. Any member of the Board may be removed by the City Council at any time.

g. No member of the Board shall vote on any matter that would inure to a special private gain; or of any principal by which the member is employed, or retained, or to the parent organization, or subsidiary of a corporate principal by which the member is retained; or that would inure to the special private gain of a relative or business associate.

h. One (1) non-voting member shall be appointed by the Volusia County School Board per FL. Statute Section 163.3174. This member shall serve without compensation from the City and shall be exempt from residency and attendance requirements. The school board member shall comply with all other procedural standards relating to the Planning and Zoning Board.

21-85.03 – Meetings

a. The Planning and Zoning Board shall meet once a month, if there is sufficient business to warrant a meeting. The P&ZB chairman may call other meetings as necessary, provided that no less than twenty-four (24) hours notice is given to the members and applicants.

b. The P&ZB shall establish by-laws for conducting their meetings.

21-85.04 - Powers & Duties

The Planning and Zoning Board shall:

a. Be the responsible agency to initiate review and/or amendments to the City's Comprehensive Plan and recommend such to the City Council.

b. Review all proposed amendments to the City's Land Development Code and make recommendations to the City Council as to the consistency of the proposed amendments to the Comprehensive Plan.

c. Monitor the effectiveness of the Comprehensive Plan by the formal periodic evaluation process described in Chapter 163.3191, F.S. and its implementing rules.

d. Provide a coordinated planning effort between the City and the Volusia County School Board per Florida Statutes Sec. 163.31777.

e. Provide recommendations to the City Council regarding applications for the following:

    1. Subdivisions and plats,
    2. Proposed development and zoning agreements,
    3. Proposed annexations,
    4. Proposed rezonings and land use amendments,
    5. Proposed abandonment/vacations,
    6. Provide recommendations to the City Council regarding site plans over twenty-five thousand square feet (25,000 sq. ft.) of building area.

f. The Board shall have final authority to approve, modify and/or deny the following unless appealed to the City Council as provided in Article I:

    1. Conditional Use Permits
    2. Variance applications

SECTION 21-86 - CODE COMPLIANCE BOARD (CCB)

21-86.01 - Purpose

The purpose of the Code Compliance Board is to review alleged violations to the City's Code of Ordinances and the Land Development Code pursuant to the requirements of Chapter 162.02, F.S. The CCB shall be responsible to enforce the Code of Ordinances through the use of administrative fines and/or other non-criminal penalties available to the City under general law.

21-86.02 - Membership

a. The CCB shall consist of seven (7) members appointed by the City Council. Members shall have been a legal resident of the City for at least one (1) year prior to the appointment.

b. Members shall be appointed to three (3) year staggered terms.

c. Members shall not appear for, nor represent, any other person other than himself/herself before the Board for one (1) year after his/her departure.

d. The CCB, and its members, shall be subject to the requirements of the Public Records Law (CH. 119, F.S.) and the Sunshine Law (Ch. 286, F.S.).

e. All members shall serve without compensation, but may receive reimbursement while on official business of the Board.

f. Any member of the Board may be removed for cause by the City Council at any time.

g. No member of the Board shall bring forward any code enforcement cases. No member of the Board shall vote on any matter that would inure to a special private gain; or of any principal by which the member is employed, or retained, or to the parent organization, or subsidiary of a corporate principal by which the member is retained; or that would inure to the special private gain of a relative or business associate.

21-86.03 – Meetings

a. The CCB shall meet when there is sufficient business to warrant a meeting.

b. The Code Compliance Board shall establish by-laws for conducting their meetings. The Chairman may call other meetings as necessary, provided that no less than ten (10) days notice is given to the members and applicants. Special meetings may be called with a written notice signed by three (3) members with at least forty-eight (48) hours notice.

21-86.04 - Powers and Duties

The Code Compliance Board shall have the authority to hear and decide alleged violations of the City Code of Ordinances, including, but not limited to, the following:

a. All areas of jurisdiction set forth in Chapters 162, 489 and 553, F.S.
b. Chapter 7, Article IX - Swimming Pools
c. Chapter 10, Article II - Noise
d. Chapter 10, Article III - Cleanliness and Sanitation of Premises
e. Chapter 10, Article IV - Sewage Disposal
f. Chapter 21, Article V - Site Design Criteria
g. Chapter 11 - Business Tax Receipt
h. Chapter 12, Article II - Garage Sales
i. Chapter 12, Article III - Alarm Systems
j. Chapter 15 - Streets and Sidewalks
k. Chapter 21 - Land Development Code

21-86.05 - Powers

The Code Compliance Board shall have the following powers:

a. Subpoena alleged violators and witnesses to its hearings.
b. Subpoenas shall be served by the Edgewater Police Department.
c. Subpoena evidence to its hearings.
d. Take testimony under oath.
e. Issue orders having the force of law to compel an adjudicated violator to comply.

SECTION 21-87 - CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS (CAA)

21-87.01 - Purpose

The purpose of the Construction Board of Adjustment and Appeals is to provide review and recommendations to the City Council on building and construction related matters pursuant to the Florida Building Code. The CAA is deemed to be competent to sit in judgement on matters concerning the interpretation of the Florida Building Codes and the Florida Fire Prevention Code and its enforcement.

Sections 21-88 through 21-89 reserved for future use.

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Sections 21-103 through 21-119 reserved for future use.

ARTICLE IX

APPLICATION PROCEDURES

SECTION 21-90 - GENERAL PROCEDURES

21-90.01 - General Requirements

a. All properties subject to a single application must be contiguous and immediately adjacent to one another or be the subject of separate petitions and filing fees.

b. No application shall be accepted unless it is presented on the official forms provided by the City of Edgewater and the appropriate fee is paid.

c. The Development Services Department shall prepare and periodically revise, the required forms and instruction packages for each development permit application described in this Article.

d. Before an application is scheduled for further consideration, the Development Services Department shall have five (5) days to determine that the application package is complete.

e. All applicants for any action described herein are encouraged to schedule a pre-application conference with the Technical Review Committee (TRC).

f. No application shall be determined to be complete unless the property owner of record as listed by the Volusia County Property Appraiser's Office signs the application or authorizes (in writing) an agent to act in the applicant's behalf and all required support documents are provided.

g. Property surveys, site plans and landscape plans shall be provided at a common scale of 1" = 30 feet.

h. The deadline for filing any complete application described herein shall be a minimum of forty-five (45) days prior to the regularly scheduled meeting of the first review body. The City shall not be at fault for the applicant's failure to meet any deadline described herein. Any waiver of this deadline by more than two working days shall require City Council approval. Due to unforeseen conditions, extremely large agendas, review process, etc., this deadline does not guarantee an applicant's placement on the next regularly scheduled meeting. However, the application will be placed on the next available meeting.

21-90.02 - Application Notice Requirements

It is the intent of this Section to provide legal and timely public notice of the application review process. It is also the intent to provide adequate procedural due process to the applicant and the public. Application notice requirements are based on the minimum requirements found in Chapters 163, 166, 171 and 177, Florida Statutes.

a. Public notice of all applications for development approval shall be consistent with current State Statutes.

b. When mailing of notices is required, the notice shall be sent to the applicant and the property owners of record as listed by the Volusia County Property Appraiser's Office.

c. When newspaper advertisements are required, they shall appear in the newspaper of general circulation. The advertisement shall identify the Tax Parcel Identification Number, street address or location and a general description of the proposed project. A site location map may be required as appropriate.

d. When on-site posting is required, the notice shall be posted in at least one (1) conspicuous place on the site.

e. Proof of publication and mailing notices shall be available for public inspection.

21-90.03 - Application Fee Schedule

The City Council shall adopt by Resolution, development review, advertising and associated fees for administrative charges. If an applicant withdraws an application or requests tabling after the advertisement has been submitted and then reinstates consideration of the application, the applicant shall be billed for any additional advertising costs.

SECTION 21-91 - ZONING MAP AMENDMENTS (REZONING)

21-91.01 - General Provisions

An amendment to the Official Zoning Map requires adoption of an Ordinance by the City Council following the review and recommendation of the Planning and Zoning Board (P&ZB).

21-91.02 - Comprehensive Plan Consistency

No application for a change in zoning can be approved unless the proposed zoning is consistent with the Land Use Designation/ Zoning Classification Matrix in Table III-3.

21-91.03 - Procedures

a. The public notice for a parcel rezoning shall be as provided in current Florida Statutes.

b. Upon receipt of a complete application and relevant supporting material, the Development Services Department will schedule a review by the TRC.

c. Following review by the TRC, a staff report including findings of fact and a staff recommendation shall be provided to the P&ZB.

d. Following review by the P&ZB, a staff report presenting the P&ZB's recommendations, a proposed ordinance and a staff recommendation shall be provided to the City Council for consideration.

e. The decision of the City Council with respect to the rezoning shall be based on findings of fact and the competent public testimony received at the hearing. Unless otherwise provided, the rezoning ordinance approved by the City Council shall be effective immediately upon adoption of the ordinance.

21-91.04 - Decision Criteria

In order to approve a rezoning application, the City Council must make a finding of fact that the rezoning:

a. Is consistent with all the relevant Goals, Objectives and Policies of the Comprehensive Plan;

b. Meets the Concurrency Management System requirements described in Article XI; and

c. Is compatible with existing and proposed uses in the adjacent area.

21-91.05 - Rehearings

A rezoning application denied by the City Council shall not be eligible for re-submission for a period of one (1) year after the date of denial.

21-91.06 - Appeals

An appeal of the decision of the City Council concerning a rezoning decision is to the Circuit Court.

SECTION 21-92 - CONDITIONAL USE PERMIT (CUP)

21-92.01 - Intent

It is the intent of this Section to recognize that certain types of uses are unique and require special consideration. Unless specifically stated otherwise in the conditions of approval, the CUP applies to subsequent property owners operating the same business or engaging in the same use.

21-92.02 - Comprehensive Plan Consistency

No application for a CUP can be approved unless the property is located within a zoning district that is consistent with the Land Use Designation/Zoning Classification Matrix in Table III-3.

21-92.03 - Procedures

a. The public notice for a CUP shall be as provided in current Florida Statutes.

b. Upon receipt of a complete application and relevant supporting material, the Development Services Department will schedule a review by the TRC.

c. Following review by the TRC, a staff report including findings of fact and a staff recommendation shall be provided to the P&ZB.

d. The P&ZB shall provide findings of fact regarding their decision to approve, deny or modify the applicant's request.

e. The P&ZB decision shall be final unless appealed to the City Council within fifteen (15) days.

21-92.04 - Decision Criteria

In order to approve a CUP, the P&ZB must make a finding of fact that the CUP:

a. Is consistent with applicable land development regulations for the zoning district in which the property is located;

b. Is compatible with existing and proposed uses in the adjacent area; and

c. Meets the Concurrency Management System requirements described in Article XI.

21-92.05 - Authority

a. A CUP may set reasonable time limits, renewal conditions and/or operational restrictions.

b. A CUP may require completion of the site plan review process described in Section 21-93 of this Article.

c. If the applicant agrees to install additional landscaping, reduce/or relocate signage or make other performance standards enhancing the appearance and/or public safety on the subject parcel specific land development requirements may be waived.

21-92.06 - Approval Expiration

Unless specifically stated otherwise, a CUP shall expire one hundred twenty (120) days after issued, if a building permit or certificate of occupancy has not been issued by that date.

21-92.07 - Reconsideration

A denied CUP shall not be eligible for resubmission for a period of one (1) year after the date of final denial by the P&ZB or by the City Council, if appealed.

21-92.08 - Appeals

An appeal of a decision of the City Council concerning a Conditional Use Permit is to the Circuit Court.

SECTION 21-93 - SITE PLAN REVIEW

21-93.01 - Intent

It is the intent of this Section to establish the process and criteria for review of site plans. A site plan for a building of less than 25,000 square feet of enclosed useable area is an administrative decision and shall be granted/denied by the TRC.

21-93.02 - Comprehensive Plan Consistency

No site plan application can be approved unless the property is located within a zoning district that is consistent with the Land Use Designation/Zoning Classification Matrix in Table III-3.

21-93.03 - Procedures

a. The applicant shall prepare a conceptual site plan which, at a minimum, identifies the points of access, the amount of impervious surface, the footprint(s) of proposed structures, a general description of the proposed landscaping, provides for the proposed use of the parcel, the number of employees and other such matters as are identified in the application material.

b. The Development Services Department shall coordinate preparation of a staff review regarding the proposed conceptual plan addressing the factors described in subsection (a) above and the application material.

c. Upon receipt of a complete application and relevant supporting material, the Development Services Department will schedule a review by the TRC. Prior to the TRC review, the applicant shall be provided written findings of fact concerning the site plan application. The TRC shall evaluate the technical aspects of the proposed site plan and shall make written finding of fact and may establish conditions for approval. The proposed site plan shall be reviewed for compliance with the Land Development Code requirements. The TRC shall formally vote on passage of a site plan.

d. Following review by the TRC, the applicant for a site plan with a building less than 25,000 square feet of enclosed useable area shall be provided with written findings of fact and shall receive official notification of the site plan action.

e. Site plans involving buildings of 25,000 square feet or greater of enclosed usable area are also subject to review by the P&ZB and review and consideration by the City Council.

f. As-built drawings shall be required on all projects requiring site plan approval.

21-93.04 - Approval Expiration

Unless specifically stated otherwise, a site plan permit shall expire in one (1) year if a complete building permit application has not been filed by that date. A one (1) year site plan approval extension may be granted by the City Manager or his designee if there is sufficient evidence of a hardship and the failure to complete the building permit application within the established time frame.

21-93.05 - Reconsideration

A denied site plan shall not be eligible for resubmission for a period of six (6) months after the date of final denial by the City Council.

21-93.06 - Appeals

For buildings of less than 25,000 square feet of enclosed usable area, an applicant may appeal a site plan decision of the TRC to the City Council within fifteen (15) days. The City Council shall consider the appeal at their next available meeting and shall make findings of fact in its decision.

SECTION 21-94 - LAND DEVELOPMENT CODE AMENDMENTS

21-94.01 - General Provisions

Any amendment to the text of Chapter 21 of the City Code (Land Development Code) requires adoption of an ordinance by the City Council after review and recommendation of the P&ZB. Changes to the text may be proposed by City staff, any advisory board and/or the City Council at any time.

21-94.02 - Comprehensive Plan Consistency

All modifications or text amendments to Chapter 21 shall be consistent with the provisions of the Comprehensive Plan.

21-94.03 - Procedures

a. The public notice for a Land Development Code text amendment shall be as provided in current Florida Statutes.

b. Such proposed changes are a legislative action.

c. Upon receipt of a request to change the text of this Chapter, the Development Services Department will schedule a review of the proposed change by the TRC.

d. Following review of the proposed text change by the TRC, a staff report including findings of fact and a staff recommendation shall be provided to the P&ZB.

e. Following review of the proposed change by the P&ZB, the proposed change will be scheduled for a public hearing before the City Council. A staff report presenting the P&ZB's recommendations, a proposed ordinance, a staff recommendation and the P&ZB minutes-shall be provided to the City Council for consideration at the public hearing.

f. The City Council decision shall be based on findings of fact and competent public testimony received at the hearing. The City Council decision shall be effective immediately upon adoption of the ordinance.

21-94.04 - Approval Expiration

Any text amendments to this Chapter 21 shall be permanent unless subsequently amended as provided for in this Section.

21-94.05 - Reconsideration

Text amendments denied by the City Council may be reconsidered at any future date.

21-94.06 - Appeals

Any appeal of the decision of the City Council concerning any text amendment is to the Circuit Court.

SECTION 21-95 - SMALL SCALE PLAN AMENDMENTS

21-95.01 - General Provisions

Chapters 163.3184, 163.3187 and 163.3189, Florida Statutes provide for a process to amend the City Comprehensive Plan. The Plan shall be amended by ordinance in the manner provided in Chapter 166.041 and Chapter 163, Part II, F.S. The Legislature created Chapter 163.3187 (c), F.S. to provide for an abbreviated review of small scale plan amendments. A small-scale plan amendment decision is a legislative decision and will be administered accordingly.

21-95.02 - Criteria for Determination

All small-scale plan amendments may only be adopted under those conditions set forth in § 163.3187(c), Florida Statutes:

a. The proposed amendment involves a use of less than ten (10) acres;

b. The cumulative acreage of small scale amendments has not exceeded eighty (80) acres in the current calendar year;

c. The amendment does not involve the same property granted a land use amendment within one (1) year;

d. The amendment does not involve the same owner's property within two hundred feet (200’) of property granted a plan amendment within the prior one (1) year; and

e. The proposed amendment does not involve a text change to the goals, objectives and policies of the Comprehensive Plan, but only proposes a land use change to the Future Land Use Map for a site-specific small-scale development activity.

f. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f. and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

g. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement or extended use agreement recorded in conjunction with the issuance of tax exempt bond financing or an allocation of federal tax credits issued through the Florida Housing Finance Corporation or a local housing finance authority authorized by the Division of Bond Finance of the State Board of Administration, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

21-95.03 - Procedures

a. A small-scale plan amendment may be initiated by a property owner, the City staff, any advisory board and/or at the direction of the City Council.

b. The public notice for a small-scale plan amendment shall be as provided in current Florida Statutes.

c. Upon receipt of a complete application and payment of the appropriate fee, the Development Services Department will schedule a review by the TRC.

d. Following review by the TRC, a staff report including findings of fact to amend the Comprehensive Plan, a small scale plan amendment report and a staff recommendation shall be provided to the P&ZB.

e. The small-scale plan amendment report shall at a minimum include adequate data and analysis to justify the proposed amendment.

f. Following review by the P&ZB, a staff report presenting the P&ZB recommendation, a proposed ordinance and staff recommendation shall be provided to the City Council for consideration.

g. The decision of the City Council with respect to the small-scale amendment shall be effective thirty-one (31) days after its adoption unless appealed by an affected person as defined in current Florida Statutes.

21-95.04 - Approval Criteria

In order to approve a small-scale plan amendment, the City Council must make the following findings of fact:

a. The proposed amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan.

b. The proposed amendment is consistent with the Concurrency Management System requirements in Article XI.

c. The proposed amendment is compatible with existing and proposed uses in the adjacent area.

21-95.05 - Approval Expiration

Small-scale plan amendments shall be permanent unless subsequently amended as provided for in this Section.

21-95.06 - Reconsideration

A small-scale plan amendment denied by the City Council shall not be reconsidered for one (1) year after the date of final denial by the City Council.

21-95.07 - Appeals

An appeal of the decision of the City Council concerning any final small-scale plan amendment is to the Division of Administrative Hearings within thirty (30) days of the final decision concerning the small-scale amendment.

SECTION 21-96 - OTHER PLAN AMENDMENTS

21-96.01 - General Provisions

Chapters 163.3184, 163.3187 and 163.3189, Florida Statutes provide for a process to amend the City Comprehensive Plan. Applications for plan amendments, other than small-scale amendments, shall be accepted two (2) times per year. The City Comprehensive Plan shall be amended by ordinance in the manner provided in Chapter 166.041 and Chapter 163, Part II, F.S. Plan amendments, other than small scale amendments, are legislative decisions and shall be administered accordingly.

21-96.02 - Criteria for Determination

A comprehensive plan amendment is required when:

a. Any change is proposed or required in the boundaries of any portion of the Future Land Use Map.

b. Any change is proposed in the text of the Data and Analysis and/or Goals, Objectives and Policies of the Comprehensive Plan.

c. Any parcel is annexed into the City.

21-96.03 - Procedures

a. The public notice for other plan amendments shall be as provided in current Florida Statutes.

b. Upon receipt of a complete application and payment of the appropriate fees, the Development Services Department will schedule a review by the TRC.

c. Following review by the TRC, a staff report including findings of fact to amend the Comprehensive Plan, a plan amendment report and a staff recommendation shall be provided to the P&ZB.

d. The plan amendment report shall at a minimum include adequate data and analysis to justify the proposed amendment.

e. Following review by the P&ZB, a staff report presenting P&ZB recommendations, a proposed ordinance and a staff recommendation shall be provided to the City Council for consideration.

f. The purpose of the first public hearing is to allow the City Council to grant/deny

transmittal of the proposed Comprehensive Plan amendment to the DCA for review and comments pursuant to the requirements of Chapter 163, F.S., Part II.

g. Upon receipt of the DCA comments, the proposed amendment(s) shall be scheduled for the second public hearing by City Council to consider the Comprehensive Plan amendment.

h. In their consideration of the proposed Comprehensive Plan amendment, the City Council shall address any objections provided by the DCA and shall consider any recommendations and comments provided by the DCA. The City Council's decision shall be based on findings of fact and the public testimony received at this hearing.

i. If the City Council adopts the Comprehensive Plan amendment ordinance, the adopted ordinance and supporting documentation shall be transmitted to the DCA for their compliance determination pursuant to the requirements of Chapter 163.3184, F.S.

j. The Comprehensive Plan amendment(s) shall be effective twenty-one (21) days after the DCA issues a Determination of Compliance unless appealed by an affected person as defined in current Florida Statutes.

21-96.04 - Approval Criteria

In order to approve a Comprehensive Plan amendment, the City Council must find that, based on the facts presented, the proposed amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan.

21-96.05 - Approval Expiration

Comprehensive Plan amendments shall be permanent unless subsequently amended as provided for in this Section.

21-96.06 - Reconsideration

A Comprehensive Plan amendment denied by the City Council shall not be reconsidered for one (1) year after the date of final denial by the City Council.

21-96.07 - Appeals

An appeal of the decision of the City Council concerning a Comprehensive Plan amendment in this Section is to the Division of Administrative Hearings within twenty-one (21) days of the final adoption.

SECTION 21-97 - VOLUNTARY ANNEXATION

21-97.01 - Intent

The purpose of this Section is to establish the process and criteria to voluntarily annex parcels into the City limits. A voluntary annexation shall be in accordance with the requirements of Chapter 171.044, F.S. An annexation decision is a legislative action and shall be administered accordingly.

21-97.02- Criteria for Determination

The owner or owners of real property which is contiguous and reasonably compact to the existing City limits may petition the City for voluntary annexation subject to Chapter 171, F.S.

21-97.03- Procedures

a. The public notice for a voluntary annexation shall be as provided in Florida Statutes.

b. Following review by the TRC, the Development Services Department shall transmit the annexation report and relevant supporting materials to the P&ZB for consideration. Separate ordinances shall be required for each parcel or contiguous group of parcels.

c. The P&ZB shall conduct a public hearing and shall evaluate whether the proposed annexation meets the criteria as established by Florida Statutes and make any other findings of fact deemed pertinent to a particular parcel.

d. Following review by the P&ZB, the Development Services Department shall transmit the annexation report, the annexation ordinance and P&ZB minutes to the City Council for consideration.

e. The annexation ordinance shall be effective upon adoption by the City Council.

21-97.04 - Plan Amendment and Zoning of Annexed Property

Pursuant to the requirements of Chapter 171, F.S. the Volusia County Comprehensive Plan and Land Development Code shall control development on the parcel until the City amends its Comprehensive Plan to include the annexed parcel.

a. Upon completion of the annexation process, a plan amendment shall be processed pursuant to the requirements of Section 21-95 or 21-96 of this Article for each parcel or contiguous group of parcels included in the annexation ordinance.

b. Upon completion of the plan amendment process, the subject parcels shall be rezoned

pursuant to the requirements of Section 21-91 of this Article.

c. A plan amendment application resulting from an annexation may be processed simultaneously with the annexation application. However, the plan amendment shall not be effective until the annexation process is completed.

d. A rezoning application resulting from an annexation plan amendment may be processed simultaneously with the annexation plan amendment. However, the rezoning shall not be effective until the plan amendment process is complete.

e. Pursuant to the requirements of Chapter 171, Chapter 163 and Chapter 166, F.S., separate ordinances shall be required for the annexation action, the plan amendment action and the zoning action.

SECTION 21-98 - INVOLUNTARY ANNEXATION

21-98.01 - Intent

The purpose of this Section is to establish the process and criteria to involuntarily annex parcels into the City limits. An involuntary annexation shall be in accordance with the requirements of Chapter 171 F.S. An annexation decision is a legislative action and shall be administered accordingly.

SECTION 21-99 - ABANDONMENTS AND VACATIONS

21-99.01 - Intent

The purpose of this Section is intended to establish the process and criteria for abandoning and vacating public rights-of-way, easements and plats. Abandonments and vacations are legislative actions and shall be administered accordingly.

21-99.02 - Application Requirements

An application must be submitted by an adjacent owner of record or the owner of a platted parcel. The application shall include:

a. A recent boundary survey showing the area to be abandoned and the adjacent parcels.

b. A legal description of the area to be abandoned including the Tax Parcel Identification number.

c. Letters of support or opposition from the adjacent property owners of record.

d. Letters of support or opposition from the affected utility companies and adjacent governments as may be applicable.

e. A statement of the reason for the request.

21-99.03 - Procedures

a. The applicant shall complete the application provided in the instruction package and pay the application fee.

b. The public notice for an abandonment and vacation shall be as provided in current Florida Statutes.

c. The complete application package shall be submitted to TRC for review and comments.

d. Following review of the TRC, the Development Services Department shall prepare written findings of fact which at a minimum address:

1. The consistency with the Comprehensive Plan's Objectives and Policies.
2. The effects, if any, on any planned or programmed expenditures of any public agency.
3. An assessment of the effects on adjacent property.
4. A description of the adjacent land uses, zoning and site development criteria.
5. Any other appropriate information.
6. The certification that the current taxes have been paid.

e. The application, findings of fact and staff report will be transmitted to the P&ZB for a public hearing and a recommendation.

f. The P&ZB recommendation including the staff report and staff recommendation will be transmitted to the City Council.

g. The City Council action shall be by Resolution in the manner provided by Chapter 166, F.S.

h. Volusia County shall be furnished with a certified copy of the Resolution describing the final order in conformance with the requirements of Chapter 177, F.S.

21-99.04- Approval Criteria

The City Council must make the following findings of fact to approve an abandonment and vacation:

a. The proposed abandonment and vacation is substantially consistent with the

Comprehensive Plan's Goals, Objectives and Policies.

b. The proposed abandonment and vacation will not affect the ownership or conferment access of persons owning adjacent property.

c. Other matters of concern applicable to the specific area involved.

21-99.05- Decision Effects

If the City Council approves the abandonment and vacation, ownership of the abandoned area reverts to the adjacent property owners of record in accordance with State Statutes or as defined by the Volusia County Property Appraiser.

21-99.06- Appeals

Appeals of abandonment and vacation decisions by the City Council shall be to the Circuit Court.

SECTION 21-100 - VARIANCES

The purpose of this Section is to establish the process and criteria to allow a modification of the strict application of Article IV - Resource Protection Standards and Article V - Project Design Standards requirements under limited conditions. This section also establishes criteria whereby an applicant can appeal code interpretations made by the staff.

21-100.01 - General Requirements

a. The variance application shall be consistent with the current Comprehensive Plan and zoning district. Variance applications inconsistent with the Comprehensive Plan shall require a Comprehensive Plan amendment. Variance applications inconsistent with the zoning district shall require a rezoning application.

b. Economic hardship shall not be sufficient justification to grant a variance.

c. No development permit, Business Tax Receipt or Certificate of Occupancy shall be issued for any property that is subject to a variance, until the process is completed.

d. A variance request for any use not permitted within a certain zoning district shall not be considered.

21-100.02 - Procedures

a. All applicants for a variance shall schedule a preapplication meeting with the Development Services Department to discuss the requirements and possible schedule. The staff will determine whether an administrative variance or a non-administrative variance is appropriate based on the specific conditions of the applicant's property;

b. The staff will provide an applicant with a current copy of the necessary forms and instructions for either an administrative variance or a non-administrative variance as may be appropriate.

c. At a minimum, the variance application shall include:

1. The signature of the property owner, or his authorized agent;
2. A copy of a recent survey of the subject property, signed and sealed by a surveyor licensed in the State of Florida;
3. The tax parcel identification number from the Volusia County Property Appraiser;
4. A site plan, as may be appropriate;
5. Any other material deemed necessary by the staff; and
6. Payment of the appropriate application fee as established by Resolution.

21-100.03 - Administrative Variance

a. Upon receipt of a completed application for an administrative variance, the Development Services Director/Building Official may grant a variance only in the following situations:

1. The variance involves real property materially affected by any governmental public utility, road improvement or condemnation actions;
2. The variance requests a reduction in the number of required parking spaces of ten percent (10%) or less; or
3. The variance involves site dimensions of less than one (1) foot.

b. In determining whether to grant an administrative variance, the Development Services Director/Building Official shall make the following findings of fact:

1. That there is no alternative available to allow reasonable use of the property; and/or
2. That granting of the variance will not result in parking in the public right-of-way or an easement; and/or
3. That granting of the variance will not result in a use which is incompatible with adjacent properties.

c. The administrative variance decision shall be transmitted in writing to the applicant

within thirty (30) days of receipt of the application.

d. An applicant or an adjacent property owner may appeal an administrative variance decision to the P&ZB provided it is filed within fourteen (14) days of the action by the Development Services Director/Building Official on the administrative variance application. A separate application and fee shall be required for such an appeal.

e. The administrative variance may prescribe a reasonable time limit within which the action for the variance is required shall begin, be completed or both.

21-100.04 - Non-Administrative Variance

a. A non-administrative variance application shall be completed by the applicant and submitted to the Development Services Department.

b. Public notice regarding the non-administrative variance application shall be provided in accordance with current Florida Statutes.

c. Upon receipt of the completed application, the Development Services Department shall provide a staff report and recommendation to the P&ZB.

d. In order to grant a non-administrative variance, the P&ZB shall make the following findings of fact:

1. That granting of the proposed variance is not in conflict with the Comprehensive Plan;
2. That granting of the proposed variance will not result in creating or continuing a use which is not compatible with adjacent uses in the area;
3. That granting of the proposed variance is the minimum action available to permit reasonable use of the property;
4. That the physical characteristics of the subject site are unique and not present on adjacent sites; and
5. That the circumstances creating the need for the variance are not the result of actions by the applicant or actions proposed by the applicant.

e. The P&ZB may prescribe appropriate conditions for any variance and may prescribe a time limit for application of the variance.

21-100.05 - Expiration

Unless specifically stated otherwise, a variance shall expire two (2) years after final action unless a building permit or certificate of occupancy has been issued.

21-100.06 - Appeals

Appeals of P&ZB variance decisions shall be made to the City Council within fifteen (15) days of the P&ZB decision in a manner and form required by the City Council.

SECTION 21-101 - DEVELOPMENT AGREEMENTS

21-101.01 - Intent

It is the intent of this Section to set forth the procedures and requirements necessary for the City to consider and enter into Development Agreements in accordance with planned residential, business or industrial developments that encourage efficient use of resources and reduce the economic cost of development.

21-101.02 - Procedures

a. A Development Agreement application may only be submitted by the owner, the owner's designated agent or any other person having a contractual interest in the parcel of land proposed for development.

b. Upon receipt of a completed application, the appropriate fee and required supporting material, the Development Services Department will schedule a meeting for review of the proposed Development Agreement.

c. If the proposed development requires site plan approval, the applicant shall submit an application meeting the requirements of Section 21-93.

d. If the proposed development requires subdivision plat approval, the applicant shall submit an application meeting the requirements of Article XIII.

e. If the proposed development requires rezoning of the property, the applicant shall submit an application meeting the requirements of Section 21-91.

f. Public notice for the P&ZB public hearing regarding the proposed Development Agreement shall be as provided in accordance with Florida Statutes.

g. Upon legal review, staff recommendations and public notice requirements the Development Agreement application shall be scheduled for the next available P&ZB meeting.

h. The P&ZB shall consider the Development Agreement at a public hearing and make a decision recommending approval or denial of the Development Agreement to the City Council.

i. Following the P&ZB public hearing, a public hearing regarding the proposed Development Agreement shall be scheduled for the next available City Council meeting in compliance with the notice requirements in accordance with Florida Statutes.

j. The City Council shall either grant, grant with amendments or deny the application for a Development Agreement.

k. Within ten (10) days after the City Council executes the Development Agreement, a copy shall be provided to the developer/owner and the Development Services Department.

21-101.03 - Development Agreement Requirements

a. A Development Agreement shall, at a minimum, address the following:

1. A plat or legal description including acreage of the land subject to the Agreement and the names of legal and equitable owners.

2. The duration of the agreement.

3. The development uses permitted on the land including:

a) The current or proposed zoning designation of the property.
b) Minimum lot size and density or intensity.
c) Minimum square footage of buildings.
d) Minimum yard sizes/setbacks.
e) On and off-site road and signalization improvements.
f) A description of any reservations or dedications of land for public purposes.
g) Stormwater retention.
h) The future land use designation of the property.
i) A description of public facilities that will service the development, including who shall provide such facilities, the date any new public facilities, if needed, will be constructed and a schedule to assure public facilities are available concurrent with the impact of the development. Any public facilities to be designated and/or constructed by the developer shall be in compliance with all applicable federal, state and local standards to ensure the quality of the public facilities. The standards shall include, but not be limited to guarantees of performance and quality and project controls (including scheduling, quality control and quality assurance).
j) Consistency of development with the Comprehensive Plan.
k) A description of all local, state, federal or other development permits.
l) Applicable impact fee schedule.
m) Development requirements such as:
1) Any required Comprehensive Plan Amendment.

2) Any required rezoning.
3) Any required permits by the City, Florida Department of Environmental Protection, U.S. Army Corps of Engineers, St. Johns River Water Management District, United States Environmental Protection Agency and any other governmental approvals.
4) Any required subdivision plat approval.
5) Any final development order authorizing construction in accordance with the provisions of the Concurrency Management System requirement of Article XI.
6) Site plan approval.
7) Homeowners Association (if applicable).
8) Health, safety and welfare requirement.
9) Appeals.
10) Performance guarantees.
11) Binding effect.
12) Recording.
13) Period review.
14) Applicable law.
15) Time of the essence.
16) Agreement/amendment.
17) Further documentation.
18) Specific performance.
19) Attorney's fees.
20) Counterparts.
21) Captions.
22) Severability.

n. The Development Agreement shall specifically provide that all development permits shall be obtained at the sole cost of the applicant/property owner and that in the event that any such development permits are not received, no further development of the property shall be allowed until such time as the City Council has reviewed the matter and determined whether or not to terminate the Development Agreement or to modify it in a manner consistent with the public interest and the Comprehensive Plan.

21-101.04 - Development Agreement Execution

a. A Development Agreement shall be executed by all persons having legal or equitable title in the subject property, including the fee simple owner and any mortgagees, unless the City Attorney approves the execution of the Development Agreement without the necessity of such joinder or subordination based on a determination that the substantial interests of the City will not be adversely affected thereby. A Development Agreement is

determined to be a legislative act of the City in the furtherance of its powers to plan, zone and regulate development within its boundaries.

b. In the event that the State and Federal laws are enacted after the execution of a Development Agreement which are applicable to and preclude the parties compliance with the terms of the Development Agreement, such agreement shall be modified or revoked as it is necessary to comply with the relevant State or Federal laws.

21-101.05 - Amendment and Cancellation

a. A Development Agreement may be amended or canceled by written mutual consent of the parties to the agreement or by their successors in interest. Prior to amending a Development Agreement, a public hearing shall be held by the City Council with due public notice.

b. If the Development Agreement is amended, canceled, modified, extended or revoked, notice of such action shall be provided to the applicant/owner with a copy to the Development Services Department.

21-101.06 - Expiration

a. The term of a Development Agreement may be for any period mutually acceptable to all parties.

b. A Development Agreement may be extended by mutual consent of the parties subject to a public hearing before the City Council.

21-101.07 - Monitoring

a. The City shall periodically review the development subject to the Development Agreement to determine if there has been good faith compliance with the terms of the agreement.

a. If the City makes a finding that there has been a failure to comply with the terms of the Development Agreement, a public hearing shall be conducted. If the City Council determines evidence that the developer has not complied in good faith with the terms and conditions of the Development Agreement, the agreement may be modified or revoked.

SECTION 21-102 - EXCAVATION PERMITS

21-102.01 - General Provisions

Excavation operations shall not be conducted within the City without approval by the City Council. The term "excavation operation" includes any operation that involves the excavation or removal of earth in excess of one hundred (100) cubic yards.

a. Notwithstanding the forgoing, the following activities shall not require an excavation permit:

    1. Installing utilities.
    2. Installing foundations for any building or other structure, or undertaking any approved development authorized by site plan approval, conditional use, Right-of-Way Utilization Permits, preliminary plat and construction plan approval, building permit, development order or stormwater permit.
    3. Construction of drainage or mosquito control ditches and canals by authorized units and agencies of government.

21-102.02 - Application Requirements

An application for an excavation permit shall be submitted to the Development Services Department after a preapplication conference. At a minimum, the application shall contain an operational statement, an excavation plan and a reclamation plan as described below.

a. An operational statement shall be provided to include a description of the proposed operational practices that, at a minimum, address the following:

    1. The purpose of the excavation operation and size of the area to be excavated.
    2. A timetable or schedule for excavation activities, from commencement of operations through completion of reclamation.
    3. The proposed days and hours of operation, including maintenance and service of equipment.
    4. The method of extraction and processing, including disposition of overburden or top soils as well as the type of excavation equipment being used.
    5. The location and estimated annual output of machinery or equipment to be used in any screening, crushing or processing operation for materials mixed or excavated on the site.
    6. Mitigation of noise, dust, air contaminants and vibration.
    7. Prevention of undue damage to public streets and roads or creation of a traffic hazard, including the posting of a bond for street repair.
    8. Protection of the existing drainage system capacity from project surface water discharges.

9. Prevention of pollution of the groundwater resources.
10. Any other information identified at the preapplication conference as necessary for the reasonable review of the proposed excavation operation.

b. The excavation plan shall be submitted in accordance with Section 21-93 (Site Plan). In addition, the plan shall include:

1. The extent of the area to be excavated, with dimensions showing property line setbacks, corner locations, required berm and swales and phase boundaries.
2. A typical cross-section showing the slope and grade of excavation side slopes, berm and swales.
3. Processing, storage and ponding or water detention areas.
4. Ground water depth.
5. Ground water flow.
6. Traffic pattern / flow layout.

c. A reclamation plan plus a performance bond in an amount determined by the City shall be submitted as part of the application. At a minimum, the plan shall include:

1. A statement of planned reclamation, including the methods to accomplish reclamation as well as the phasing and timing of reclamation.
2. The method of disposing of any equipment or structure used in the excavation operation.
3. A plan setting forth the final grade of the excavation, any water features included in the reclamation, proposed methods to prevent stagnation and pollution, landscaping or vegetative planting and areas of cut or fill.

21-102.03 - Procedures

Upon receiving a completed application and relevant supporting material, the Development Services Department will schedule a review by the TRC. The TRC shall evaluate the technical aspects of the proposed plan. The Development Services Department shall issue a report and recommendation to the P&ZB for a public hearing.

21-102.04 - Decision Criteria.

a. The P&ZB shall consider the following criteria:

1. Consistency with this Article and the Comprehensive Plan.
2. Whether the proposed excavation operation will have an undue adverse effect upon adjacent property, the character of the neighborhood, parking, utility facilities, or other matters affecting the public health, safety and general welfare.
3. Whether reasonable steps have been taken to minimize noise, dust, air contaminants and vibration.

4. Whether the proposed excavation operation will discharge to the existing drainage system.
5. Whether reasonable steps have been taken to prevent undue pollution of surface and underground water and to prevent undue alteration of the water table.
6. Whether the proposed excavation operation will cause undue damage to public streets and roads, and/or will create a traffic hazard.
7. Whether the reclamation plan is adequate to ensure that the property will be properly reclaimed upon completion of the excavation operation.

b. The P&ZB, after reviewing the application at the public hearing, shall make a recommendation to the City Council.

c. The City Council shall conduct a public hearing to consider the proposed excavation permit and either approve, approve with conditions or deny the application.

d. The applicant shall provide a performance bond or other security, approved by the City Attorney, to assure compliance with the requirements of the excavation and reclamation plans.

e. The amount of the performance bond or other security shall be set by the City Council upon recommendation by the City Manager for an amount not less than one hundred ten percent (110%) of the cost of reclamation.

f. The bond or other security shall be released by the City Council only upon a recommendation by the City Manager that all conditions and reclamations have been fulfilled. The permit shall set forth any condition, limitation or requirement by the City Council, and shall take effect when the permit is issued.

g. The applicant shall provide a maintenance bond to restore any damage to local streets or roads.

h. No excavation may commence until a Development Order is issued.

i. The permit approval shall terminate if an applicant fails to post the required performance bond or other security and obtain an excavation permit within one (1) year of the date of approval by the City Council.

21-102.05 - Suspension of Excavation Permit

a. The City Manager or his designee shall have the authority to suspend any excavation permit issued under this Section upon a determination that the permittee has failed to meet any requirements of this Section or has deviated substantially from or disregarded the terms and conditions of the permit.

b. No excavation operation shall be conducted following suspension of an excavation permit until the City Manager determines that the permittee is in full compliance with the requirements and the terms and conditions of the excavation permit and reinstates the permit.

c. The permittee under any suspended excavation permit shall be afforded the opportunity to have a hearing at a regularly scheduled meeting of the City Council.

d. The City Clerk shall notify the permittee of the date, time and location of such hearing when he/she imposes the suspension.

e. At the hearing, the City Council shall consider the evidence presented and shall:

1. Confirm the suspension, in which event excavation operations shall not be reactivated until the City Manager determines that the permittee is in full compliance with the requirements and the terms and conditions of the permit and reinstates the permit; or
2. Rescind the suspension and direct the reinstatement of the permit: or
3. Confirm the suspension and initiate proceedings to revoke the permit.

Sections 21-103 through 21-119 reserved for future use.

ARTICLE X

BOAT SLIP ALLOCATION

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SECTION 21.111 - DEFINITIONS..... X-1

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ARTICLE X

BOAT SLIP ALLOCATION

SECTION 21.110 - PURPOSE

a. Provide for the development of boat slips by right on properties adjacent to the Indian River. The excess boat slip allocation is provided to allow for a fair and reasonable means of authorizing development of the limited number of boat slips allocated to the City, in accordance with the Volusia County Manatee Protection Plan.

b. The City of Edgewater Comprehensive Plan, Future Land Use Element, Objective 1.2: Natural Resource Protection, Policies 1.2.12 - 1.2.17 in accordance with the Volusia County Manatee Protection Plan and City of Edgewater Resolution No. 2005-R-11, limits the number of boat slips allowed in the city on, adjacent to, or with direct access to, the Indian River. Information received on July 13, 2005 from Florida Fish and Wildlife Conservation Commission regarding the slip aggregation option assessment for the City of Edgewater, states the maximum number of slips permitted is 798. This number includes 160 slips allocated to waterfront parcels currently zoned or used for single-family residential purposes. Additionally, 220 slips are allocated for existing non-residential slips, leaving available 418 in the slip pool. A minimum of 15% of the allocated slips shall be allocated to the City for public access use. This quantity may be reassessed and revised with the approval of City Council. The regulations are intended to provide a fair and reasonable means of allocating the available boat slips for new development, maximize public access to the waterway, promote public use, and protect the riparian rights of property owners.

SECTION 21.111 - DEFINITIONS

Boat trailer space – A parking space associated with a boat ramp, marina or other water-related facilities designed to accommodate a boat trailer and vehicle used to tow the trailer. Such space must have direct access to the Indian River within the Edgewater municipal boundaries.

Commercial slip – Any slip, other than a Single-Family Residential Slip/Dock and a Multi-Family Residential Slip/Dock.

Dry dock/storage – A commercial storage space for a boat located out of the water but with direct or adjacent access to the Indian River within the City of Edgewater municipal boundaries.

Excess slip/excess boat slip pool. Any slip that has not been previously allocated for single-family residential purposes or allocated for existing non-residential slips and is within the maximum number of permitted slips for the city. The number of available excess slips will make up the slip pool. The slip pool is based on the State approved total number of 798 allowable slips subtracted by the number of existing single-family parcels and also non-residential existing slips as of 7/13/2005 resulting in 418 excess boat slips in the slip pool. The City Council may authorize development of boat slips in excess of the number permitted by right in accordance with the procedure set forth within this article.

Shoreline. The shortest horizontal straight line that can be established between points on the side lot lines at the mean high water line of a lot or parcel abutting the Indian River.

Slip or *boat slip*. Any space located on, adjacent to, or with direct access to the river, which space is designed for the mooring or storage of motorized watercraft or a motor vehicle with attached boat trailer. The term includes wet and dry mooring or storage spaces. The term excludes any space designated exclusively for the mooring or storage of sailboats, and excludes any space designated for transitory use only, such as; restaurant, bait shop, or fuel dock spaces. Piers authorized only for fishing or observation are not considered wet slips.

Slip inventory. The city shall maintain and continuously update a boat slip inventory list for the purpose of determining remaining boat slip capacity. The inventory shall specifically identify:

1. The number of slips that currently exist;
2. The number of undeveloped slips for which permits have been issued;
3. The number of undeveloped slips reserved;
4. The number of unreserved slips remaining; and
5. The number of slips designated for non-motorized vessels.

Slip pool or excess boat slips allocation fee – A fee established by the City of Edgewater and deposited in the Edgewater Manatee Conservation Trust Fund, is to be remitted to the City for each slip allocated from the slip pool.

SECTION 21.112 - PROCEDURES

a. Requests for excess boat slip allocation shall be submitted to the City in accordance with the general application requirements and procedures set forth in this Article.

b. The City Council may grant requests for excess boat slip allocation at a public hearing after notice provided by legal advertisement.

21.112.01 – General Requirements

a. *Single family residential*:

1. A single-family residential parcel shall have the right to and be allocated no more than two (2) boat slips without applying for excess slip(s). Single-family residential parcels with Indian River frontage shall not be denied their riparian rights to construct a minimum of two (2) motorized boats slip per parcel. The single-family parcels of record that do not contain a boat slip but were permitted as such were calculated as existing and previously deducted from the slip pool and shall not be further deducted from said slip total. However, if a single-family parcel previously calculated as existing is further subdivided, then the additional parcels shall be deducted from the slip total.

2. The owners of two or more adjacent waterfront parcels zoned for or in use as single-family residences may jointly construct and maintain a dock, subject to compliance with applicable provisions of State law and Chapter 18-21.004(4)(c), Fla. Admin. Code (2009), or as that section may be amended. A dock serving multiple parcels shall have the

right to and be allocated no more than two (2) boat slips for each upland single-family residential unit for which it serves without applying for excess slip(s).

b. *Multi-family residential*. All multi-family residential shall be considered the same as commercial allocation.

c. *Commercial*. The City Council may authorize development of commercial boat slips in consideration of the remaining slips in the excess slip pool and the net public benefit to be derived from the project.

d. *Availability.* Slips shall be allocated on a "first come, first served" basis.

21.112.02 - Criteria

The City Council shall evaluate the number of excess slips remaining in the City's inventory and allocate the excess slips based on a finding of net public benefit to be derived from the project. The finding of net public benefit shall be based on the effect the project has on public use and access to the waterway, including but not limited to the following factors:

a. The number of excess slips in the project that will be made available for purchase, lease or use by the general public.

b. Construction expansion or improvements to new or existing public spaces, parks, plazas, walkways or other features providing access to the waterfront for the general public, on or off-site.

c. Parking spaces associated with a boat ramp, marina or other water-related facilities designed to accommodate a boat trailer and vehicle used to tow the trailer shall be considered a boat slip for allocation purposes. Such space must have direct access to the Indian River within the Edgewater municipal boundaries.

d. Construction expansion or improvement of a public dock or boat ramp and related facilities.

e. Redevelopment of upland uses in a redevelopment area consistent with the adopted area plan.

f. Preservation of upland historic properties or structures.

g. Construction or allocation of excess slips designed to benefit an underserved segment of the boating public.

h. Acquisition of upland for public use.

i. Improvements to existing water-related facilities for use by the general public.

j. Financial contribution toward a project as described above or any public project that will enhance public use of and access to the waterway, and riparian lands within the City.

21.112.03 - Effect of Approval

a. *Reservation.* Slips may be reserved from the slip pool through payment of a boat slip reservation application fee. All lots of record as of July 13, 2005 (other than single-family) shall be afforded a one-time opportunity to reserve slips. An excess boat slip reservation application fee for the slip shall have the effect of placing a reservation on the allocated boat slips for a 3-year period, provided the annual reservation fee is paid. Any slips reserved during this period shall be removed from the available slip pool and held in reserve for those that have paid the boat slip reservation application fee. Any number of slips the applicant does not build during the above-referenced reservation period shall be returned to the slip pool.

b. *Reservation fee.* Upon approval by the City Council, the boat slips shall be reserved provided the applicant pays 100% of the boat slip reservation fee within fifteen (15) days from the date of approval. This fee is non-refundable without the authorization of the City Council. At their discretion, the City Council may approve a refund, less a five percent (5%) administrative fee, if the applicant makes the request within one (1) year of date of initial approval.

c. *Use Fee.* All applicants receiving allocation of any slips from the excess slip pool after the adoption of this Article will be required to pay an annual renewal use fee. The fees will be used to establish the Edgewater Manatee Conservation Trust Fund to provide funding for increased enforcement of manatee speed zones, additional equipment for on-the-water enforcement efforts, manatee conservation and education in an effort to support aquatic habitat conservation, and restoration efforts designed to protect manatees on the Indian River.

d. *Construction*. Applicant has three (3) years from the date of City Council approval to begin construction of the assigned excess boat slips. If construction does not begin within three years, the right to develop the slips shall expire and the reserved slips shall be released and returned to the slip inventory as available.

e. *Extensions to timetable of approved reserved slips*. Reserved boat slips may be extended for a period of one (1) year administratively by the city manager or designee provided the applicant can demonstrate significant good faith efforts in moving toward construction permitting approval. The City will determine good faith effort based on the applicant's attempt to secure required permitting. These attempts should be initiated at the onset of slip allocation approval and show evidence of continuous progress throughout the initial three (3) year approval window.

21.112.04 - Application Process

a. Projects including new or expanding boat facilities (with the exception of single-family residential slip/docks that presently have two slips presently allocated to the parcel) shall submit an excess boat slip allocation request to the Development Services Department along with their building permit and/or site plan submittal.

b. Projects including new or expanding boat facilities requesting excess slips to be allocated from the slip pool will be considered based on finding of net public benefit to be derived from the project and shall require approval from City Council.

c. The number of excess boat slips allocated to a project will become a condition of the Development Order. In the event a Development Order expires prior to the expiration of the permitted reserved slip allocation expiration, the allocated slips will automatically be revoked, and the number of slips shall be placed back into the slip pool.

SECTION 21.113 - FEES

a. The City Council shall establish the following fees in the Fee Resolution.

b. The Boat Slip allocation Permit fee will be collected, along with the Volusia County mitigation fee, prior to building permit issuance.

Excess Boat Slip Allocation Permit

1. Reservation and extension application fee, per slip per year
2. Single family residence application fee, per slip
3. Multi-family residence application fee, per slip
4. Commercial boat slips application fee

Excess Boat Slip Annual Use Renewal

1. Single family residence annual use fee, per slip
2. Multi-family residence annual use fee, per slip
3. Commercial boat slips annual use fee

21.113.01 - Renewal of Use Fee

a. The renewal of the excess boat slip annual Use Fee will be due on October 1st of each year from the time of permit issuance.

b. Any excess boat slip pool allocation renewal use fee that is not received within 30 days beyond the due date will receive a Notice of Violation requesting remittance of the fee. If the renewal fee is not satisfied within 30 days of issuance of the Notice of Violation, the City of Edgewater may impose appropriate liens equivalent to the excess boat slip pool allocation renewal use fee and any additional filing and administration fees. The lien shall be placed on the real property, and may be compounded annually, that the excess boat slip is assigned to.

ARTICLE XI

CONCURRENCY MANAGEMENT SYSTEM

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Sections 21-138 through 21-139 reserved for future use.

ARTICLE XI

CONCURRENCY MANAGEMENT SYSTEM

SECTION 21-130 - PURPOSE AND INTENT

Concurrency is a finding that the required public facilities and services necessary to support a proposed development are available, or will be made available, concurrent with the impacts of the development. This Article is intended to provide a systematic process for the review and evaluation of all proposed development for its impact on public facilities and services as required by Chapter 163.3180, Florida Statutes (F.S.) and Rule 9J-5.0055, Florida Administrative Code (FAC).

Public facilities and services in the City of Edgewater that are subject to these regulations include:

1. Potable Water
2. Sanitary Sewer
3. Drainage/Stormwater
4. Recreation/Open Space
5. Solid Waste
6. Roadways
7. Schools

The purpose of this Article is to ensure that Development Orders and permits are conditioned on the availability of these facilities and services that meet adopted level of service requirements identified in this Article. This Article is also intended to describe the requirements and procedures for determining consistency of proposed development with the City of Edgewater's Comprehensive Plan.

SECTION 21-131 - CONSISTENCY WITH CITY'S COMPREHENSIVE PLAN

Pursuant to the requirements of Chapter 163.3194 (1)(a), F.S., all development applications must represent projects that are consistent with the City of Edgewater Comprehensive Plan, particularly the Future Land Use Element designations for the subject parcel. Upon a determination by the City staff that a proposed project is consistent with the Plan, the development permit applications shall demonstrate that the public facilities listed above shall be available at prescribed levels of service when the impact of the development occurs.

The provisions of this Article implement the following policies of the Comprehensive Plan:

Future Land Use Element,
Traffic Circulation Element,
Sanitary Sewer Sub-element,
Potable Water Sub-element,
Drainage Sub-element,
Coastal Management Element and
Recreation & Open Space Element

SECTION 21-132 - CONCURRENCY REVIEW PROCESS

21-132.01 - General

a. The Development Services Director shall be responsible for the administration of the Concurrency Management System. No final Development Order shall be issued for any project unless it meets the conditions stated in this Article.

b. The Development Services Director shall present a concurrency management status report to the Planning and Zoning Board to allow its review and recommendation to the City Council for preparation of the City's Capital Improvement Element and Budget.

21-132.02 - Application

a. All applicants for projects subject to a concurrency review shall make application in the manner and form prescribed by the Department and shall at a minimum include the proposed use, its density or intensity and anticipation completion date.

b. No application for concurrency review shall be accepted unless accompanied by the required documentation and application fee.

c. The City shall issue a capacity availability determination upon completion of the review. If transportation capacity is deemed not available, then the applicant shall be notified in writing of the opportunity to satisfy transportation concurrency through the City’s proportionate fair-share program.

21-132.03 - Traffic Counts

The Development Services Department shall annually publish the annual average daily vehicle trip counts for the arterial, collector and local roadway segments affecting the City.

21-132.04 - Concurrency Determination

The Development Services Department shall provide the applicant with a written concurrency determination concerning the proposed development no later than twenty-one (21) working days after submission of the application.

a. Identifying the available capacity of each facility cited in herein; and

b. Identifying any facility deficiencies; and

c. Identifying the improvements required for a deficient facility to meet the adopted level of service standards; and

d. Other such findings as may be pertinent to the specific project.

21-132.05 - Appeals

An applicant may appeal concurrency determination made by the Development Services Director as described in Article I.

21-132.06 - Concurrency Resolution

If the concurrency review determines that the proposed project will cause the level of service standards for one or more of the facilities listed in Section 21-134 to be exceeded, the City and the applicant may enter into a Developer's Agreement pursuant to the requirements of Chapter 163, F.S.

21-132.07 - Fees

The fees for concurrency management reviews and other matters shall be as established by resolution.

SECTION 21-133 - APPLICABILITY AND EXEMPTIONS

All proposed development projects shall be subject to concurrency review, unless specifically exempted below. In no case, shall a Development Order be issued for a minimum threshold project which would impact a public facility for which a moratorium, or deferral on development has been placed.

21-133.01 - Projects Below the Minimum Threshold

The following projects shall be exempt from concurrency review:

a. Residential projects resulting in the creation of a one single family dwelling or one two family dwelling as well as projects that entail structural alterations to such structures which do not change the use of the structure or land; or

b. Change of use, or expansion, of non-residential projects of up to ten percent (10%) of the existing gross floor area, providing such change of use or expansion is estimated to generate less than a fifteen percent (15%) increase in utility demand for the changed or expanded structure. Vehicle trip generation data shall be pursuant to the latest edition of the Institute of Traffic Engineers publication, Trip Generation Manual; or

c. Construction of residential or non-residential accessory buildings and structures which do not create additional public facility demand; or,

d. Actions administered through non-impact Development Orders as well as other developments which do not increase demand on public facilities, such as grading or excavation of land, or structural alterations which do not include a change of use and satisfy provisions of (a) and (b) above.

21-133.02 - Vested Projects

Projects with valid final Development Orders prior to September 11, 2006 shall be considered vested and exempt from concurrency management. These Development Orders shall include the following:

a. Any project for which a valid building permit was issued prior to adoption of this Code and has not expired; or

b. All vacant lots in single family detached, single family attached and two family subdivisions that were platted and recorded prior to adoption of this Code.

21-133.03 - Redevelopment Projects

a. If a redevelopment project generates demand in excess of one hundred fifteen percent (115%) of the establishment it is replacing, a concurrency review shall be required. However, the concurrency review shall only be directed to the demand generated that exceeds the demand of prior existing development.

b. If the proposed redevelopment generates equal, or less, demand than the existing project, the applicant for concurrency review shall be given a concurrency credit memorandum within thirty (30) days of the concurrency evaluation which enables the applicant to reserve the unused capacity. The concurrency credit memorandum will expire within three (3) years of its issuance. The applicant's submission of an application for a demolition permit shall initiate the concurrency review for the express purpose of issuing credits for redevelopment.

SECTION 21-134 - FINAL DEVELOPMENT ORDER CRITERIA

A final Development Order shall not be granted for a proposed development unless the City finds that capacity for public facilities exists at, or above, adopted level of service (LOS), or that improvements necessary to bring concurrency facilities up to their adopted LOS will be in place concurrent with the impacts of the development. The City shall find that the criteria listed below has been met in order for a proposed development to be found in compliance with concurrency management requirements.

21-134.01 - Sanitary Sewer, Solid Waste, Drainage and Potable Water Facilities

Sanitary sewer, solid waste, drainage and potable water facilities shall, at a minimum, meet the following standards to satisfy the concurrency requirements:

a. A Development Order is issued subject to the condition that at the time of the issuance of a Certificate of Occupancy, or its functional equivalent, the necessary facilities and services are in place and available to serve the new development; or

b. At the time the Development Order is issued, the necessary facilities are guaranteed in an enforceable Development Agreement pursuant to Section 163, F.S.; or

c. An agreement, or Development Order, issued pursuant to Chapter 380, Florida Statutes, to be in place and available to serve new development at the time of the issuance of a Certificate of Occupancy.

21-134.02 - Parks and Recreation Facilities

Parks and recreational facilities shall, at a minimum, ensure the following standards are met:

a. At the time the Development Order is issued, the necessary facilities are in place or actual construction has commenced; or

b. A Development Order is issued subject to the condition that at the time of the issuance of a Certificate of Occupancy, the acreage for the necessary facilities to serve the new development is dedicated, or acquired by the City, or funds in the amount of the developer's fair share are committed; and

    1. A Development Order is issued subject to the conditions that the necessary facilities needed to serve the new development are scheduled to be in place, or under actual construction, not more than one (1) year after issuance of a Certificate of Occupancy, as provided in the City=s Capital Improvement Element; or
    2. At the time the Development Order is issued, the necessary facilities are the subject of a binding executed agreement which requires the necessary facilities and services to serve the new development to be in place or under actual construction nor more than one (1) year after issuance of a Certificate of Occupancy; or
    3. At the time the Development Order is issued, the necessary facilities are guaranteed in an enforceable development agreement pursuant to Section 163 Florida Statutes or under actual construction not more than one (1) year after issuance of a Certificate of Occupancy.

21-134.03 - Transportation Facilities

Transportation facilities shall, at a minimum, meet the following standards:

a. At the time a Development Order is issued, the necessary facilities and services are in place or under construction; or satisfy transportation concurrency by making a proportionate fair-share contribution.

21-134.04- Proportionate Fair-Share Program

a. The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the Proportionate Fair-Share Program, as required by and in a manner consistent with Section 163.3180(16), Florida Statutes. Proportionate Fair-Share payments shall be distinct and separate payments from and shall not be considered the same as impact fee payments. Impact fees are imposed by the City to replace capacity utilized by growth and to provide funding for long-range transportation plans. Proportionate fair-share is assessed to pay for specific deficiencies to the transportation network resulting from development and enabling development to meet level of service (LOS) concurrency requirements. Proportionate Fair Share

enables development to meet concurrency requirements by proportionately paying for improvement projects.

b. The Proportionate Fair-Share Program shall apply to all developments that fail to meet the standards of concurrency on a roadway within the City including those facilities that are the responsibility of Volusia County or the Florida Department of Transportation (FDOT). The Proportionate Fair-Share Program does not apply to Developments of Regional Impact (DRI) using proportionate fair share under Section 163.3180(12), Florida Statutes or to developments exempted from concurrency as provided in Chapter 163.3180, Florida Statutes.

21-134.05- Proportionate Fair-Share General Requirements

a. An applicant may choose to satisfy the transportation concurrency requirements by making a proportionate fair-share contribution for impacts of new development that have or will have an LOS deficiency as defined in this division, pursuant to the following requirements:

    1. The proposed development is consistent with the comprehensive plan and applicable land development regulations.

    2. The proposed development impacts a part of the transportation network that is deemed by the maintaining agency to have an existing level-of-service deficiency or is proposed to cause a new deficiency on the network.

    3. The road improvement necessary to maintain the adopted LOS is specifically identified for construction in the five-year schedule of capital improvements in the Capital Improvements Element (CIE) of the Comprehensive Plan. The provisions of Section 21-134.04(d) may apply if a transportation project or projects are needed to satisfy concurrency and are not presently included within the City's CIE.

b. If an applicant meets the criteria contained in Section 21-134.05(a), and the City's CIE does not include the transportation improvements necessary to satisfy the LOS deficiency, then the City may allow transportation concurrency improvements and funding for the project through the proportionate fair-share upon compliance with the following criteria:

    1. The improvement shall not be contained in the first three years of the City's five-year schedule of capital improvements in the CIE;

    2. The City adopts by resolution a commitment to add the improvement funded by the developer's proportionate share assessment to the five-year schedule of capital improvements in the CIE at a point no later than the next scheduled annual update. To qualify for consideration under this section, the developer shall be required to submit for review and obtain the City's approval of the financial feasibility of the proposed improvement pursuant to Section 163.3180, Florida Statutes, consistent with the comprehensive plan, and in compliance with the provisions of this ordinance;

    3. The City agrees to enter into a binding proportionate fair share agreement;

4. The City agrees to amend the five-year schedule of capital improvements in the City's CIE at the next annual review or if the funds allocated for the five-year schedule of capital improvements in the City's CIE are insufficient to fully fund construction of a transportation improvement required by the Concurrency Management System (CMS) to make the project concurrent, the City may still enter into a binding proportionate fair-share agreement with the applicant; provided, however, that the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which shall, in the opinion of the City Council, alleviate the concurrency concern and the CIE is amended accordingly at the next annual review.

5. The improvement proposed to meet the developer's fair-share obligation shall meet the design standards of the applicable agency responsible for maintenance.

6. The improvement shall provide necessary capacity to address transportation concurrency needs for the five-year period following execution of the fair-share agreement.

c. Pursuant to policies in the lntergovernmental Coordination Element of the Comprehensive Plan, the City shall coordinate with Volusia County and other affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.

21-134.06- Proportionate Fair-Share Application Process

a. Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall be notified of the opportunity to satisfy transportation concurrency through the Proportionate Fair-Share Program.

b. Prior to the submittal of an application, eligible applicants shall schedule a pre-application meeting with the Development Services Department. Subsequent to the pre-application meeting, eligible applicants shall submit a completed development application and all documentation requested by the City. The City shall establish applicable application fees for the cost of reviewing the application. If the impacted facility is on the Strategic lntermodal System (SIS), then FDOT will be notified and invited to participate in the pre-application meeting. The City shall also have the option of notifying and inviting Volusia County and any other affected agency.

c. The Development Services Department shall review the application and certify that the application is sufficient and complete within 10 working days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair-Share Program, then the applicant will be notified in writing of the reasons for such deficiencies. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application will be deemed withdrawn and all fees forfeited to the City. The Council may, in its discretion, grant an extension of time not to exceed 60 days to

cure such deficiencies provided that the applicant has shown good cause for the extension and has taken reasonable steps to affect a cure.

d. Pursuant to Section 163.3180(16)(e), Florida Statutes, proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrency of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.

e. When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the City, or by the applicant subject to the approval of the City, and delivered to the appropriate parties for review no later than 60 days from the date at which the applicant received the notification of a sufficient, complete, and eligible application. If the agreement is not received by the City within these 60 days, then the application will be deemed withdrawn and all fees forfeited to the City.

f. No proportionate fair-share agreement will be effective until approved by the City Council.

21-134.07 - Determining Proportionate Fair-Share Obligation

a. Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.
b. A development eligible for participation under the Proportionate Fair-Share Program shall not be required to pay more than its proportionate fair share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.

c. The methodology used to calculate a development's proportionate fair-share obligation towards a road and/or intersection shall be as provided for in Section 163.3180(12), Florida Statutes, as follows:

1. The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS; or

2. Proportionate fair-share = $\sum[[(\text{Development Trips}_i) / (\text{SV Increase}_i)] \times \text{Cost}_i]$
Where:

Development Trips_i = The cumulative trips from a development that will arrive on a road segment and/or intersection at the build-out of the stage or phase of development under review.

$SV\ Increase_i$ = Service volume increase provided by the eligible improvement to roadway segment "i" based on the adopted LOS for that facility and/or intersection;

$Cost_i$ = Adjusted cost of the improvement to segment "i". Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, environmental mitigation and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

d. For the purposes of determining proportionate fair-share obligations, the City Engineer shall determine improvement costs based upon the actual and/or anticipated cost of the improvement in the year that construction would occur.

e. If the applicant proposes an improvement, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and reviewed by the City Engineer.

f. The City may accept a contribution of land for all or part of the proportionate fair-share payment provided that such land is related to proposed development project. If the City accepts such land, then credit for the said land shall be valued on the date of execution of the agreement at 100 percent of the most recent fair market value established by an independent appraiser. The appraiser shall be authorized by the City to perform the work and shall be paid by the developer. The applicant shall supply a survey, legal description and an Ownership and Encumbrance Report or title insurance policy dated no more than six months at no expense to the City. If the estimated value of the land dedication proposed by the applicant is less than the fair-share obligation, then the applicant shall also pay the difference.

21-134.08 - Impact Fee Credit for Proportionate Fair-Share Mitigation

a. Proportionate fair-share contributions shall be applied as a credit against City road impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address capital infrastructure improvements contemplated by Section 21-323 of the Land Development Code (LDC).

b. Impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Impact fees owed by the applicant will be reduced per the proportionate fair-share agreement as they become due pursuant to Section 31-323 contained in the LDC. Once the credit has been exhausted, payment of road impact fees shall be required for each permit issued. The impact fee credit shall be established when the proportionate fair-share contribution is received by the City.

c. The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed project. As a result, any road impact fee credit based upon proportionate fair-share contributions for a proposed project cannot be transferred to any other project.

21-134.09 - Proportionate Fair-Share Agreements

a. Upon execution of a proportionate fair-share agreement ("Agreement") as approved by City Council, the applicant shall receive a certificate of concurrency approval. Should the applicant

fail to apply for a building permit within 18 months, then the Agreement and the certificate of concurrency approval shall be considered null and void, and the applicant shall be required to reapply.

b. Payment of the proportionate fair-share contribution is due in full no later than the issuance of the first building permit, and shall be non-refundable. If the payment is submitted more than 90 days from the date of execution of the Agreement, then the proportionate fair-share cost shall be recalculated at the time of payment, pursuant to Section 21-134.07, and adjusted accordingly.

c. In the event an Agreement requires the applicant to pay or build 100 percent of one or more road improvements, all such improvements shall be commenced prior to the issuance of a building permit and assured by a binding agreement that is accompanied by a surety device, as determined by the City, which is sufficient to ensure the completion of all required improvements. It is the intent of this section that any required improvements be completed before the issuance of Certificates of Occupancy.

d. Dedication of necessary rights-of-way for facility improvements pursuant to a proportionate fair-share agreement shall be completed prior to the issuance of the first building permit but shall not include a building permit issued for an uninhabited model home.

e. Any requested change to a development subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.

f. Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the Agreement. The application fee and any associated advertising costs paid to the City will be non-refundable.

g. The City may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

21-134.10 - Appropriations of Fair-Share Revenues

a. Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the CIE, or as otherwise established in the terms of the proportionate fair-share agreement. Proportionate fair-share revenues may be used as the 50 percent local match for funding under the FDOT Transportation Regional Incentive Program (TRIP), or any other matching requirement for state and federal grant programs as may be allowed by law.

b. In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of Section 21-134.05.

SECTION 21-135 - ADOPTED LEVEL OF SERVICE STANDARDS

Table XI-1 depicts the level of service standards for those public facilities for which concurrency is required and are found in the Capital Improvement Element (Concurrency Management System of the Comprehensive Plan). These standards may only be changed by the full-scale plan amendment process described in Article IX.

TABLE XI - 1
ADOPTED LEVEL-OF-SERVICE STANDARDS

Level of Service Standards		**Recreation / LOS /Person**
Sanitary Sewer -	95 gallons/capita/day	5 acres of parkland per 1,000 residents
Solid Waste -	2.75 lbs./capita/day	
Drainage -	25 year/24 hr storm	
Potable Water -	100 gallons/capita/day	
Local Streets -	LOS E	

Source: Capital Improvement Element
Note: Roadway Levels of Service are based on the PM Peak Hour

SECTION 21-136 CONCURRENCY DEMAND METHODOLOGY

The levels of service standards for all concurrency facilities are listed in Table XI-1. The applicant shall provide the Development Services Department with the information to determine if a proposed development is consistent with the City's concurrency requirements. The demand on concurrency facilities generated by the applicant's development shall be defined consistent with the City's Level of Service.

21-136.01 – Roadways - Traffic Impact Analysis Methodology and Requirements

The City hereby adopts, as an administrative requirement, the submission of a traffic impact analysis for those development applications, which are subject to concurrency review. The administrative rule relating to the required submission, which is hereby adopted by reference as fully set forth herein, as the same may be amended from time-to-time, is the document entitled *Transportation Impact Analysis (TIA) Guidelines – For Development Applications Requiring A TIA in Volusia County, Florida,* dated May 22, 2007, as approved by the Volusia County Metropolitan Planning Organization. The applicant for all development applications subject to concurrency review shall submit a traffic impact analysis using the aforementioned and most current version of *TIA Guidelines.*

21-136.02 - Solid Waste Facilities

The demand for solid waste facilities shall be 2.75 pounds per capita per day.

21-136.03 - Potable Water Facilities

The demand for potable water shall be 100 gallons per capita per day.

21-136.04 - Sanitary Sewer Facilities

The demand for sanitary sewer shall be 95 gallons per capita per day.

21-136.05 - Drainage

The applicant shall provide evidence demonstrating that the proposed project shall meet the City's adopted level of service standards for drainage (100 year storm event).

21-136.06 - Recreation and Open Space

The demand for recreation areas shall be determined by applying the recreation facilities standards found in Table XI-1.

SECTION 21-137 - INTERGOVERNMENTAL COORDINATION

21-137.01 - Multi-jurisdictional Developments

Developments, which would impact a public facility in one, or more adjacent local government jurisdictions, shall be subject to an intergovernmental review for concurrency. Table XI- 2 identifies some projects that will be subject to multi-jurisdictional review. Other proposed projects may also be subject to review by other local governments depending on the unique characteristics of the project.

TABLE XI - 2
TRAFFIC IMPACTS STUDY AREA RADII (miles)

Residential Dwell. Units	**Hotel or Motel Units**	**Office (GLFA)**	**Shop Centers (GLFA)**	**Industrial (GLFA)**
0-249 DU 0.5 miles	0-249 0.5 miles	0-99,000 0.25 miles	0-49,000 0.25 miles	0-249,000 0.5 miles
250-499 1.1 miles	250-499 1.0 miles	100-199,000 1.0 miles	50-99,999 0.5 miles	250-499,000 1.0 miles
500-1000 DU 1.5 miles	500-1000 1.5 miles	200,000 + 1.5 miles	100-199,000 0.75 miles	500-999,000 1.5 miles
1000 + 1.2 miles	1000 + 2.0 miles		200-399,000 1.0 miles	1,000,000 + 2.0 miles
			400,000 + 1.5 miles	

Source: Development Services Department
Note: GLFA = gross leasable floor area

Sections 21-138 through 21-139 reserved for future use.

ARTICLE XII

TELECOMMUNICATION TOWERS

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Section 21-149 through 21-159 reserved for future use.

ARTICLE XII

TELECOMMUNICATION TOWERS

SECTION 21-140 - PURPOSE

21-140.01 - Intent

The purpose of this Article is to establish an incentive-based regulatory system for the location of telecommunication towers so that the maximum level of service is available to users with a minimum of disruption to residential neighborhoods. The basic philosophy is to encourage the placement of monopole uses and discourage the use of guyed and lattice towers. The term monopole means a telecommunication tower consisting of a single pole or spire self supported by a permanent foundation, constructed without guy wires and ground anchors. The term others means towers that are supported by guyed wires and lattice towers. The location of telecommunication towers is quasi-judicial in nature and shall be administered accordingly.

SECTION 21-141 - LOCATION CRITERIA

21-141.01 - Tower Setbacks

a. Table XII-1 describes the tower setbacks from adjacent parcels designated on the Future Land Use Map as low density residential (LDR), medium density residential (MDR), high density residential (HDR) and public rights-of-way (R/W).

b. Except as provided in Section 21-144, Table XII-1 shows the percentile to be applied to the proposed tower height to determine the required setback from adjacent property lines. For example, a 175 foot monopole times the percentile equals 350 feet from a parcel designated LDR, MDR and HDR in the City's Comprehensive Plan and 87.5 feet from a public road R/W.

c. The setback is measured from the base of the antenna to the nearest property line.

Table XII-1
Tower Setbacks (% of height)

Land Use/Tower Height	≤ 75 Ft.	75 ≥ 100 Ft.	100 ≥ 125 Ft.	125 ≥ 150 Ft.	150 ≥ 175 Ft.	175 ≥ 200 Ft.
LDR, MDR and HDR						
Monopoles Others	100 % 110	100 % 125	125 % 200	150 % 200	200 % 300	250 % 300
Public R/W						
Monopoles Others	25 125	25 125	25 125	25 150	50 150	100 200

Source: Development Services Dept.

21-141.02 - Permitted Tower Locations

a. Towers intended for non-personal uses are not permitted in the LDR, MDR and Conservation Future Land Use (FLU) categories. Tower locations in all other FLU categories, regardless of height, will require a special permit, i.e., a public hearing by the P&Z and a public hearing by City Council.

b. Towers intended for personal uses shall not exceed the height limit in its respective zoning district, per Table V-1.

c. The height of the tower shall be measured from the crown of the nearest public road to the top of the tower, whether a stand alone tower or attached to another structure. All towers shall be designed to blend into the character of the adjacent parcels and be as unobtrusive as possible. A graphic demonstration may be necessary in this regard.

d. Telecommunication towers shall not exceed 200 feet in height.

e. All towers existing on the effective date of this Code shall become legal nonconforming uses.

f. Temporary towers may be erected when associated with a Special Use Permit issued by the City.

SECTION 21-142 - SITE DEVELOPMENT CRITERIA

21-142.01 - Lighting

Towers shall not be artificially lighted except as required by the Federal Aviation Administration.

21-142.02 - Painting

Towers not requiring FAA painting/marking shall have either a galvanized finish or painted a non-contrasting blue, gray or black finish.

21-142.03 - Construction

Towers shall be constructed to the EIA/TIA 222-E Standards, as amended from time to time, ASCE 7-95, "Minimum Design Load for Buildings and Structures", (Wind Loads Chapter), as published by the American Society of Civil Engineers and further defined by ASCE 7-88, "Guide to the Use of the Wind Load Provisions," both which may be amended from time to time; all City of Edgewater construction/building codes; and signed and sealed by a Florida licensed Professional Engineer.

21-142.04 - Multiple Use

All telecommunication towers shall be designed to accommodate at least two (2) antennas.

21-142.05 - Additions/Improvements

Any additions to existing towers shall require construction plans, signed and sealed by a Civil Engineer which demonstrate compliance with the EIT/TIA 222 Standards in effect at the time of said improvement or addition.

21-142.06 - Signage

No commercial signage or advertising shall be permitted on a communication tower. The use of any portion of a tower or perimeter fence/wall for signs or advertising purposes, including company name, banners, etc., shall be prohibited.

21-142.07 - Landscaping

New tower sites shall provide a landscape plan which conforms to the following criteria:

a. Landscaping shall be installed outside the fences.

b. Existing vegetation shall be used to the maximum extent possible in meeting these requirements.

c. Shade trees shall be planted around the outside of the fence with sufficient height and density to

obscure the barbed wire around the top of the fence in two years.

d. Shrubbery shall be planted around the outside of the fence of sufficient height and density to obscure the bottom four feet (4') of the fence within three (3) years.

e. All landscaping shall be drought tolerant (xeriscape) or be irrigated.

f. All landscaping shall be properly maintained to ensure good health and viability.

g. The prohibited vegetation described in Article V, Tables V-2 and V-6 shall not be used for landscaping tower sites.

21-142.08 - Site

A monopole site shall be limited to 2,500 square feet, no more than 500 square feet of which may occupied by the equipment building.

21-142.09 - Liability

All towers shall be covered by liability insurance to cover any damage to adjacent property or personal injury resulting from its operations. The City shall be held harmless in such cases.

21-142.10 - Lightning Protection

In order to protect adjacent structures from lightening strikes, all tower sites shall be grounded by grounding rods and buried cable and shall provide a minimum 45-degree cone of protection from the top of the tower to the ground.

21-142.11 - Fencing

All tower sites shall be surrounded by an eight-foot (8') high chain link fence with a triple strand of barbed wire and a locked access gate.

21-142.12 - Co-Location

All building permit applications shall include evidence that the applicant has made diligent, even if unsuccessful, efforts to co-locate its antenna on an existing structure within the applicant's design search area. Such evidence may include, but is not limited to at least two (2) other service providers, and/or a notarized sworn statement from the applicant to the effect that diligent efforts have been made in this regard.

SECTION 21-143 - SPECIAL PERMIT PROCESS

21-143.01 - Intent

This section describes the review process and criteria for reviewing proposed tower locations depicted in Table XII-1 as requiring a special permit process.

21-143.02 - Procedures

a. An applicant shall submit a site plan application to the Development Services Department with the appropriate review fee.

b. At a minimum, the application shall include:

   1. Name, address, phone number and fax number of the applicant's company and contact person.
   2. The signature of the property owner or written authorization for the applicant to submit the application and a copy of the lease.
   3. A legal description and boundary survey for the subject site and its latitude and longitude.
   4. The type and height of the tower.
   5. A landscape plan where required.
   6. FAA and/or FCC number as may be applicable.
   7. An Ownership and Encumbrance report for the subject property.
   8. Other such information as deemed necessary.

c. The staff shall prepare a written report analyzing the pertinent factors involved and the criteria described in Section 21-143.02 and transmit the report to the applicant and the Planning and Zoning Board (P&Z).

d. The P&Z will conduct a public hearing pursuant to the notice requirements for a Conditional Use Permit described in Section 21-92.

e. At completion of the P&Z action, the application shall be scheduled for a City Council public hearing.

f. The staff report and recommendations, including the P&Z action and public hearing input will be transmitted to the applicant and the City Council.

g. A decision of the City Council regarding telecommunication towers may be appealed to a court of competent jurisdiction.

h. The decisions by the P&Z and the City Council shall be based on competent substantial evidence pursuant to the requirements of Section 704 (a) (iii) of the Telecommunications Act of 1996.

21-143.03 - Special Permit Criteria

The applicant shall be required to submit competent substantial information to allow the staff to evaluate the following criteria in the preparation of their recommendations:

a. The location of the proposed tower to any other tower within two thousand feet (2,000').

b. Identify the attempts to utilize existing land uses within the applicant's search area to mitigate visual impacts between the proposed tower and the adjacent land uses within the applicant's search area.

c. The applicant shall demonstrate how the on-site location of the proposed tower maximizes the use of site orientation in order to minimize adverse visual impacts to any adjacent land uses.

d. The applicant shall submit information concerning proposed plans to mitigate impacts associated with the proposed tower and adjacent land uses. Mitigation plans may include, but are not limited to the utilization of compatible support structures in relation to other existing similar structures, the use of camouflaged communications facilities, the use of landscaping, screening walls, and berms/streetscapes.

e. Such evidence may include, but is not limited to photographs, videotape and a written visual impact assessment which demonstrate how the proposed tower location minimizes adverse impacts.

SECTION 21-144 - TOWER LOCATION INCENTIVES

21-144.01 - City Owned Property

The following incentives are offered for the location of antennas and/or towers:

a. An antenna may locate on any City-owned property upon execution of a lease without complying with the process described in Sec. 21-141.02. The setback restrictions in Table XII-1 shall apply, unless an antenna is located on a City water tower.

b. A proposed formal agreement for use of City property shall be considered by the City Council.

21-144.02 - Other Public Property

For the purposes of this section, other public property shall mean any property owned by any public agency or body, other than the City.

a. The applicant shall provide evidence that the respective public agency or body has agreed to a lease.

b. An antenna may locate on other public property upon execution of a lease.

c. The setback restrictions in Table XII-1 shall apply, unless an antenna is located on an existing structure.

21-144.03 - Other Private Property

a. The City encourages co-location on existing privately owned towers as long as all required setbacks are met for the new tower height.

SECTION 21-145 - ANTENNAS ON BUILDINGS

Antennas not attached to towers shall conform to the following criteria:

a. Antennas may not extend more than twenty feet (20') above the highest point of a roof, unless public safety demands clearly demonstrate otherwise.

b. Antennas and related equipment buildings will be located or screened to minimize the visual impact of the antenna upon adjacent properties and will be of a material or color which matches the exterior of the building or structure upon which it is situated.

c. No commercial advertising will be allowed on an antenna.

d. No signals, lights and/or illumination shall be permitted on an antenna or equipment building, unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

e. Any related unmanned equipment building shall not contain more than 750 square feet of gross floor area or be more than twelve feet (12') in height.

f. If the equipment building is located on the roof of the building, the area of the equipment building shall not occupy more than twenty-five percent (25%) of the roof area.

SECTION 21-146 - INSPECTIONS/CERTIFICATIONS

a. Tower owners/operators shall submit to the Inspection Division, a certified statement from a qualified, registered Professional Engineer, licensed in the State of Florida attesting to the structural and electrical integrity of the tower on the following schedule:

    1. monopole towers - every 5 years;
    2. any other type towers - every 2 years.

b. Prior to receiving final inspection by the Edgewater Building Division, documented certification shall be submitted to the FCC, with a copy to the Development Services Director, certifying that the communication facility complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER).

SECTION 21-147 - ABANDONMENT

a. In the event the use of any tower has been discontinued for a period of one hundred eighty (180) consecutive days, the tower shall be deemed to be abandoned.

b. Upon such abandonment, the owner/operator of the tower shall have an additional ninety (90) days within which to either reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower or dismantle and remove the tower.

c. In order to ensure each abandoned tower is removed, a $10,000 dollar performance bond shall be posted prior to issuance of a building permit.

d. The City may declare any abandoned telecommunication tower a nuisance per se and cause its removal pursuant to the provisions of the City Code.

SECTION 21-148 - VARIANCES AND APPEALS

Applications for an appeal or variance shall be submitted in accordance to Article I.

Sections 21-149 through 21-159 reserved for future use.

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ARTICLE XIII

SUBDIVISIONS

SECTION 21-160 - GENERAL PROVISIONS

These regulations are intended to aid in the coordination of land development in accordance with orderly physical patterns; to discourage haphazard, premature, or scattered land development; to encourage development of economically stable and healthful communities; to ensure proper identification, monumentation and recording of real estate boundaries; to ensure to the purchaser of land in the subdivision that adequate and necessary physical improvements of lasting quality will be installed by the developer and ensure that citizens and taxpayers will not bear this cost; to provide for safe and convenient traffic circulation; to provide an efficient, adequate and economic supply of utilities and services to new land developments; to prevent periodic or seasonal flooding through flood control measures and drainage facilities; to provide public open spaces in new land development through the dedication or reservation of land for recreational, educational and other public purposes; to help conserve and protect physical, economic and scenic resources; to promote the public health, safety, comfort, convenience and general welfare; to serve as an instrument of comprehensive plan implementation authorized by Florida Statues.

21-160.01 - In General

a. The provisions of this Article shall be in addition to the specific requirements of Florida Statutes regarding the subdivision of land and subsequent sale of subdivided land.

b. In addition to City-wide subdivision design standards contained in this Article, the City of Edgewater has adopted the Indian River Corridor Design Regulations which are incorporated as Article XVIII in this Land Development Code. Requirements contained in Article XVIII, Indian River Boulevard Corridor Design Guidelines, include specific lot size and access requirements that shall supercede similar requirements set forth in this Article. Properties located within the Indian River Boulevard Corridor Overlay must adhere to the subdivision regulations contained in the Indian River Boulevard Corridor Design Regulations. A copy of these regulations and illustrations for design is available for purchase at the City Hall. It is the Developer's responsibility to obtain a copy of the regulations for the Overlay prior to conceptual design layout.

c. The provisions of this Article are not intended to abrogate any easement, covenant or other private agreement, however, where the requirements of this Article are more restrictive or impose higher standards than the private agreement, the terms of this Article shall control.

d. When an approved plat is recorded by the owner, all streets, right-of-ways, public lands, easements and other facilities shall be deemed to have been dedicated to the parties noted on the

plat without further instrument or evidence being required. However, nothing herein shall be construed as creating an obligation on the part of any governmental agency to perform any construction or maintenance except where the obligation is voluntarily assumed.

e. All subdivisions shall be consistent with the policies expressed in the City of Edgewater Comprehensive Plan and all other applicable ordinances and regulations.

f. *Subdivision Plat Required.* No real property shall be divided into three (3) or more lots for the purpose of sale or other transfer of ownership, nor shall development plans be approved or permits issued without compliance with the requirements of this Article.

g. *Exemptions.* The following activities shall be exempt from the terms of this Article, unless otherwise noted:

1. The division of land in single ownership into parcels of not less than five (5) acres each, where no new street right-of-ways are proposed or required and each parcel has a minimum frontage along an existing dedicated public road of no less than one-hundred feet (100').
2. The combination or recombination of previously platted lots or portions of lots, where the overall number of lots is not increased and all of the resultant lots meet or exceed the dimensional standards of this code.
3. The division of a parcel of land pursuant to court order or a cemetery lot or interest therein.

21-160.02 - Minor Subdivision

A Minor Subdivision shall be exempt from the review and approval of a plat, however, development plans meeting the requirements of this Code shall be required and subject to review and approval by the City. A minor subdivision is defined as meeting all of the following criteria:

1. An overall tract in single ownership of no more than ten (10) acres that is divided into no more than three (3) contiguous lots.
2. No adjoining lots, tracts or parcels are in the same ownership.
3. No new streets are proposed or required.
4. No dedication of right-of-way, drainage areas, utilities, conservation areas or other publicly maintained property is proposed or required.
5. All proposed lots meet or exceed the dimensional requirements of this Code and required easements for utility, drainage, conservation or other purposes are delineated for transfer to the City as part of the Development Order.

An application for a Minor Subdivision shall include the following:

1. A letter from the property owner requesting the Minor Subdivision and explaining the intended use of the lots.
2. One (1) current sealed survey of the existing parcel as laid out prior to the proposed subdivision.
3. Three (3) sketch plans prepared by a professional licensed land surveyor showing the proposed lots, including a legal description for each, area calculations, location and size of water, sewer, flood zones and any wetlands areas.

4. A current Ownership and Encumbrance Title Report.
5. Any additional material deemed necessary by the Development Services Department.

Once the application is found to be complete and the fee paid, the TRC shall review and approve the proposed Minor Subdivision. If approved, the appropriate documents shall be recorded by the Clerk of the Court at the applicant's expense.

In order to accomplish these purposes, all land, buildings, streets, drainage and utility facilities shall comply with the procedures and regulations established herein.

SECTION 21-161 - COMPREHENSIVE PLAN CONSISTENCY

The intent of this Section is to create reasonable design standards for subdivision development. Although the provisions herein mostly apply to residential subdivisions, they are also generally applicable to commercial and industrial subdivisions. The regulations contained herein are consistent with the policies and requirements of Chapter 177, Florida Statutes.

The provisions of this Section are consistent with and implement Comprehensive Plan policies contained in the Future Land Use Element, Traffic Circulation Element, Housing Element, Utility Element, Coastal Element and Recreation and Open Space Element.

SECTION 21-162 - PRE-APPLICATION PROCEDURES

21-162.01 - Pre-application Procedures

Before any land under the jurisdiction of these subdivision regulations is to be subdivided, which will require any new street, alley or public right-of-way to be created, or before any building, street, drainage or utility construction in said subdivision is constructed, plans shall be approved by the Planning and Zoning Board and the City Council according to the procedures established herein.

Prior to the preparation of the preliminary plat, the applicant shall attend a pre-application meeting with the TRC to become familiar with the regulations affecting the land to be subdivided.

21-162.02 - Subdivision Sketch Plans

The applicant shall submit a sketch plan for the proposed overall development of the subdivision. This procedure does not require a formal application or fee. The sketch plan shall include the following:

a. Drawings at an approximate scale showing tentative street layout, approximate rights-of-way widths, general lot arrangements and total acreage.

b. Existing structures, streets, median cuts, waterways, wooded areas, landscape buffers, floodplains, swamps or wetland areas and stormwater management facilities.

c. Proposed land uses, density (dwelling units per acre), adjacent existing zoning and areas reserved for park, recreation, school sites or natural open space areas, phasing and any other appropriate information to make a fair presentation of the proposed development.

The TRC shall review the sketch plan for conformity with the Comprehensive Plan and land development regulations.

The applicant or his agent shall attend the TRC meeting at which the sketch plan is to be discussed to explain the proposed development.

SECTION 21-163 - PRELIMINARY PLAT PROCEDURE

21-163.01 - Preliminary Plat Procedure

Submission and approval or conditional approval of a preliminary plat and construction plans shall be a prerequisite to the development of any subdivision, other than minor subdivisions as described herein. The preliminary plat shall be submitted before the submittal of the final construction plans and final plat. The preliminary plat shall include the overall preliminary design for the entire area that is proposed to be subdivided and/or developed.

a. *Application for preliminary plat approval*. The applicant shall submit to the Development Services Department the following:

1. A completed application and appropriate fee.
2. Eleven (11) black or blueline prints and one reproducible copy of the preliminary plat and eleven (11) copies of the required exhibits.
3. Two (2) statements describing the proposed use of the land signed by the applicant or his agent and a draft of any protective covenants, conditions and restrictions (CCRs) to be applied to the subdivision.
4. Two (2) surveys signed and sealed by a Florida Registered Surveyor.

21-163.02 - Exhibits

The following exhibits shall be submitted to the Development Services Department at the time of preliminary plat application:

a. An assessment of the ability of the proposed project to comply with the Concurrency Management System requirements described in Article XII.

b. An assessment of the natural resource characteristics of the site that identifies the location of any historic or specimen trees.

c. An assessment of environmental or natural resources.

d. A statement regarding the proposed irrigation system for any common areas.

e. A soil report based on a minimum of one percolation test per ten (10) acres and one, or more, six foot (6') deep soil borings at a percolation test site.

f. Tabulations of total gross acreage in the project, acreage in classified wetlands and acreage in flood hazard areas.

g. Any other items that may be identified and required in the pre-application conference or subsequently by the City.

21-163.03 - Development Plan

A preliminary plat application shall include a separate development plan that, at a minimum, contains:

a. A vicinity map at maximum scale of one inch (1") equals four-hundred feet (400') showing the relationship of the proposed subdivision to the surrounding area, zoning classifications on adjoining properties, names of adjoining property owners and existing land uses.

b. A subdivision name. Such a name shall not be the same or in any way similar to any name appearing on another recorded Volusia County plat, except when the subdivision is subdivided as an additional unit or section, by the same developer or his successors in title. Every subdivision's name shall have legible lettering of the same size and type, including such words as section, unit, replat, etc.

c. The proposed lot lines, dimensions, lot and block numbers and setbacks.

d. The proposed street layout (including street names) with right of way widths and pavement widths and estimated trip generation or traffic impact study for any subdivision over 15 units.

e. A topographic map with one foot (1') contour intervals.

f. A map showing location and acreage of areas in floodplain and areas to remain at natural grade.

g. A preliminary grading plan showing existing and proposed contours.

h. A preliminary drainage and surface water management plan.

i. The proposed sewer collection system, general location, elevation, size sanitary sewer collection, lift station location and connection to existing City system.

j. The proposed potable water distribution system: line size, location, fire hydrants and connection to the City system.

k. Common areas, including but not limited to, recreation areas, common open space, trails and areas for identification signs.

l. A tree survey that depicts and identifies all specimen trees as defined in Article II and identifies which trees are proposed to be removed.

m. The location and typical cross sections of sidewalks, bikepaths and trails.

n. A preliminary landscape plan for common areas.

o. A preliminary street lighting plan.

21-163.04 - Review Comments

The Development Services Department shall transmit one copy of the preliminary plat to the City Engineer, Building Official, Police Chief, Fire Chief, Florida Power and Light, BellSouth Telephone, City Attorney, local cable television provider and other appropriate agencies. Each of these agencies shall review the preliminary plat and submit written comments.

21-163.05 - Planning and Zoning Board/City Council

a. The Planning and Zoning Board shall review the preliminary plat, required exhibits, development plan and the review comments to determine conformity with the Comprehensive Plan and land development regulations.

b. The Planning and Zoning Board shall hold a public hearing on the preliminary plat with due public notice. The applicant or his agent shall attend the meeting of the Planning and Zoning Board to discuss the preliminary plat.

c. Upon completion of its review and consideration at the Public Hearing, the Planning and Zoning Board shall recommend one of the following actions at the Public Hearing:

    1. Approval of the preliminary plat.

    2. Conditional plat approval, subject to any necessary modifications which shall be noted on the preliminary plat or attached to it in writing and forwarded to the City Council.

    3. Denial of the preliminary plat. Such denial shall be accompanied by reasons for such action and/or reference to the specific Articles which the preliminary plat does not comply. The applicant may reapply for preliminary plat approval in accordance with the provisions of this Article.

d. The recommendation of the Planning and Zoning Board shall be presented to the City Council for review and consideration at a public hearing.

e. Approval of the preliminary plat shall not be construed as authority for filing of the final plat.

SECTION 21-164 - CONSTRUCTION PLANS

21-164.01 - Construction Plans Procedure

a. *Preparation of construction plans.* Following approval of the preliminary plat, the applicant shall submit construction plans and specifications for all proposed subdivision improvements. These construction plans must be prepared in conformance with the City's Land Development Code and Standard Construction Details. Construction plans must be prepared by a professional engineer registered in the State of Florida. All new subdivisions are required to have a pre-construction meeting.

b. *Submission and review of construction plans.* The applicant shall submit three (3) copies of the construction plans to the Development Services Department for review by the City Engineer and the Environmental Services Director. If the construction plans are consistent with all standards and specifications, the City Engineer and Environmental Services Director shall notify the Development Services Department, in writing, of construction plan approval. If the construction plans are not consistent with the approved preliminary plat or do not comply with all standards, the Development Services Department shall notify the applicant that the construction plans are:

    1. Conditionally approved: construction plan approval, subject to any necessary modification which shall be indicated on the plans or attached to it in writing. or;
    2. Denied: construction plans shall be accompanied with a written statement outlining the reasons for such denial.

c. No construction shall proceed without the issuance of a Notice of Commencement/Development Order from the City.

SECTION 21-165 - BONDS/SURETY DEVICES

21-165.01 - Bonds/Surety Devices

Approval of the construction plans and preliminary plat is authorization for issuance of a Notice of Commencement/Development Order to proceed with installation of any improvements required and authorization to proceed with the preparation of the final plat or unit division thereof, subject to the posting of a bond or surety device as follows:

a. *Performance bond.* If the applicant desires to plat the proposed subdivision prior to the installation of improvements, surety in the form of a performance bond, letter of credit, trust, deed or escrow agreement approved by the City Attorney shall be delivered to the City and filed with the Clerk of the Circuit Court of Volusia County. Such surety shall be one hundred thirty percent (130%) of the cost of all required improvements, such as streets, utilities and drainage, including landfill, with estimates provided by the applicant and approved by the City Manager and the Environmental Services Director. The surety shall be conditioned upon the faithful

performance by the applicant of all work required to complete all improvements in the subdivision or unit division thereof, in compliance with these regulations and shall be payable to and for the indemnification of the City of Edgewater. Cash or a certified or cashiers check may be deposited as security for performance of the bond. Once the work is completed, certified by the regulatory agencies and accepted by the City Engineer and the Environmental Services Director, the performance bond instrument shall be released to the developer.

b. *Maintenance bond.* A maintenance bond in the amount of ten percent (10%) of the total cost of all required street, utility and drainage improvements shall be posted as a condition to final plat approval by the City Council. Such maintenance bond will be returned to the applicant at the end of two (2) years from the date of final inspection and approval of the required improvements by the City and acceptance by the City Council.

SECTION 21-166 - FINAL DEVELOPMENT PLAN

21-166.01 - Final Development Plan

An application for Final Development Plan shall be submitted to the Development Services Department with the appropriate fee containing the information described below. Signed and sealed engineering plans and specifications as well as two (2) surveys, signed and sealed by a Florida Registered Surveyor, shall accompany the application.

a. A final Grading and Drainage Plan showing existing and proposed contours at one foot intervals and cut and full calculations for the entire subdivision.

b. A Landscaping and Tree Protection Plan, including landscaping and irrigation plans for all common areas; the type, location and size of any fences, walls and subdivision signs; specimen tree locations and protection measures; vegetation preservation areas and required buffer areas; and a Street Tree Plan.

c. A Natural Resource Protection Plan, including conservation easements, areas subject to fill limitations and minimum road and building elevations.

d. A Phasing Plan, if any, showing phase boundaries on all drawings.

e. A Potable Water and Reuse Water Plan showing the line locations, sizes, elevations, fire hydrants and material specifications.

f. A Sanitary Sewer Plan showing location, elevations, size, lift station locations, service laterals and specifications.

g. A Final Street Layout Plan showing street locations by type and profile elevations, ownership, maintenance provisions for any plantings in right-of-way, approved street names and construction details.

h. A Street Lighting Plan showing location and type of fixtures and poles.

i. A Stormwater Management Plan showing retention/detention areas and stormwater calculations. Ownership, access and maintenance provisions, drainage facilities off-site and connection to positive outfall system and material specifications.

j. Mandatory Homeowners Association Convents, Conditions and Restrictions, Articles of Incorporation and By-Laws.

k. A public recreation/open space conveyance plan and/or required fees.

SECTION 21-167 - FINAL PLAT PROCEDURE

21-167.01 - Final Plat Procedure

a. Lots shall not be sold or streets accepted for maintenance by the City, nor shall any permit be issued by the Building Official for construction of any building within any subdivision unless and until the final plat has been approved by the Planning and Zoning Board, the City Council and duly recorded by the Clerk of the Circuit Court of Volusia County. The final plat shall conform substantially to the preliminary plat and shall incorporate all modifications and revisions specified in the approval of the preliminary plat.

b. *Application for final plat approval.* After preliminary plat approval, installation of all required improvements, posting of a maintenance bond and payment of the appropriate application and advertising fees the applicant shall submit to the Development Services Department the following:

1. A letter requesting review and approval of the final plat.
2. The original mylar tracing of the final plat and two (2) reproducible mylar copies.
3. Five (5) printed copies of the final plat with signed certification and other documents as specified herein, and as required for recording by the Clerk of the Circuit Court of Volusia County.

21-167.02 - Planning and Zoning Board

a. Before acting on the final plat, the Planning and Zoning Board shall receive a written staff report certifying compliance with the approved preliminary plat and the land development regulations. If substantial errors are found in the accuracy of the final plat, the applicant shall be responsible for corrections in the survey or the final plat. Any deviations from the preliminary plat shall be noted in the written staff report.

b. The Planning and Zoning Board shall review and make a recommendation (approve, deny or approve with conditions) concerning the final plat at a public hearing.

21-167.03 - City Council

a. If the final plat meets all the requirements of the land development regulations and complies with the approved preliminary plat, the City Council shall review and approve the final plat and indicate its approval by signature of the Mayor on the mylar copy of the plat to be recorded.

b. If the final plat is denied by the City Council, the reasons for denial shall be stated in writing. A copy of such reasons shall be sent to the Development Services Department and to the applicant. The applicant may make the necessary changes and resubmit the final plat to the City Council for review and reconsideration.

21-167.04 - Recording of Final Plat

Upon approval of the final plat by the City Council, the original mylar tracing of the final plat shall be submitted to the City for recording with the Clerk of the Circuit Court of Volusia County.

The final plat shall be recorded prior to the sale of any lot within the subdivision. After recording, a copy of any private covenants or deed restrictions shall be provided to the Development Services Department. One reproducible copy of the final plat shall be retained by the City Clerk and one blueprint with the map book and page number shall be provided to the Development Services Department. All recording fees shall be reimbursed to the City by the applicant.

21-167.05 - Final Plat Application

The final plat shall be drawn clearly and legibly at a scale of at least one inch equals sixty feet (60'). If more than one sheet is required, an index map relating each sheet to the entire subdivision shall be shown on the first sheet. The final plat shall comply with the requirements of Chapter 177 Florida Statutes, and contain the following:

a. Name of subdivision.

b. Name and address of all owners along with appropriate dedication blocks for each owner.

c. North point, graphic scale and date.

d. Vicinity map showing location and acreage of the subdivision.

e. Exact boundary line of the tract determined by field survey, giving distances to the nearest one-hundredth foot and angles to the nearest minute, shall be balanced and closed with an apparent error of closure not to exceed one in five thousand (5,000).

f. Legal description of the platted property.

g. Contiguous properties shall be identified by subdivision title, plat book and page or, if unplatted,

land shall be so designated.

h. Locations of streams, lakes, swamps and land subject to flooding.

i. Bearing and distance to permanent points on the nearest existing street lines or bench marks or other permanent monuments (not less than three (3) shall be accurately described on the plat).

j. Municipal and county lines shall be accurately tied to the lines of the subdivision by distance and angles when such lines transverse (traverse) or are reasonably close to the subdivision.

k. The closest land lot corner shall be accurately tied to the lines of the subdivision by distance and angles.

l. Location, dimensions and purposes of any land reserved or dedicated for public use.

m. Exact locations, widths and names of all streets and alleys within and immediately adjoining the new subdivision.

n. Street right-of-way lines showing angles of deflection, angles of intersection, radii and lines of tangents.

o. Lot lines shall be shown with dimensions to the nearest one-hundredth foot and bearings.

p. Lots shall be numbered in numerical order and blocks lettered alphabetically.

q. Accurate location and description of monuments and markers shall be described on the plat.

r. Minimum building front yard setback lines.

s. References to recorded subdivision plats adjoining platted land shall be shown by record name, plat book and page number.

t. Appropriate notes detailing all applicable HOA documents.

u. Joinder and Consent to dedication by all mortgage holders.

SECTION 21-168 - FINAL PLAT REQUIREMENTS

21-168.01 - General

a. All required improvements shall be provided by the applicant at the applicant's expense. All plans and specifications for the required improvements shall be designed by a registered professional engineer and approved by the City prior to construction.

b. The City shall receive notice in adequate time to arrange for inspection of the improvements

prior to beginning of construction and at approximate staged intervals thereafter. The City may require laboratory or field tests at the expense of the developer when appropriate. Any failure of work or materials to conform to the plans and specifications or failure to notify the City in time for indicated inspections may be cause for the City Council to reject the facilities.

c. Permanent control points shall be set along the street right-of-way or block lines at the PC's, PT's, PRC's, PCC's and other changes in direction, excluding those points located by PRM's.

d. A system of curbs and gutters shall be installed by the applicant, unless it can be demonstrated that the provisions of curbs and gutters at the proposed site is inconsistent with the best stormwater management practices. The width of curb and gutter shall be a minimum of twenty-four inches (24") and shall be either FDOT type or Miami Curb and Gutter, depending on flow to be handled. There shall be stabilized subgrade beneath all curbs and one foot (1') beyond the back of curb.

e. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated. Lot dimensions shall not be less than the minimum standards established in the zoning ordinance. Lots on curves shall be platted to provide the minimum required lot width at the minimum building setback line. Lots in residential districts which abut arterial streets shall have a minimum depth of one hundred fifty feet (150') with a building setback line established at a minimum distance of seventy-five feet (75') from the arterial street right-of-way line unless marginal access streets are provided. Width and area of lots laid out for industrial and commercial purposes shall be adequate to provide off-street parking, loading and service facilities.

f. Each lot shall abut on a public or approved private street for a distance of at least forty feet (40'). The subdivision shall be so designed that remnants and landlocked areas shall not be created.

g. Side lot lines shall be, as nearly as practical, at right curves to straight street lines and radial to curved street lines. No lot shall be divided by a municipal boundary.

h. Double frontage and through lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

i. Block lengths shall not exceed fourteen hundred feet (1,400') or be less than three hundred feet (300').

SECTION 21-169 - VARIANCES, EXCEPTIONS AND APPEALS

21-169.01 - Variances

The Planning and Zoning Board may grant a variance from the terms of this Article when such variance will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Article would result in unnecessary hardship. Such variance shall not be granted if it has the effect of nullifying the intent and purpose of these regulations. Furthermore, such variance shall not be granted by the Planning and Zoning Board until:

a. A written application for a variance is submitted by the applicant to the Development Services Department demonstrating:

    1. That special conditions and circumstances exist which are peculiar to the land, structures or required subdivision improvements;
    2. That the special conditions and circumstances do not result from the actions of the applicant; and
    3. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, structures or required subdivision improvements under similar conditions. No pre-existing conditions in neighboring lands, which are contrary to these regulations, shall be considered grounds for the issuance of a variance.

b. The Planning and Zoning Board shall make written findings that the requirements of this section have been met.

c. The Planning and Zoning Board shall further make a finding that the reasons set forth in the application justify the granting of the variance that would make possible the reasonable use of the land, buildings and other improvements.

d. The Planning and Zoning Board shall make further a finding that the granting of the variance would be in harmony with the general purpose and intent of these regulations, will not be injurious to the surrounding territory or otherwise be detrimental to the public.

e. A public hearing on the proposed variance shall be held by the Planning and Zoning Board after due public notice. The public hearing may be held prior to or simultaneously with the public hearing for approval of the preliminary plat.

f. The Planning and Zoning Board shall submit its written findings and recommendation to the City Council for action. In granting any variance, the City Council may prescribe appropriate conditions and safeguards in conformity with this Article. Violations of such conditions and safeguards when made a part of the terms under which the variance is granted shall be deemed a violation of this Article.

21-169.02 - Exceptions

The standards and requirements set forth in these regulations may be modified by the Planning and Zoning Board in the case of a planned unit development, group development, large-scale community development or commercial or neighborhood development which is not subdivided into customary lots, blocks and streets, which in the judgment of the Planning and Zoning Board, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and implementation of the Comprehensive Plan. In granting such modifications, the Planning and Zoning Board shall require such reasonable conditions and safeguards in conformity with this Article. Before granting such modifications, a public hearing will be held by the Planning and Zoning Board with due public notice.

21-169.03 - Appeals

Any person aggrieved by the Planning and Zoning Board's decision regarding a preliminary or final subdivision plat or the Planning and Zoning Board's decision regarding any variance or exception, may submit, in writing, an appeal to the City Council specifying grounds for appeal. Such appeal shall be noted to the City Clerk within fifteen (15) days after the action is recorded in the minutes of the Planning and Zoning Board and shall be heard within thirty (30) days after notice to the City Clerk at a regularly scheduled meeting of the City Council. The City Clerk shall give due notice of the hearing by certified mail to the applicant appealing and to the Planning and Zoning Board. The City Council may hear testimony and may sustain, alter or set aside the action of the Planning and Zoning Board.

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ARTICLE XIV

HISTORIC PRESERVATION

SECTION 21-180 - GENERAL PROVISIONS

21-180.01 - Intent

a. The City Council finds there are buildings, landmarks and sites within the City of Edgewater which have specific historic, archeological or aesthetic significance and that the loss of these sites would cause an irreplaceable loss to the people of the city of the aesthetic, cultural and historic values represented by such sites. It is hereby declared as a matter of public policy that protection, enhancement, perpetuation and use of such sites of special historic, archeological or aesthetic interest or value is a public necessity and is required in the interests of the health, prosperity, safety and welfare of the people.

b. The recognition, protection, enhancement and use of such resources is a public purpose and is essential to the health, safety, morals and economic, educational, cultural and general welfare of the public, since these efforts result in the enhancement of property values, the stabilization of neighborhoods and areas of the city, the increase of economic benefits to the city and its inhabitants, the promotion of local interests, the enrichment of human life in its educational and cultural dimensions serving spiritual as well as material needs, and the fostering of civic pride in the beauty and noble accomplishments of the past.

c. The City Council desires to take advantage of all available state and federal laws and programs that may assist in the development or redevelopment of the City of Edgewater.

d. The federal government has established a program of matching grants-in-aid for projects having as their purpose the preservation for public benefit of properties that are significant in American history, architecture, archeology and culture.

e. There are other federal programs providing monies for projects involving the rehabilitation of existing districts, sites, buildings, structures, objects and areas.

f. The policy of the City of Edgewater is to conserve the existing housing stock and extend the economic life of each housing unit through the rehabilitation of such units under housing and neighborhood development programs in selected areas.

g. Inherent in the enactment and implementation of these federal mandates is the policy of the United States government that the spirit and direction of the nation are founded upon and reflected in its historic past; that the historical and cultural foundations of the nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people; that in the face of the ever-increasing extensions of urban centers, highways, and residential, commercial and industrial developments, the present

governmental and non-governmental programs and activities are inadequate to ensure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our nation.

h. It is the will of the people of the State of Florida as expressed in Article II, Section 7 of the 1968 Constitution, that the state's natural resources and scenic beauty be conserved and protected.

i. It is the will of the State Legislature as expressed in Chapter 267 of the Florida Statues that the state's historic sites and properties, buildings, artifacts, treasure troves and objects of antiquity which have scientific or historic value or are of interest to the public, be protected and preserved.

21-180.02 - Purpose

The City Council hereby declares it's intention to qualify as a certified local government with the State Division of Historical Resources, history and records Management and to comply with the rules and regulations of the division pursuant to that program. The purpose of this chapter is to promote the health, morals, economic, educational, aesthetic, cultural and general welfare of the public through;

a. The identification, protection, enhancement, perpetuation and use of districts, sites, buildings, structures, objects and areas that are reminders of past eras, events and persons important in local, state, or national history, or which provide significant examples of architectural styles of the past, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide this and future generations examples of the physical surroundings in which past generations lived;

b. The enhancement of property values, the stabilization of neighborhoods and business centers of the city, the increase of economic and financial benefits to the city and its inhabitants and the promotion of local interests;

c. The preservation and enhancement of varied architectural styles, reflecting the City's cultural, social, economic, political and architectural history; and

d. The enrichment of human life in its educational and cultural dimensions in order to serve spiritual as well as material needs by fostering knowledge of the living heritage of the past.

SECTION 21-181 - RECREATION/CULTURAL SERVICES BOARD

21-181.01 - Creation

The Recreation/Cultural Services Board was created to plan and propose specific projects involving parks, recreational activities, beautification projects and historical preservation.

21-181.02 - Purpose

The purpose of this Section is to establish historical and archeological guidelines in addition to the duties defined for the Recreation/Cultural Services Board. The Recreation/Cultural Services Board is established to seek the accomplishment of the following municipal purposes:

a. The Board shall take action necessary and appropriate to accomplish the purposes of this chapter. These actions may include, but are not limited to:

    1. Continuing the survey and inventory of historic buildings and areas and archeological sites and the plan for their preservation;
    2. Recommending the designations of historic districts and individual landmarks and landmark sites;
    3. Regulating alteration, demolitions, relocations and new construction to designated property;
    4. Adopting guidelines for changes to designated property;
    5. Coordinating the historic preservation work of the City of Edgewater by working with and advising the federal, state and county governments and other city departments or advisory boards;
    6. Advising and assisting property owners and other persons who are interested in historic preservation;
    7. Initiating plans for the preservation and/or rehabilitation of individual historic buildings or landmarks; and
    8. Undertaking educational programs including the preparations of publications and the placing of historic markers.

b. The Board shall review all nominations of local property to the National Register of Historic Places following the regulations of the state historic preservation office. Following a public hearing with public notice of no less than thirty (30) days, the Board shall consider the nomination. When necessary the Board shall seek expert advice before evaluating the nomination. The Board shall forward to the state historic preservation officer its action on the nomination and the recommendations of the local officials.

c. When a property owner objects to having his property nominated to the National Register, a notarized written statement must be submitted to the Board before the nomination is considered. The Board may then either continue its review, forwarding its recommendation to the state historic preservation officer and noting owner's objection or, it may cease any further review process and notify the state historic preservation officer of the property owner's objection to the

proposed listing the Board shall not recommend registry over objection of the owner except by a super majority vote.

d. In the development of the certified local government, the City Council may ask the Board to perform other responsibilities that may be delegated to the City under the National Historic Preservation Act.

e. The Board shall conduct at least four (4) public hearings a year to consider historic preservation issues. The Board shall recommend to the City Council the designation of landmarks, landmark sites and historic districts. Applicants shall be given written notification of the Board's decisions. The Board shall prepare and keep on file available for public inspection a written annual report of its historic preservation activities, cases, decisions, qualifications of members and other historic preservation work.

f. The Board shall receive assistance in the performance of its historic preservation responsibilities from which expertise shall be provided in historic preservation or a closely related field. Other City staff members may be asked to assist the Board by providing technical advice or helping in the administration of this chapter.

g. The Board shall recommend to the local planning agency and the City Council a historic preservation element of the comprehensive development plan pursuant to the Local Government Comprehensive Planning Act of 1985.

h. The Board shall coordinate its activities with the Community Redevelopment Agency, the state historic preservation officer and the Southeast Volusia Historical Society, Inc.

i. The Board shall assist the City Manager in preparing applications for grant awards for site identification, inventory, survey activities and preservation.

j. The area of geographic responsibility for the Board shall be coterminous with the boundaries of the City of Edgewater.

k. The Board is encouraged to be represented at pertinent informational or educational meetings, workshops and conferences relating to preservation activities.

21-181.03 - Membership

The Board shall consist of seven (7) members who shall be residents of the City. The Board shall elect a chairman, vice-chairman and other officers as they may deem necessary. In the event of a vacancy on the Board, the City Council shall appoint a new member within sixty (60) days to serve out the remainder of the term. Members shall serve on the Board at the pleasure of the City Council.

21-181.04 - Term

The Board members shall be appointed for staggered terms of three (3) years by the City Council; provided, however, that the initial terms shall be three (3) members for a one year term, two (2) members for a two (2) year term and two (2) members for a three (3) year term.

21-181.05 - Qualifications

The Board members shall be composed of lay and professional members in accordance with the criteria set forth by the certified local government program. To the extent available, members shall be professionals from the disciplines of architecture, history, architectural history, archaeology, or other historic-related fields, such as urban planning, American studies, American civilization, cultural geography or cultural anthropology. Lay persons who have demonstrated special interest, experience or knowledge in history, architecture or related disciplines shall make up the balance of the Board membership. An up to date resume of Board members shall be kept as a public record. Prior to appointment, the City Council shall solicit nominations from the Recreation/Cultural Services Board.

21-181.06 - Procedures

The Board shall hold at least four (4) meetings each year, which shall be public meetings. Meetings shall have a previously advertised agenda and shall be open to public participation. All records of the Board including its rules of procedure, minutes and inventory shall be public records open to inspection by the public. The Board shall adopt rules of procedure for use in all its meetings and the City Manager shall provide staff assistance. The Board shall have the following reporting requirements:

a. It shall provide the state preservation officer with thirty (30) days notice prior to each meeting, following its first meeting.

b. It shall submit minutes of each meeting to the state historic preservation officer within thirty (30) days of holding the meeting.

c. It shall submit records of attendance for the review Board members to the state historic preservation officer within thirty (30) days of each meeting.

d. It shall submit public attendance figures of each meeting to the state historic preservation officer with thirty (30) days of each meeting.

e. It shall notify change in Board membership within thirty (30) days of action.

f. It shall notify the state historic preservation officer of all historic designations or alterations to existing designations.

g. It shall submit an annual report by November 1 covering previous October 1 through September 30, which shall include:

1. Any changes in the rules of procedure;
2. Number of proposals reviewed;
3. Designations or listings;
4. Changes to Board;
5. Revised resumes of Board members as appropriate;
6. Review of survey and inventory activity with the description of the system used; and
7. Program report on each grant assisted activity.

SECTION 21-182 – DESIGNATION OF LANDMARKS, LANDMARK SITES AND HISTORIC DISTRICTS

21-182.01 - Designation of Landmarks, Landmark Sites and Historic Districts

Upon recommendation of the Board, the City Council may designate by resolution individual landmarks, landmark sites and historic districts. Each designation of a landmark shall include a designation of a landmark site. When an owner objects to an application involving designation of his property, other than a historic district, approval by the Board and City Council shall require a super majority vote.

21-182.02 - Application Requirements

Consideration of the designation of a landmark and landmark site or a historic district shall be initiated by the filing of an application for designation by the property owner, any resident of Edgewater or any organization in Edgewater, including the City. The City shall charge a fee for each application which reflects processing costs for the application except that such fee shall be waived for city-initiated applications.

The applicant shall complete an application form provided by the Development Services Department which shall include:

a. A written description of the architectural, historical or archeological significance of the proposed landmark and landmark site or buildings in the proposed historic district and specifically addressing and documenting those related points contained in this Article;

b. Date of construction of the structures on the property and the names of former owners;

c. Photographs of the property; and

d. Legal descriptions and map of property to be designated as a landmark, landmark site or historic district.

e. On applications for the designation of historic districts, the applicant shall also submit:

1. Evidence of the approval of the district from two-thirds of the property owners; and

2. A written description of the boundaries of the district.

The City Manager or his designee shall determine when an application is complete and may request additional information when such application is determined to be incomplete.

21-182.03 - Public Hearings for Designations

The Board shall schedule a public hearing on the proposed designation within sixty (60) days of the submission of a completed application. Notice of the public hearing and notice to the owner shall be given in accordance with the Florida Statutes and shall state clearly the boundaries for a proposed historic district.

21-182.04 - Criteria for Designation of Property

The commission shall recommend the designation of property as a landmark, landmark site or historic district after the public hearing based upon one or more of the following criteria:

a. Its value is a significant reminder of the cultural or archeological heritage of the city, state or nation;

b. Its location is a site or a significant local, state or national event;

c. It is identified with a person or persons who significantly contributed to the development of the city, state or nation;

d. It is identified as the work of a master builder, designer or architect whose individual work had influenced the development of the city, state or nation;

e. Its value as a building is recognized for the quality of its architecture and it retains sufficient elements showing its architectural significance;

f. It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction or use of indigenous materials;

g. Its character is a geographically definable area possessing a significant concentration or continuity of sites, buildings, objects of structures united in past events or aesthetically by plan or physical development; or

h. Its character is an established and geographically definable neighborhood, united in culture, architectural style or physical plan and development.

21-182.05 - Board Decision

After evaluating the testimony, survey information and other material presented at the public hearing, the Board, shall, within sixty (60) days make its recommendation to the City Council with a written report on the property or area under consideration. Applications for designation shall be approved or denied. The Board may vote to defer its decision for and additional thirty (30) days. If the Board recommends a designation, it shall explain the proposed landmark or historic district qualified for designation under the criteria contained in this Section. This evaluation may include references to other buildings and areas in Edgewater and shall identify the significant features of the proposed landmark or historic district. The report shall include a discussion on the relationship between the proposed designation and existing and future plans for the development of the City. The Development Services Department shall promptly notify the applicant and the property owner of the Board decision.

21-182.06 - Appeals

Any person may appeal the Board's decision to the City Council within fifteen (15) days of the decision.

21-182.07 - City Council Review and Designation

The City Council shall approve, modify or disapprove the proposed designation within sixty (60) days of the Board recommendation. If a designation is made, the Comprehensive Plan, including the land use map, shall be amended to contain the designation in accordance with state law. The Development Services Department shall notify each applicant and property owner of the decision relating to his property within thirty (30) days of the City Council action and shall arrange that the designation of a property as a landmark or as a part of a historic district be recorded in the official record books of Volusia County.

21-182.08 - Amendments and Rescissions

The designation of any landmark and landmark site or historic district may be amended or rescinded through the same procedure utilized for the original description.

SECTION 21-183 - APPROVAL OF CHANGES TO LANDMARKS, LANDMARK SITES AND PROPERTY IN HISTORIC DISTRICTS

21-183.01 - Certificate of Appropriateness

No person may undertake the following actions affecting a designated landmark, a designated landmark site or a property in a designated historic district without first obtaining a certificate of appropriateness from the Board. Alterations of an archeological site or the exterior part of a building or structure, new construction, demolition or relocation.

a. Review of a new construction and alteration to designated buildings and structures shall be limited to exterior changes visible to the public. Whenever any alteration, a new construction, demolition or relocation is undertaken on a designated landmark, a designated landmark site or a property in a designated historic district without a certificate of appropriateness, the Certified Building Official is authorized to issue a stop work order.

b. A certificate of appropriateness shall be in addition to any other building permits required by law. The issuance of a certificate of appropriateness from the Board shall not relieve the property owner of the duty to comply with other state and local laws and regulations.

c. Ordinary repairs and maintenance, that are otherwise permitted by the law, may be undertaken without a certificate of appropriateness provided this work on a designated landmark site or property in a designated historic district does not alter the exterior appearance of the building structure, or archeological site, or alter elements significant to its architectural or historic integrity.

d. No certificate of appropriateness for alteration, new construction, demolition or relocation pursuant to the provisions of this chapter shall be effective for a period of fifteen (15) days subsequent to the Board's decision. If, during that fifteen (15) day period, an appeal is made to the City Council, the decision of the Board shall automatically be stayed pending city review.

21-183.02 - Application Procedures for Certificates of Appropriateness

a. Each application for a certificate of appropriateness shall be accompanied by the required fee. The Certified Building Official shall forward to the Board each application for a permit that would authorize an alteration, new construction, demolition, impact on an archeological site's integrity or relocation affecting a designated landmark, a designated landmark site or a property in a designated historic district.

The applicant shall complete an application form provided by the Development Services Department containing, in part, the following information:

b. Drawings of the proposed work;

    1. Photographs of the existing building or structure and adjacent properties; and
    2. Information about the building materials to be used.

c. The City Manager or his designee shall determine when an application is complete and may request additional information when such application is determined to be incomplete.

21-183.03 - Public Hearings

The Board shall hold a public hearing on each certificate of appropriateness within thirty (30) days after receipt of a completed application. The Board shall approve, approve with conditions or disapprove each application, based on the criteria contained in this Section. The Board shall act within sixty (60) days after the close of the public hearing. If the Board fails to decide an application within the specified time period, the application shall be deemed approved.

21-183.04 - General Criteria

In approving or denying applications for certificates of appropriateness for alterations, new construction, demolition, or relocation, the Board shall use the following general guidelines:

a. The effect of the proposed work on the landmark or the property upon which such work is to be done; and

b. The relationship between such work and other structures on the landmark site or other property in the historic district; and

c. The extent to which the historic, architectural; or archeological significance, architectural style, design, arrangement, texture, materials, and color of the landmark or the property will be affected; and

d. Whether the denial of a certificate of appropriateness would deprive the property owner of reasonable beneficial use of his property; and

e. Whether the plans may be reasonably carried out by the applicant.

21-183.05 - Alterations

In approving or denying applications for certificates of appropriateness for alterations, the Board shall also use the following additional guidelines which are based on the United States Secretary of the Interior's Standards for Historic Preservation Projects.

a. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.

b. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

c. All buildings, structures and sites shall be recognized as products of their own time. Alterations which have no historical basis and which seek to create and earlier appearance shall be

discouraged.

d. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environments. These changes may have acquired significance in their own right and this significance shall be recognized and respected.

e. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.

f. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

g. The surface cleaning of the structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building material shall not be undertaken.

h. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any acquisition, protection, stabilization, preservation, rehabilitation, restoration or reconstruction project.

21-183.06 - New Construction

In approving or denying applications for certificates of appropriateness for new construction, the Board shall also use the following additional guidelines:

a. The height of proposed building shall be visually compatible with the adjacent buildings; and

b. The relationship of width of the building to the height of the front elevations shall be visually compatible to buildings and places to which it is visually related; and

c. The relationship of the width of the windows to height of windows in a building shall be visually compatible with buildings and places to which the building is visually related; and

d. The relationship of solids to voids in the front facade of a building shall be visually related; and

e. The relationship of building to open space between it and adjoining buildings shall be visually compatible to the buildings and places to which it is visually related; and

f. The relationship of entrance and porch projections to sidewalks of a building shall be visually compatible to the buildings and places to which it is visually related; and

g. The relationship of the materials, texture and color of the facade of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related; and

h. The roof shape of a building shall be visually compatible with the buildings to which it is visually related; and

i. Appurtenances of a building such as walls, wrought iron fences, evergreens, landscape masses, building facades, etc., shall, if necessary, form cohesive walls of enclosures along a street to ensure visual compatibility of the building to the buildings and places to which it is visually related; and

j. The size of a building, the masses of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related; and

k. A building shall be visually compatible with the buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.

21-183.07 - Demolition

a. No certificate of appropriateness for demolitions shall be issued by the Board until the applicant has demonstrated that no other feasible alternative to demolition can be found. The Board may ask interested individuals and organizations for assistance in seeking an alternative to demolition. On all demolition applications, the Board shall study the question of economic hardship for the applicant and shall determine whether the landmark or property in the historic district can be put to reasonable beneficial use without the approval of demolition application. In case of an income-producing building, the Board shall also determine whether the applicant can obtain a reasonable return from his existing building. The Board may ask applicants for additional information to be used in making these determinations including, but not limited to, evidence that the plans for a new building on the site will be implemented. If the applicant fails to establish the lack of a reasonable beneficial use of the lack of a reasonable return, the Board shall deny the demolition application.

b. The Board may grant a certificate of appropriateness for demolition even though the designated landmark, designated landmark site or property within the designated historic district has reasonable beneficial use if:

    1. The Board determines that the property no longer contributes to a historic district or no longer has significance as a historic, architectural or archeological landmark, or
    2. The Board determines that the demolition of the designated property is required by a community redevelopment plan or the Comprehensive Plan.

21-183.08 - Relocation

When an applicant seeks to obtain a certificate of appropriateness for the relocation of a landmark, a building or structure on a landmark site, or a building or structure in a historic district or wishes to relocate a building or structure to a landmark site or to a property in a historic district, the Board shall also consider the following:

a. The contribution the building or structure makes to its present setting; and

b. Whether there are definite plans for the site to be vacated; and

c. Whether the building or structure can be moved without significant damage to its physical integrity; and

d. The compatibility of the building or structure to its proposed site and adjacent properties.

21-183.09 - Appeals

Within fifteen (15) days of the Board decision, any person may appeal to the City Council any decision of the Board on an application for a certificate of appropriateness. The City Council shall approve, approve with modification or disapprove the application within sixty (60) days of the appeal.

SECTION 21-184 - ARCHAEOLOGICAL PRESERVATION

21-184.01 - Purpose and Intent of Article

It is hereby declared as a matter of public policy that the identification, evaluation and protection of archaeological sites on public property is in the interest of the health, prosperity and welfare of the people of the City. The public has an interest in the preservation of archaeological sites and artifacts for their scientific and historical value and furthermore has a right to the knowledge to be derived and gained from the scientific study of archaeological materials. The recent past has seen the neglect, desecration and destruction of archaeological sites and the removal of archaeological objects and information without adequate records with a resulting loss to the City's citizens of knowledge concerning their heritage. The destruction of these nonrenewable archaeological resources result in a significant loss to the quality of life and cultural environment of the City. It is intended that through this Article that reasonable measures will be taken to prevent the loss of archaeological sites on public property within the City limits. It is therefore the policy of the City to take such actions as are necessary or appropriate to locate, preserve and interpret archaeological sites that are located on property owned or controlled by the City and to ensure that similar protective measures are undertaken by other governmental agencies owning property or funding projects impacting property in the City limits. It is not the desire or intent of the City to excavate every archaeological site within the city, but rather to provide a mechanism that will enable the recovery of data, mitigate adverse impacts and protect significant sites in conjunction with projects undertaken to provide public facilities.

21-184.02 - Excavations on Public Property

No individual shall be allowed to use a probe, metal detector or any other device to search or excavate for artifacts on public property, nor can any individual remove artifacts from public property without the written permission of the City. Furthermore, no disturbances or construction activities shall be authorized within properties belonging to the City, including public streets and right-of-ways, without a City right-of-way permit and without such archaeological efforts as may be addressed by this Article. Any proposed archaeological work and delays relative to a disturbance or construction work shall be in accordance with provisions of this chapter relative to major and minor disturbances in Archaeological Zones.

21-184.03 - Ownership of Artifacts

a. All artifacts uncovered, recovered or discovered during the course of any testing, salvage archaeology or monitoring, as provided herein, on private property shall belong to the owner of the property upon which such artifacts are found. Likewise, artifacts uncovered, recovered or discovered during testing, salvage archaeology or monitoring on property belonging to the City shall belong to the City. However, the City shall retain possession of artifacts from private property for a period of up to two (2) years to allow for their property analysis, cataloging, recording and conservation with written permission of the owner. Furthermore, the City shall attempt to obtain written permission from property owners to secure permanent ownership of the artifacts; otherwise, all retained artifacts are then to be returned to the property owner as soon as such analysis, cataloging, recording, and conservation is completed. Individuals and property owners are strongly urged to donate archaeological artifacts to the City for long-term storage, care, protection and preservation.

b. The removal of human skeletal remains recovered in archaeological context in all instances shall be coordinated with the local medical examiner, City, City Archaeologist and the State Archaeologist. Such remains shall be dealt with in accordance with the provisions of Chapter 872, Florida Statutes and they are not subject to private ownership. Such material shall be sensitively treated and following their analysis by a physical anthropologist, shall be curated at a designated repository or appropriately reburied. If at all possible, human burials should not be removed, they should be left undisturbed in their original position.

21-184.04 - Curation of Artifacts

Artifacts from monitoring, salvage archaeology and testing efforts will be washed, cataloged, analyzed, recorded and conserved by the City Archaeologist in compliance with the U. S. Department of Interior curation standards with written permission of the owner. If the artifacts are permanently donated to the City they will be property preserved and stored. The City will be responsible for determining the approved and acceptable repository for artifacts from the archaeological program in the City and the City will strive to maintain consistency in curation procedures and storage of materials in a minimal number of locations.

SECTION 21-185 - EMERGENCY ACTIONS

21-185.01 - Emergency Conditions: Designated Properties

In any case where the Certified Building Official determines that there are emergency conditions dangerous to life, health or property affecting a landmark, a landmark site or a property in a historic district, he may order the remedying of these conditions without the approval of the Board or issuance of a required certificate of appropriateness. The Certified Building Official shall promptly notify the chairman of the Board of the action being taken.

21-185.02 - Emergency Actions: Non-Designated Properties

The City Council may call an emergency meeting to review a threat to a property that has not yet been designated by the City but appears to be eligible for designation. The City Council may request that a stop work order be issued by the Certified Building Official for a thirty (30) day period in order to provide time to negotiate with the property owner to remove the threat from the property and the Board shall seek alternatives that will remove the threat to the property. During the thirty (30) day period, the City Council may initiate steps to designate the property under the provisions in this chapter.

SECTION 21-186 - CONFORMITY WITH THE CERTIFICATE OF APPROPRIATENESS

21-186.01 - Conformity with the Certificate of Appropriateness

All work performed pursuant to a certificate of appropriateness shall conform all provisions of such certificate. It shall be the responsibility of the Development Services Department to inspect from time to time any work being performed to assure such compliance. In the event work is being performed not in accordance with such certificate, the Certified Building Official shall issue a stop work order. No additional work shall be undertaken as long as such stop work order shall continue in effect.

SECTION 21-187 - MAINTENANCE AND REPAIR OF LANDMARKS, LANDMARK SITES AND PROPERTY IN HISTORIC DISTRICTS

21-187.01 - Provisions

a. Every owner of a landmark, a landmark site or a property in a historic district shall keep in good repair:

    1. All of the exterior portions of such buildings or structures;
    2. All interior portions thereof which, if not so maintained, may cause buildings or structures to deteriorate or to become damaged or otherwise to fall into a state of disrepair;
    3. In addition, where the landmark is an archeological site, the owner shall be required to maintain his property in such a manner so as not to adversely affect the archeological integrity of the site.

b. The Board may refer violations of this Section to the Development Services Department for enforcement proceedings on any building or structure designated under this Article so that such building or structure shall be preserved in accordance with the purposes of this Article.

c. The provisions of this Section shall be in addition to the provisions of the building code requiring such building and structures to be kept in good repair.

SECTION 21-188 - PENALTY

21-188.01 - Penalty

Any person violating any of the provisions of this Article shall be fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00) for each offense. Each day's continued violation shall constitute a separate offense. The Code Compliance Board shall review any violation of this Article in accordance with the Board's procedure.

21-188.02 - Civil Penalties

In addition to the penalties provided in Section 21-188, any person who violates any provision of this Article shall forfeit and pay to the City, civil penalties equal to the fair market value of any property demolished or destroy in violation of this Article or the Code to repair or rehabilitate any property that is altered in violation of this Article. In lieu of monetary penalty, any person altering property in violation of the provisions of this Article may be required to repair or restore such property.

SECTION 21-189 - DEMOLITION PERMITS

21-189.01 - Requirements

Required: approval by the Recreation/Cultural Services Board; Hearing; exempt.

Prior to the issuance of a demolition permit pursuant to Section 103 of the Standard Building Code (1985) or the same Section recodified of a later adopted version of the Standard Building Code, such permit shall be reviewed and approved by the Edgewater Recreation/Cultural Services Board. The Board shall hold a hearing for the purpose of approving or denying the demolition permit. The hearing shall be advertised in a newspaper of general circulation in the city at least thirty (30) days prior to the hearing. The Board shall approve the demolition permit only after finding that the proposed demolition is in compliance with Federal, State, County and City laws and ordinances regulating the demolition of historic structures. The following shall be exempt from the requirements of this Section:

1. All structures less than fifty (50) years old;

2. All detached garages, carports, porches, utility buildings, and similar accessory structures; and

3. All docks, boat houses, and similar structures.

21-189.02 - Immediate Demolition of Unsound Structures

Notwithstanding the aforesaid provisions of this Section, the Certified Building Official may authorize the immediate demolition of any structure in accordance with Section 103 of the Standard Building Code (1985) or the same Section of a later adopted version of the Standard Building Code when, in his opinion, the subject structure is so unsound that it is in imminent peril of collapse. The Certified Building Official, after issuing a demolition permit under these circumstances, shall within thirty (30) days, provide a written report to the Board describing the action he has taken and explaining the reasons for taking the action. The Board shall review the Certified Building Officials report. Should the Board disagree with the action taken by the Certified Building Official, the Board shall issue a written report to the City Manager. The City Manager shall review the Board's report and the Certified Building Official's report. The City Manager shall take whatever action he deems appropriate and provide a written report on his action to the Certified Building Official, the Board and the City Council.

21-189.03 - Appeals of Final Decision

Final decisions under this Section of the Board may be appealed to the City Council**.** The City Council shall have the authority to affirm, modify, reverse or remand the decision of the Board. Requests for appeal may be made to the City Manager or the City Clerk.

Sections 21-190 through 21-200 reserved for future use.

ARTICLE XV

AIRPORTS

SECTION 21-200 - GENERAL PROVISIONS
21-200.01 - General Provisions XV-1
21-200.02 - Airport Hazard Zone XV-1

ARTICLE XV

AIRPORTS

SECTION 21-200 - GENERAL PROVISIONS

21-200.01 - General Provisions

This Article establishes a process and standards for development to ensure that the public health, safety and welfare is protected. The focus of this Article is on airport zoning. The purpose of this Article is not to replace or supersede requirements that may be imposed by the Federal Aviation Administration or the Florida Department of Transportation.

21-200.02 - Airport Hazard Zone

a. *Purpose and intent* - the purpose of this Section is to prevent the creation or establishment of structures, lighting facilities, antenna or other elements dangerous to air navigation.

b. *Scope* - the regulations imposed in this Article shall be enforced within the area on the map entitled EDGEWATER AIRPORT HAZARD ZONE, which is shown on the City's Zoning Map.

c. *Airspace height zones standards*:

1. No structure shall be permitted that exceeds the current Federal Aviation Regulations and Obstruction Standards concerning objects lying beneath approach, transitional, horizontal, primary and conical surface zones, as depicted on the zoning map.
2. No structure shall be erected that raises the published minimum descent height for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum en route altitude to be increased on any Federally Approved Airway.

d. *Lighting* - notwithstanding the preceding provisions of the Section, the owner of any structure more than two hundred (200') feet above ground level shall install lighting in accordance with FAA Advisory Circular 70-7460-1D and amendments thereto on such structure. Additionally, high intensity white obstruction lights shall be installed on a high structure which exceeds seven hundred (700') feet above ground level. The high intensity white obstruction lights must be in accordance with FAA Advisory Circular 70-7460-1D.

e. *Hazard marking and lighting* - any permit or variance granted shall require the owner to mark and light the structure in accordance with FAA Advisory Circular 70-7460-1D. The permit may be conditioned to install, operate and maintain markers and lights as may be necessary to indicate to pilots the presence of an airspace hazard if special conditions so warrant.

f. *Variance* - no application for variances to the requirements of this Section may be considered by the Planning and Zoning Board unless a copy of the application has been by furnished by certified mail, return receipt requested, to the Florida Department of Transportation, Bureau of Aviation and by regular mail or hand delivered to the City of Edgewater Development Services Department for review and comment. If no comments are received within sixty (60) days after the postmark date, the Board may act without comment from the Bureau of Aviation.

ARTICLE XVI

FIRE & HAZARD PREVENTION

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ARTICLE XVI

FIRE & HAZARD PREVENTION

SECTION 21-210 - GENERAL PROVISIONS

21-210.01 - Purpose

The purpose of this Article is to promote, protect and improve the health, safety and welfare of the citizens and visitors of the City by adoption of nationally recognized codes and standards as well as following accepted industry (hazardous materials, water distribution, etc.) guidelines.

21-210.02 - Adoption of Codes

The following standards are hereby adopted and incorporated by reference as the fire and life safety standards of the City:

a. Florida Fire Prevention Code.

21-210.03 - Amendments to Codes

The following are hereby amended to read as follows:

a. Section 1-10, Board of Appeals; Florida Fire Prevention Code, is repealed and replaced with Article VIII (Administration), Section 21-87 (Construction Board of Adjustments and Appeals) of the City of Edgewater Land Development Code.

21-210.04 - Access to Buildings by Fire Apparatus

a. All buildings (except one and two family dwellings) constructed, expanded, relocated or substantially changed after adoption of this Article shall be accessible to Fire-Rescue Department apparatus by way of access roadways with all-weather driving surfaces of not less than twenty feet (20') of unobstructed width, and having a minimum vertical clearance of thirteen feet six inches (13'6").

b. The width of access roadways shall comply with all requirements as set forth in the City of Edgewater Land Development Code and the Standard Construction Details and shall not be obstructed in any manner, including the parking of vehicles.

c. The Fire Chief or his/her designee shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue access or operations.

d. Where security gates are installed, they shall be installed and maintained as described in Section 21-215 of the code.

SECTION 21-215 - GUIDELINES FOR DESIGN AND INSTALLATION OF EMERGENCY ACCESS GATES AND BARRIERS

21-215.01 - Intent

The intent of this section is to provide guidelines for the design and installation of emergency access gates and barriers. The requirements are to provide for quick and easy access of emergency response fire and rescue apparatus into gated residential areas or communities.

21-215.02 – Approval and Inspection

a. Authorization shall be obtained from the City of Edgewater prior to installation.

b. Detailed construction plans are required for review and approval. Plans shall indicate measurements, location, type of gate/barrier, type of locking device, approved opening device, gate swing direction, set-backs and clearance zones.

1. Openings for both ingress and egress of vehicles shall be a 12’ minimum clear width, or as approved by the Fire Chief. The vertical clearance shall not be less than 13’6”.

2. The access control gates shall open horizontally or swing open inward towards the development to open.

   EXCEPTION: Where inward swing is not possible due to the site configuration, outward swing may be approved with certain signage requirements intended to prevent damage to property and/or vehicles and personal injury.

3. All access control devices or systems must reach the fully open position within a total time not to exceed one second for each one foot of required width.

4. Access gates shall be located a minimum of 56’ from the street. Private driveways serving one single-family residence are exempt from this requirement. If existing conditions prevent installation with a 56’ setback, a letter documenting an acceptable alternative that would facilitate emergency ingress without endangering emergency response personnel and apparatus will be required for review and approval by the Fire Chief.

5. All required vehicle access openings shall provide both ingress and egress. Direction limiting devices such as fixed tire spikes are prohibited. No other device may be used which will delay the ingress or egress of emergency responders.

c. The access gate must be inspected, approved and authorized by the City prior to the use of the access gate.

21-215.03 - Electrically Operated Gates

a. The design and installation of all electrically operated gates shall be in accordance with the following criteria:

1. Warning light pre-emption and/or radio controlled systems are required and shall be approved by the City prior to installation.

2. The gate control shall also be operable by an approved emergency override Knox key switch (Models 3501, 3502 and 3503) that is an integral part of the mechanism. In the event of a power failure, the gate shall automatically be transferred to a fail-safe mode allowing the gate to be manually pushed opened without the use of special knowledge or equipment.

3. All transmitter-operated pre-emption systems or keypad operated gates shall also have a Knox key switch located in a location approved by the Fire Chief and it shall be mounted 48” above the roadway surface. It shall be visible and easily accessible and identified with a label as specified below.

4. Upon activation of the key switch, the gate shall remain open until returned to normal operation by means of the key switch.

5. The key switch shall be labeled with a permanent red sign with contrasting letters reading "FIRE DEPT" or a "Knox" decal.

6. A 27’ minimum unobstructed setback is required from a gate to the first right turn to allow for apparatus clearance.

21-215.04 - Manually Operated Gates and Barriers

a. Gates shall be constructed in a manner that reflects generally accepted construction practice and provides the required level of security based on site conditions. Typical gate design may include construction crash posts with a chain connecting across the minimum 12’ clear opening or a pipe gate construction with a clear opening of 12’.

b. Gates and barriers that require fire apparatus access routes and are provided with a means to lock. The approved type of locking device is a weatherproof Knox padlock (Model 3750, 3751, 3752 and 3753) or other similar locking devices approved by the City. Authorization forms are required by the Knox Company and may be obtained by calling the Edgewater Fire-Rescue Department at (386) 424-2445.

c. Permanent signage shall be attached and shall be constructed of 18 gauge steel. Letters shall be red on a white background and a minimum of 3” high. Sign on both sides shall read: "FIRE LANE - NO PARKING".

21-215.05 - Special Gates

a. All pedestrian entry, pool gates or gated areas where immediate emergency access is required and provides a means to lock shall provide an approved Edgewater Fire-Rescue approved emergency Knox key box adjacent to the gate at 48" above grade. The key to unlock the gate shall be kept in the key box. Restricted applications may allow the use of a Knox padlock with the approval of the Fire Chief.

21-215.06 – Maintenance

a. In order to assure that the vehicle access control device or system is properly maintained, proof of a maintenance contract for the device or system is required. The property owner and/or property owners association must provide an agreement accepting responsibility for maintenance and operation of the vehicle access control device or system.

SECTION 21-220 - HAZARDOUS MATERIALS

21-220.01 - Cleanup and Abatement

a. The Fire-Rescue Department is hereby authorized to take such steps deemed necessary to cleanup, remove or abate the effects of any hazardous substances discharged upon or into public or private property or facilities located within the corporate limits of the City.

b. Any person who, without legal justification, discharged, participates or assists in the discharge or authorizes the discharge of any hazardous substance that requires cleanup, removal or abatement by the Fire-Rescue Department or its contractors shall be liable to the City for the costs incurred by the City in the cleanup, removal or abatement of such discharge. In the event that more than one (1) person has made a discharge, participated in the discharge or authorized the discharge of a hazardous substance; each person shall be jointly and severally liable for costs incurred in the cleanup, removal or abatement of such discharge.

c. The Fire-Rescue Department shall keep a detailed record of any costs incurred in the cleanup, removal or abatement of discharge of any hazardous substance.

21-220.02 Cost Recovery, Penalties, Other Remedies

a. Any person responsible for discharging, participating or assisting in the discharge or authorizing the discharge of a hazardous substance shall reimburse the City for the full amount of all costs associated with the cleanup, removal or abatement of any such discharge within a period of thirty (30) days after receipt of an itemized invoice for such costs from the City.

b. The remedy provided for in this section shall be supplemental and in addition to all other available remedies at law and equity.

c. Funds recovered pursuant to this section shall be allocated to the City departments that incurred costs in the cleanup, removal or abatement of the discharge of a hazardous substance. It is the intent of this Article that levels of response equipment, inventories and City funds be replenished to levels which existed prior the City's response to a discharge of hazardous substances.

SECTION 21-230 - BURNING OF GARBAGE, TRASH, BRUSH, ETC.

21-230.01 - Burning or burying garbage, other refuse

No garbage, trash, brush, natural cover or other refuse shall be burned except as provided in this Article and no garbage shall be buried within the City.

21-230.02 - Burning of trash and ground cover

Conditions for open burning of trash and natural cover. Open burning of trash, brush and natural cover (as a result of land clearing or authorized clean-up from a localized declared disaster) may be permitted by the Fire Department when it is determined that:

a. The weather conditions will allow the escape of smoke and fire byproducts without being a hazard or nuisance to the surrounding citizens or their property.

b. The location, amount and nature of materials, when burning, present no health or safety hazards to the surrounding citizens or their property.

c. The time of day that materials may be burned and when they must be extinguished will be established by the Fire Chief based upon the considerations set forth herein and those safety practices deemed necessary based on standard fire procedures.

21-230.03 - Burn permit required

A burn permit must be obtained from the Fire Department prior to each burn period of seven (7) calendar days and shall be subject to such conditions as are imposed by the Fire Department. Any violation of the conditions of the burn permit or of any provision of this Article shall be cause for revocation of the permit and may be considered for prosecution as a code violation, misdemeanor or as a basis for denial of subsequent applications where such violations have been determined by the Fire Chief or his designee to have constituted a public hazard. A fee will be assessed to cover the costs of issuance of each permit. Said fee will be established by resolution of the City Council.

SECTION 21-240 - WATER DISTRIBUTION

21-240.01 - Water distribution systems

Water Distribution System Piping shall include all piping, which is part of the water distribution system and supplies water to a fire hydrant.

a. *Minimum Size.* Except as provided herein, all new water mains supplying water to fire hydrants shall be at least six inches (6") in inside diameter. The minimum size for water mains will vary according to the intended use of the property as set forth in Section 21-250 (Fire Flow Regulations). When water mains are installed along right-of-ways that have differing abutting land uses, the diameter along the entire run shall be based on the largest main size required hereby.

b. *Looping.* Except as provided herein, all water mains serving fire hydrants shall be looped. Water mains shall be designed so that in the event the water supply is interrupted at one (1) end of the loop; the flow of water to the hydrant shall not be entirely eliminated.

c. *Provisions for Non-Looped Water Mains*. Recognizing the fact that there will be applications where looped water mains are impractical, the following applications are exempt:

    1. Dead-end water mains supplied by a looped water main of equal or larger size may be extended the following distances: up to two hundred fifty feet (250 for six inch (6") water mains, and up to five hundred feet (500') for eight inch (8") or larger water mains. This application is permitted without any upsizing of the water main, providing the required fire flow is available. Physical arrangements may include unusual street layouts such as a cul-de-sac or cases where a hydrant is required on one (1) side of a street and the water main is on the other. The preferred diameter for dead-end mains is eight inches (8") if sufficient feed is available.

    2. Dead-end (non-looped) water mains may be permitted in new subdivisions and land development sites where there are no water mains present or of sufficient size to complete a loop. This would be applicable to areas being serviced by a single larger (eight inch or larger) diameter water main.

    3. When non-looped water mains not already covered in subparagraph (2) are permitted in place of looped water mains, the minimum size shall be increased by not less than two inches (2") in diameter and still meet the minimum fire flow requirements as determined by this Article.

SECTION 21-250 - FIRE FLOW REGULATIONS & HYDRANTS

21-250.01 - Intent

The intent of this Section is to assure an adequate supply of water for fire suppression by establishing minimum water main sizes and minimum water flow rates to control and extinguish fires that may occur within the City of Edgewater. This Section is applicable to the City water distribution system's future additions and the replacement of any existing non-complying segments of the system through normal system upgrading.

21-250.02 - Applicability

This Section will not apply to one (1) and two (2) family dwellings being built outside of an approved subdivision or land development project. The intent of this Section is to exempt new and existing one (1) and two (2) family dwellings located within sections of the City which were developed without a water system meeting the minimum requirements of this Article.

21-250.03 - Minimum required fire flow and flow duration for buildings

The required fire flow is the quantity of water measured in gallons per minute (GPM) that is needed to extinguish a fire involving a particular building, area or material. The computation of the required fire flow depends upon the size (gross square footage) and the type of construction. Minimum required for fire flow and flow duration will be based on Annex H of the National Fire Protection Association Uniform Fire Code (NFPA 1) 2003 Edition.

a. The minimum size for water mains supporting fire hydrants and the minimum flow rates for the various land use groups shall be as follows:

    1. One thousand gallons per minute (1,000 GPM), with twenty (20) pounds per square inch (psi) residual pressure for one and two family residential (single-family, detached and duplex).

    2. Two thousand gallons per minute (2,000 GPM), with twenty (20) pounds per square inch (psi) residual pressure for commercial development.

b. Each building other than one (1) and two (2) family dwellings to be constructed, enlarged or having a change in occupancy shall be evaluated for fire flow needs as set forth in this section.

c. If water is not available in sufficient quantity to meet the required fire flow, the following alternatives are available to comply with this Article:

    1. Reduce the required fire flow fifty percent (50%) by installing an approved automatic fire sprinkler; or
    2. Reduce the required fire flow twenty-five percent (25%) by installing an approved smoke detection and alarm system that transmits an alarm to a central receiving station in accordance with NFPA 72; or
    3. Utilize a construction type identified by NFPA for the structure that will reduce the required fire flow enough to meet the quantity of water available.

d. All private water delivery systems and water storage systems being utilized to meet minimum fire flow requirements must meet the applicable standards adopted by the City.

e. No salt or brackish water will be eligible for consideration as part of the minimum fire flow available for use.

21-250.04 - Fire hydrants

a. Approved fire hydrants shall be provided for buildings built after adoption of this Article to meet the required fire flow requirements as determined by the Fire Chief or his/her designee using current AWWA (American Water Works Association) and NFPA (National Fire Protection Handbook) standards.

b. The Fire Chief shall designate the location and number of fire hydrants, but in no case shall the distance between fire hydrants installed after adoption of this Article exceed one thousand feet (1,000').

c. With the exception of one (1) and two (2) family dwellings, fire hydrants shall be located within five hundred feet (500') of the most remote area of the building when measured along normal routes of Fire-Rescue Department access.

d. Where sprinkler and/or standpipe systems are provided, a fire hydrant shall be located within fifty feet (50') of the fire department connection. The Fire Department Connection (FDC) for the sprinkler and/or standpipe system shall be located between thirty-six inches (36") and forty-two inches (42") from finished grade, unless approved by the Fire Chief.

e. All fire hydrants shall be of breakaway design. The minimum size for the barrel of all new hydrants shall be at least 5 ¼ inches in diameter. Each hydrant shall have two 2 ½ inch male thread hose connections and one 4 ½ inch male thread hose connection. All hose connections shall be of American National Standard thread. The operating nut shall be 12 inches point to point. For the purpose of standardization and parts inventory, only those makes of hydrants approved by the Utilities Department and Fire/Rescue Department shall be installed to comply with this Article.

f. The center of the lowest outlet shall be not less than sixteen inches (16") above the surrounding grade. The operating nut shall not exceed 42 inches (42") above the surrounding grade.

g. Hydrants shall not be located closer than three feet (3') or more than thirty feet (30') from a traveled street or roadway. No fence, tree, post, shrub or other object, which could block the hydrant from normal view or obstruct the hydrant's use and shall be located within four feet (4') of said hydrant. Unless otherwise requested by the Fire Chief or his/her designee, the 4 ½- inch large volume connections shall be situated so it faces the nearest roadway. No hydrant shall be installed where pedestrian or vehicular traffic would interfere with the use of the hydrant.

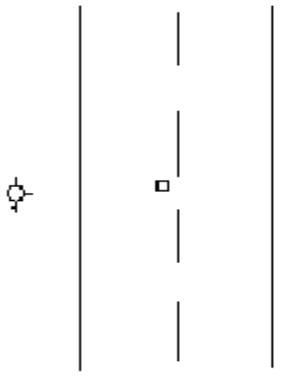
h. All fire hydrants located on dedicated public right-of-ways or designed to serve multiple ownerships shall be conveyed by approved instrument to the City. Once the City has accepted ownership, the responsibility for maintenance and operation shall be the City's. All hydrants not dedicated to the City shall be maintained in accordance with NFPA 24 at the owner's expense.

i. All new approved hydrants must be clearly identified utilizing a commercial approved reflective

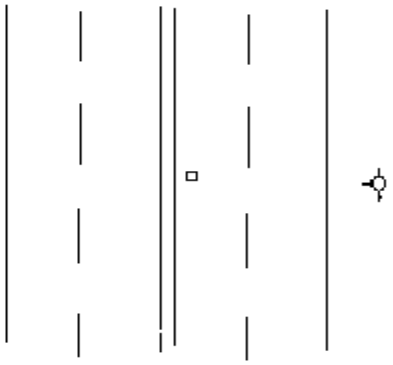
raised pavement markers. The reflective raised pavement markers must be installed by the following standards:

1) Two-Way Streets or Roads - Markers should be placed 6 inches from edge of painted centerline on the side nearest the fire hydrant. If the street has no centerline, the marker should be placed 6 inches from the approximate center of the roadway on the side nearest the hydrant.

Two-Lane Street



Multi-Lane Street



2) Streets with Left Turn Lane at Intersection - Markers should be placed 6 inches from edge of painted white channelizing line on the side nearest the hydrant.

3) Streets with Continuous Two-Way Turn Lane - Markers should be placed 6 inches from the edge of the painted yellow barrier line on the side nearest the fire hydrant.

j. All new installed hydrants must be painted with the following color code unless exempted by the City:

Flow < 500 gpm Class C – red barrel and red top
Flow 500 - 999 gpm Class B – red barrel and orange top
Flow 1000 – 1499 gpm Class A – red barrel and green top
Flow ≥ 1500 gpm Class AA – red barrel and blue top

SECTION 21-260 - PUBLIC SAFETY RADIO BUILDING AMPLIFICATION SYSTEM

21-260.01 - General

a. Except as otherwise provided, no person shall, erect, construct, change the use of or provide an addition of more than 20% to, any building or structure or any part thereof, or cause the same to

be done which fails to support adequate radio coverage for Volusia County 800Mhz Radio Communications System, including but not limited to, firefighters and police officers. For purposes of this section, adequate radio coverage shall include all of the following:

1. A minimum signal strength of –95 dBm available in 95% of the area of each floor of the building when transmitted from the Volusia County 800MHz Radio Communications System;

2. A minimum signal strength of –95 dBm received at the closest Volusia County 800MHz Radio Communications Site when transmitted from 95% of the area of each floor of the building;

3. The frequency range which must be supported shall be 806 – 825 (*816 after rebanding*) MHz (Tx) and 851 – 870 (*861 after rebanding*) MHz (Rx); and 4) with a 95% reliability factor.

Exemptions - This section shall not apply to: Buildings less than 5,000 square feet or any R-1 or R-2 occupancy.

21-260.02 – Amplification Systems Allowed

a. Buildings and structures which cannot support the required level of radio coverage shall be equipped with any of the following in order to achieve the required adequate radio coverage; a radiating cable system or an internal multiple antenna system with or without FCC type accepted bi-directional 800 MHz amplifiers as needed. If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operating on an independent battery and/or generator system for a period of at least one (1) hour without external power input. The battery system shall automatically charge in the presence of an external power input.

21-260.03 – Testing Procedures

a. Acceptance Test Procedure - When an in-building radio system is required and upon completion of installation, it will be the building owner's responsibility to have the radio system tested to ensure that two-way coverage on each floor of the building is a minimum of 95%. Each floor of the building shall be divided into a grid of approximately 20 equal areas. A maximum of 1 of the areas will be allowed to fail the test. If the system continues to fail, it will be the building owner's responsibility to have the system altered to meet the 95% coverage requirement. The test shall be conducted using an EDACS portable radio talking through the Volusia County 800 MHz Radio Communications System. A spot located approximately in the center of a grid area will be selected for the test, then the radio will be keyed to verify 2-way communications to and from the outside of the building through the Volusia County 800 MHz Radio Communications System. Once the spot has been selected, prospecting for a better spot within the grid area will not be permitted.

b. The gain values of all amplifiers shall be measured and the test measurement results shall be kept on file with the building owner so that the measurements can be verified each year during the

annual tests. In the event that the measurement results become lost, the building owner will be required to rerun the acceptance test to reestablish the gain values.

c. Annual Test - When an in-building radio system is required, it shall be the building owner's responsibility to have all active components of the system, such as amplifiers and power supplies and backup batteries tested a minimum of once every 12 months. Amplifiers shall be tested to ensure that the gain remains within manufacturer tolerances. Backup batteries and power supplies shall be tested under load to verify that they will properly operate during an actual power outage. All other active components shall be checked to determine that they are operating within the manufacturers specifications for the intended purpose.

d. Qualifications of Testing Personnel - Personnel conducting radio system tests shall be qualified to perform the work. All tests shall be documented and signed by a designee from Volusia County Radio System Management or the City of Edgewater with jurisdiction over the tested area. All test records shall be retained on the inspected premises by the building owner and shall be subject to inspection by Fire Department Officials upon request.

e. Field Testing - Police and Fire Personnel, after providing reasonable notice to the owner or his representative, shall have the right to enter onto the property to conduct field testing to be certain that the required level of radio coverage is present.

ARTICLE XVII

DEVELOPMENT/IMPACT FEES

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SECTION 21-310 - PEDESTRIAN SYSTEM (SIDEWALK) DEVELOPMENT FEES

21-310.01 - Intent; Purpose; Basis

a. Pedestrian systems are located within the public right-of-way and are a component of the City's overall transportation system. This project approach is based on the premise that all the elements of the public right-of-way provide a community-wide, public benefit, not just the roadway used for vehicles.

b. Pedestrian System Development Fees allow the cost of constructing new sidewalks to be broad based and borne by new development activities. This system allows the City flexibility to establish priorities for new sidewalk locations.

c. The City shall be responsible for construction of new sidewalks, outside of new residential subdivisions and replacement of sidewalks on existing City streets.

d. The City shall carry out an active inspection and repair program with repairs being made on a priority basis versus a random complaint basis.

e. The general aesthetic care of sidewalks within the City's right-of-way area is the responsibility of each adjacent property owner.

21-310.02 - Definitions

a. New Building Construction - new building construction shall mean any structure designed or built for the support, enclosure, shelter or protection of persons and/or animals or movable property. It includes all structures used for housing, warehousing, business, commercial or industrial purposes whether temporary or permanent.

b. Storage Sheds - shall be considered an accessory use to the principle permitted use. Sheds shall not be misconstrued with warehouses, mini-warehouses or separate buildings used for commercial or industrial type storage units.

c. Roadway/Streets - public or private roads falling into one of several categories as defined in Article II of the Land Development Code and which classification is consistent with the Comprehensive Plan.

21-310.03 - Exemptions; Non-Exemptions; Waivers

a. Exemptions:
   1. New residential subdivisions providing sidewalks on both sides of all streets;
   2. Storage sheds

b. Non-Exemptions:
   1. Established developments or other areas that may not have the necessary pedestrian/sidewalk

facilities needed, will not be exempt from development fees for new building construction.

c. Waivers:
   1. All applications for a waiver from the required sidewalk construction will be reviewed and approved by the Technical Review Committee (TRC).
   2. If the TRC grants a favorable decision for the waiver, the TRC will then make a recommendation for the amount of compensation the owner/developer must contribute to the Pedestrian System Development Fund.
   3. Once the TRC completes their recommendation, the application will be forwarded to the City Council for final approval.

21-310.04 - Pedestrian System Development Fee Schedule

a. New Construction:

   Fees shall be calculated per linear foot of property frontage. Rates may vary depending on roadway classifications. For property located on more than one street, the property frontage shall mean the street-addressed side/location. The Pedestrian System Development Fee Rate Schedule shall be established by resolution of the City Council.

b. Fee Adjustment:

   City Staff shall annually review all fees relating to this Section. All adjustments shall be based on the percentage change as contained in the CPI (Consumer Price Index – All Urban Consumer) or ENR (Engineering News Record) index as established/reported in April of each year and shall be automatically adjusted on October 1 of each fiscal year.

SECTION 21-311 - TREE PRESERVATION/RELOCATION DEVELOPMENT FEES

21-311.01 - Intent; Purpose

The City desires to improve the appearance of the City; protect and improve property values by protecting certain trees to aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce stormwater runoff and assist with the replenishment of groundwater supplies.

Based on the requirements contained in Chapter 21 (Land Development Code), Article V (Site Design Criteria), Sections 21-54 (Landscaping Requirements) and 21-55 (Tree Protection Requirements), the City acknowledges that there are certain extenuating circumstances during new construction and/or development.

21-311.02 - Tree Relocation Maintenance/Monitoring Requirements

Any person conducting tree relocation activities shall:

a. Maintain the health of a relocated tree for a period of two (2) years following final inspection and

approval.

b. Replace, with an equivalent cross Sectional area, within sixty (60) days, a relocated tree that dies or is determined by the City to be effectively destroyed within two (2) years of being relocated. The two (2) year maintenance period shall begin anew whenever a tree is replaced.

21-311.03 - Tree Relocation Bond Requirements

a. Unless otherwise exempted by this Article, any person conducting tree relocation activities must post a bond to insure the survival of the relocated tree designated for preservation. Said bond shall meet the approval of the City Attorney's office and may be in the form of a letter of credit drawn upon banks or savings and loan institutions legally doing business in the State of Florida, cash bonds issued by an insurance company legally doing business in the State of Florida or other acceptable means as approved by the City Attorney's Office. This bond shall be in addition to any other bond that may be required by any other governmental entity.

b. Determination of the bond amount shall be computed pursuant to the Tree Relocation Fee Schedule as established by resolution of the City Council.

c. Governmental entities are exempt from bond requirements.

d. Release of Bonds. Tree relocation bonds will be released upon successful tree relocation as set forth in this Article and upon written approval by the City.

e. Drawing on Bonds. If a tree is determined by the City to be effectively destroyed within two (2) years from the date of relocation, the bond shall be drawn upon and funds will be deposited into the Tree Replacement Trust Fund. Said funds will be expended pursuant to Section 21-311.05 of this Article.

21-311.04 - Payment in Lieu of Tree Replacement

If it is determined by the City that tree replacement is not feasible due to lack of available planting space, the following applies:

a. The person conducting the tree replacement activity shall, in lieu of actual tree replacement, pay a replacement contribution into the City Tree Replacement Trust Account.

b. The replacement contribution will be determined using a Replacement Tree Fee Schedule as established by resolution of the City Council.

21-311.05 - Tree Replacement Account

a. Establishment. A City Tree Replacement Account is hereby established as a depository for tree replacement fees and monies.

b. Dispersal of Assets. The funds in said account shall be expended, utilized and disbursed for the planting of trees, and to cover any other ancillary costs including but not limited to: landscaping, sprinkler systems and other items or materials necessary and proper for the preservation, maintenance, relocation or restoration of tree ecosystems on any public land within the City. These monies may also be utilized to engage support elements such as landscape architects and additional personnel, if deemed necessary in the opinion of the City Manager, following established City procedures.

c. All monies deposited for use as specified in this Section shall be deposited in an appropriate line code as determined by the Finance Department.

SECTION 21-320 - RECREATIONAL PARKS AND OPEN SPACE IMPACT FEES

21-320.01 - Intent; Purpose

This Section is established to address the need for capital funds to support the orderly expansion of the City's recreational parks facilities. The impact fees provide for the funding of recreational parks facilities and improvements related thereto by imposing fees upon new construction that are commensurate with or less than the burdens reasonably anticipated to be imposed by them.

This Section is intended to implement and be consistent with the City of Edgewater Comprehensive Plan.

21-320.02 - Payment required

Any person who, after the effective date of this Article, seeks to develop land by applying for the issuance of a building permit for a dwelling unit, as defined in the Land Development Code, shall be required to pay a Recreational Parks and Open Space Impact Fee prior to the issuance of a building permit or any other development permit for the construction of any structure to be used for a dwelling unit.

21-320.03 - Assessment of fees

A Recreational Parks and Open Space Impact Fee in an amount as established by resolution of the City Council will be assessed by the City and shall be collected by the City prior to issuance of a building permit or any other development permit for the construction of any structure to be used for a dwelling unit.

21-320.04 - Basis for imposition

The fee imposed shall be a result of the City's fee calculation studies which shall be designed to ensure that the impact fee imposed is rationally related to the benefit received by the applicant.

21-320.05 - Adjustments

In the event that an applicant believes the impact of his/her new dwelling units will be less than that set forth herein, the applicant may, at his/her option, submit evidence to the City in support of an alternative recreational parks and open space impact assessment. Based upon convincing and competent evidence, the City may adjust the impact fee as appropriate for that particular property.

21-320.06 - Annual review

City Staff shall annually review all fees relating to this Section. All adjustments shall be based on the percentage change as contained in the CPI (Consumer Price Index – All Urban Consumers) or ENR (Engineering News Record) index as established/reported in April of each year and shall be automatically adjusted on October 1 of each fiscal year.

21-320.07 - Credits

a. An applicant shall be entitled to a credit against the Recreational Parks and Open Space Impact Fee assessed pursuant to this Article in an amount equal to the cost of off-site improvements and the cost of improvements to on-site recreational facilities which create excess capacity for the general public or contributions to the City of land, money or services by the applicant or his predecessor in interest as a condition of any development agreement entered into with the City prior to the effective date of this Article. Such credit shall be based on the following criteria:

    1. The actual cost or estimated cost based on recent bid sheet information of the City or County, of off-site related improvements by the applicant to the recreational system. Off-site improvements eligible for a credit are those improvements proposed that will benefit not only the dwelling units on-site, but also the general public. Improvements not eligible for a credit are those recreational facilities that are privately owned or that serve only the dwelling units within the development.

    2. The actual cost or estimated cost of improvements based on recent bid sheet information of the City or County with respect to that portion of on-site recreational improvements which creates excess capacity for the general public.

    3. The contribution of land, money or services by the applicant for off-site improvements to the City's recreational system and for improvements to on-site recreational facilities which create excess capacity for the general public. The credit for land contributed will be based on a pro rata share of the appraised land value of the parent parcel as determined by an MAI appraiser selected and paid for by the applicant and approved by the Technical Review Committee (TRC) or based on such other method as may be mutually agreed upon by the applicant and the TRC. In the event that the TRC disagrees with the appraised value, the City may select and pay for another appraiser, and the credit shall be an amount equal to the average of the two appraisals.

4. Unless otherwise provided in a development agreement between the City and the applicant or his/her predecessor in interest, no credit for contributions or donations made prior to the effective date of this Article shall be granted unless the cost of the improvements was paid for or the contributions were made within the two years prior to the effective date of this Article.

5. No credit shall exceed the amount of the Recreational Parks and Open Space Impact Fees assessed herein.

b. The amount of the credit shall be determined by the TRC. However, the determination may be appealed to the City Council, whose decision shall be final and binding on the applicant.

c. Any credit issued pursuant to this Article may be transferred by the applicant to any successor interest in the property.

d. Except as provided herein, previous development agreements wherein voluntary Recreational Parks and Open Space Impact Fees were specified and paid shall be binding as to any building permit already issued on land subject to the development agreement.

e. Notwithstanding the criteria specified herein, if any of the development agreements provide that credits against future Recreational Parks and Open Space Impact Fees enacted by the City will be granted for specified contributions to the City of land, money or services for improvements to the City's recreational system, such credits against the Recreational Parks and Open Space Impact Fee shall be granted on the basis provided for in such agreement.

21-320.08 - Vested rights

a. It is not the intent of this Article to abrogate, diminish or modify the rights of any person that has vested rights pursuant to a valid governmental act of the City. An applicant may petition the City Council for a vested rights determination which would exempt the applicant from the provisions of this Article. Such petition shall be evaluated by the City Attorney and a recommendation thereon submitted to the City Council based on the following criteria:

1. Expenditures or obligations made or incurred in reliance upon an authorizing act are reasonably equivalent to the fee required by Sections 21-320.03; 21-320.04 and 21-320.05.

b. If an applicant has previously entered into a development agreement with the City with conditions regarding off-site recreational improvements, the applicant or his successor in interest may request a modification of the prior development agreement in order to bring the conditions into consistency with this Article. Any request for such modification must be filed with the Development Services Department within one year of the effective date of this Article.

21-320.09 - Exemptions

The following shall be exempt from payment of the Recreational Parks and Open Space Impact Fee:

a. Those dwelling units which have been issued a building permit prior to the effective date of this Article.

b. Those dwelling units which have received a certificate of occupancy prior to the effective date of this Article.

c. Additions or expansions to single-family residences.

21-320.10 - Separate account to be kept

The Recreational Parks and Open Space Impact Fees collected by the City pursuant to this Article shall be kept separate from other revenue of the City. Funds withdrawn from this account must be used solely in accordance with the provisions of this Article. The disbursal of funds shall require the approval of the City Council.

21-320.11 - Use of funds

a. The funds collected by reason of establishment of the Recreational Parks and Open Space Impact Fee in accordance with this Article shall be used solely for the purpose of planning, acquisition, expansion and development of off-site improvements to the City's recreational system determined to be needed to offset the impacts of new development within the City. Off-site improvements are improvements to recreational parks which are not on the property upon which dwelling units will be constructed.

b. All funds shall be used in a manner consistent with the principles set forth in Florida Statutes and case law and otherwise consistent with all requirements of the Constitutions of the United States and the State of Florida. Said funds shall not be used to maintain or repair existing recreational facilities.

c. Any funds on deposit not immediately necessary for expenditure shall be invested in interest bearing accounts. All income derived shall be deposited in the Recreational Parks and Open Space Impact Fee Account. Applicants shall not receive credit for or be entitled to interest from the investment of funds.

21-320.12 - Penalties for offenses

Violations of this Article shall constitute a misdemeanor enforceable in accordance with the City Code or by an injunction or other legal or equitable relief in Circuit Court against any person violating this Article, or by both civil injunctive and criminal relief.

SECTION 21-321 - FIRE PROTECTION AND EMS IMPACT FEES

21-321.01 - Intent; Purpose

a. This Section is intended to implement and be consistent with the City of Edgewater's Comprehensive Plan.

b. The purpose of this Section is to ensure that the new development pays a fair share of the anticipated costs of equipment and facilities necessary to provide fire protection for new development.

21-321.02 - Imposition of Fees

a. Any person who, after the effective date of this Article, seeks to develop land by applying for the issuance of a building permit for one of the land use types specified herein shall be required to pay the Fire Protection and Emergency Medical Services (EMS) Impact Fee prior to the issuance of a building permit or any other development permit.

b. When a change of use, redevelopment or modification of an existing use requires the issuance of a building permit, the impact fees shall be based upon the net increase in the impact fee for the new use as compared to the previous use.

21-321.03 - Fees

The amount of Fire Protection and EMS Impact Fees imposed under this Section shall be as established by resolution of the City Council.

21-321.04 - In-Kind Contributions; Refusal of Adjustment; Covenants

a. Independent calculations for credits for in-kind contributions made after the effective date of this Article shall be submitted to and approved by the City Manager prior to effecting the contribution.

b. The City Manager's action in adjusting or refusing to adjust the impact fee pursuant to an independent calculation shall be in writing and must be transmitted by certified mail to the fee payer.

c. The City Manager shall require that a covenant running with the land be executed and recorded on the subject property where: the independent calculation is based on a use of land having a lesser impact than that upon which the schedule is based, as applicable; the property could be put to a use having a greater impact than that proposed with such use not requiring future approval by the City; or for such other reasons necessary to ensure compliance with this Article. The covenant shall hold the fee simple interest in the land and mortgage as appropriate. The covenant shall recite this Article and the facts and reasons underlying its execution. It shall set forth the restrictions on the property and the terms and conditions under which it may be

released.

21-321.05 - Review of Fees

a. City Staff shall annually review all fees relating to this Section. All adjustments shall be based on the percentage change as contained in the CPI (Consumer Price Index – All Urban Consumers) or ENR (Engineering News Record) index as established/reported in April of each year and shall be automatically adjusted on October 1 of each year.

b. Each review shall include an analysis of the level of service for each impact fee. If the average level of service is not consistent with the level of service upon which the respective impact fee amount is based, the amount shall be adjusted based upon the then-existing level of service.

21-321.06 - Trust Fund

The Fire/EMS Impact Fee shall be deposited in a Fire/EMS Impact Fee Trust Fund. The trust fund shall be invested by the City in interest bearing sources and all income derived shall accrue to the trust fund. The funds shall be used only for capital improvement costs for which the impact fee was levied and which would add capacity needed to serve new development. The City Manager shall identify in the City's annual budget the designated capital improvements for which the Fire/EMS Impact Fees will be spent. The funds shall remain restricted to the Fire/EMS Trust Fund and the requirements of this Section. The City Manager shall ensure that these designated funds are expended and accounted for in accordance with the provisions of this Section. The City shall maintain such records and documentation necessary to allow the effective audit of the use of the Fire/EMS Impact Fees.

21-321.07 - Collection, Administrative Fees and Use of Funds

a. The fee payer shall pay the Fire/EMS Impact Fee to the City for deposit into the Fire/EMS Impact Fee Trust Fund prior to the issuance of a building permit which may be required for development listed in the schedule contained in Section 21-321.03. No building permit may be issued until such fees have been paid or until the City has accepted title to land area meeting the standards set out in this Article. For land uses not requiring a building permit, an alternative development order shall not be granted until the impact fees have been paid.

b. In lieu of all or part of the impact fees, City Council may accept the offer by a fee payer to dedicate land and/or construct all or part of a Fire/EMS project. Such construction must be in accordance with State, County and City design standards applicable to the project. The fee payer shall submit a project description in sufficient detail to allow the preparation of an engineering and construction cost estimate.

c. If the City Council accepts such offer, the City Manager shall credit the cost of this construction against the Fire/EMS Impact Fee otherwise due. The portion of the fee represented by the facilities construction shall be deemed paid when the construction is completed and accepted by the City or when the fee payer posts security as provided in subsection (d) of this Section for the

costs of such construction. The portion of the fee represented by land dedication shall be deemed paid when the title to the land dedicated for that purpose has been accepted by the City.

d. Security in the form of a performance bond or escrow agreement shall be posted with and made payable to the City in an amount approved by the City Manager equal to one hundred ten percent (110%) of the full cost of such construction. If construction of the project is not to be completed within one year of the acceptance of the offer by the City, the amount of security shall be increased by ten percent (10%) compounded, for each year of the life of the security. The security shall be reviewed and approved by the City Manager's office prior to acceptance of the security by City Council.

e. No impact fee is required for the issuance of any building permit for residential use which does not result in an additional living unit.

f. All funds collected pursuant to this Section shall be promptly transferred for deposits into the Fire/EMS Trust Fund. Impact fee collections shall be used exclusively for land acquisition, capital improvements, purchases or expansion related to the public purpose for which such fees were collected, with the exception of impact fee administrative costs pursuant to paragraph (g) below. Funds shall be expended in the order in which they are collected.

g. The City shall be entitled to retain up to four percent (4%) of the impact fees collected as an administrative fee to offset the costs of administering this Section.

h. If any impact fees that are paid by check, draft or other negotiable instrument, do not clear; the building permit or development order authorizing the development for which the impact fee was paid shall be suspended and the City shall send the appropriate suspension notice to the fee payer by certified mail. If the impact fee, together with any charges for funds not clearing, are not paid within ten (10) business days following mailing of the notice, the building permit or development order shall be of no further force and effect for purposes of this Article and a stop work order shall be issued and remain in effect until such time as the impact fee is paid and the funds clear.

21-321.08 - Refund

a. If a building permit expires and no construction has been commenced, the fee payer shall be entitled to a refund of the impact fee paid as a condition for its issuance, less the four percent (4%) of the fee retained as an administrative fee by the City, therefore, the fee payer shall be entitled to a refund equal to ninety-six (96%) of the impact fee paid. No interest will be paid to the fee payer on refunds due to non-commencement. Refunds resulting from City's miscalculation shall not be charged the administrative fee on the amount refunded.

b. No refund shall be given for a change in land use or structure after occupancy has occurred.

c. Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the impact fee was paid shall, upon application of the fee payer within one hundred eighty (180) days of that date, be returned to the fee payer with interest at the rate of

six percent (6%) per annum.

21-321.09 - Credits

a. An applicant shall be entitled to a credit against the Fire Protection and EMS Impact Fees assessed pursuant to this Section in an amount equal to the cost of improvements which create excess capacity for the general public or contributions to the City of land, money, facilities, equipment or services by the applicant or his predecessor in interest as a condition of any development agreement entered into with the City. Such credit shall be based on the following criteria:

   1. The actual cost or estimated cost, based on recent bid sheet information of the City of Edgewater or Volusia County, of off-site improvements. Improvements eligible for a credit are those improvements proposed that will benefit not only the dwellings on-site, but also the general public. Improvements not eligible for a credit are those facilities that are privately owned or that serve only the dwellings within the development.

   2. The actual cost or estimated cost of improvements based on recent bid sheet information of the City of Edgewater or Volusia County with respect to that portion of on-site improvements which creates excess capacity for the general public.

   3. The contribution of land, money, facilities, equipment or services by the applicant for improvements to the City's Fire/Rescue Department which creates excess capacity for the general public. Services must relate directly to the provision of land, facilities or equipment. The credit for land contributed will be based on a pro rata share of the appraised land value of the parent parcel as determined by an MAI appraiser selected and paid for by the applicant and approved by the City Manager or based on such other method as may be mutually agreed upon by the applicant and the City Manager. In the event that the City disagrees with the appraised value, the City may select and pay for another appraiser and the credit shall be an amount equal to the average of the two (2) appraisals.

   4. Unless otherwise provided in a development agreement between the City and the applicant or his predecessor in interest, no credit for contributions or donation made prior to the effective date of this Article shall be granted unless the cost of the improvements were paid for or the contributions were made within the two (2) years prior to this Article.

   5. No credit shall exceed the amount of the fire impact fee assessed under Section 21-321.03 of this Article.

   6. No credit shall be allowed for the over-sizing of water lines, widening of roads or other improvements with only an indirect benefit for fire protection.

b. The amount of the credit shall be determined by the City Manager. However, the determination may be appealed to the City Council, whose decision shall be final and binding on the applicant.

c. Any credit issued pursuant to this Section may be transferred by the applicant to any successor in interest in the property.

21-321.10 - Exemptions

The following shall be exempt from payment of the Fire Protection and EMS Impact Fee:

a. Those residential or nonresidential dwellings which have been issued a building permit or certificate of occupancy prior to the effective date of this Article.

b. Additions to or expansions of single-family dwellings that do not create an additional living unit.

c. The replacement of a building, mobile home, or structure that was in place on the effective date of this Article or the replacement of a building, mobile home or structure that was constructed subsequent thereto and for which the correct impact fee had been paid or otherwise provided for, with a new building, mobile home or structure of the same use, provided that no additional impact fee will be produced over and above that produced by the original use of the land.

21-321.11 - Appeals

Any decision made by the City Manager or his designee in the course of administering this Article may be appealed in accordance with those procedures set forth in this Code for appeals of administrative decisions.

21-321.12 - Lien/ Withholding of Permits for Non-Payment

a. If through error, omission or intent that the impact fee imposed under this Article is not paid in full, the amount unpaid together with statutory interest accruing from thirty (30) days following the date written notice was sent by certified mail, shall be a lien against the property on which the specific development from which the impact fee is due. Notice of the lien shall be recorded in the official records of the Clerk of the Circuit Court, in and for the County of Volusia. The lien shall have priority over all liens, mortgages and encumbrances, except taxes. If the notice of lien is not recorded within three (3) years following the date the building permit is issued for the development for which the impact fee is owed, the lien shall be of no force and effect. If this shall occur, the amount of the impact fee is due and payable to the City of Edgewater. If the lien remains unpaid for more than thirty (30) days following recording, it may be foreclosed in the manner provided by law for foreclosures of mortgages on real property.

b. If the impact fee remains unpaid, no further building permits of any type shall be issued on the property for which the impact fee remains unpaid. Building permits, including certificates of occupancy and/or occupancy permits may be issued only upon full payment of any previously owed impact fee, together with any interest owing and current impact fee, if any.

21-321.13 - Violations; Relief

Knowingly furnishing false information to the City Manager on any matter relating to the administration of this Article shall constitute a violation thereof. Violation of this Article shall constitute a misdemeanor enforceable in accordance with the City Code or by an injunction or other legal or equitable relief in the Circuit Court against any person violating this Article, or both civil injunctive and criminal relief.

SECTION 21-322 - POLICE IMPACT FEES

21-322.01 - Intent; Purpose

a. This Section is intended to implement and be consistent with the City of Edgewater's Comprehensive Plan.

b. The purpose of this Section is to ensure that new development pays a fair share of the anticipated costs of equipment and facilities necessary to provide police protection for new development.

21-322.02 - Imposition of Fees

a. Any person who seeks, after its effective date of this Article, to develop land by applying for the issuance of a building permit for one of the land use types specified herein shall be required to pay the Police Impact Fee prior to the issuance of a building permit or any other development permit in the manner and amount set forth in this Section.

b. When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, the impact fees shall be based upon the net increase in the impact fee for the new use as compared to the previous use.

21-322.03 - Fees

The amount of the Police Impact Fee imposed under this Section shall be as established by resolution of the City Council.

21-322.04 - In-Kind Contributions; Refusal of Adjustment; Covenants

a. Independent calculations for credits for in-kind contributions made after the effective date of this Article shall be submitted to and approved by the City Manager prior to effecting the contribution.

b. The City Manager's action in adjusting or refusing to adjust the impact fee pursuant to an independent calculation shall be in writing and must be transmitted by certified mail to the fee payer.

c. The City Manager shall require that a covenant running with the land be executed and recorded on the subject property where: the independent calculation is based on a use of land having a lesser impact than that upon which the schedule is based, as applicable; the property could be put to a use having a greater impact than that proposed with such use not requiring future approval by the City; or for such other reasons necessary to ensure compliance with this Article. The covenant shall hold the fee simple interest in the land and mortgage as appropriate. The covenant shall recite this Article and the facts and reasons underlying its execution. It shall set forth the restrictions on the property and the terms and conditions under which it may be released.

21-322.05 - Review of Fees

a. City Staff shall annually review all fees relating to this Section. All adjustments shall be based on the percentage change as contained in the CPI (Consumer Price Index – All Urban Consumers) or ENR (Engineering News Record) index as established/reported in April of each year and shall be automatically adjusted on October 1 of each year.

b. Each review shall include an analysis of the level of service for each impact fee. If the average level of service is not consistent with the level of service upon which the respective impact fee amount is based, the amount shall be adjusted based upon the then-existing level of service.

21-322.06 - Trust Fund

The Police Impact Fee shall be deposited in a Police Impact Fee Trust Fund. The trust fund shall be invested by the City in interest bearing sources and all income derived shall accrue to the trust fund. The funds shall be used only for capital improvement costs for which the impact fee was levied and which would add capacity needed to serve new development. The City Manager shall identify in the City's annual budget the designated capital improvements for which the Police Impact Fee will be spent. The funds shall remain restricted to the Police Trust Fund and the requirements of this Section. The City Manager shall ensure that these designated funds are expended and accounted for in accordance with the provisions of this Section. The City shall maintain such records and documentation necessary to allow the effective audit of the use of the Police Impact fees.

21-322.07 - Collection, Administrative Fees and Use of Funds

a. The fee payer shall pay the Police Impact Fee to the City for deposit into the Police Impact Fee Trust Fund prior to the issuance of a building permit which may be required for development listed in the schedule contained in Section 21-322.03. No building permit may be issued until such fees have been paid or until the City has accepted title to land area meeting the standards set out in this Article. For land uses not requiring a building permit, an alternative development order shall not be granted until the impact fees have been paid.

b. In lieu of all or part of the impact fees, City Council may accept the offer by a fee payer to dedicate land and/or construct all or part of a Law Enforcement project. Such construction must be in accordance with State, County and City design standards applicable to the project. The fee

payer shall submit a project description in sufficient detail to allow the preparation of an engineering and construction cost estimate.

c. If the City Council accepts such offer, the City Manager shall credit the cost of this construction against the Police Impact Fee otherwise due. The portion of the fee represented by the facilities constructed shall be deemed paid when the construction is completed and accepted by the City or when the fee payer posts security as provided in subsection (d) of this Section for the costs of such construction. The portion of the fee represented by land dedication shall be deemed paid when the title to the land dedicated for that purpose has been accepted by the City.

d. Security in the form of a performance bond or escrow agreement shall be posted with and made payable to the City in an amount approved by the City Manager equal to one hundred ten percent (110%) of the full cost of such construction. If construction of the project is not to be completed within one year of the acceptance of the offer by the City, the amount of security shall be increased by ten percent (10%) compounded for each year of the life of the security. The security shall be reviewed and approved by the City Manager's office prior to acceptance of the security by City Council.

e. No impact fee is required for the issuance of any building permit for residential use which does not result in an additional living unit.

f. All funds collected pursuant to this Section shall be promptly transferred for deposits into the Police Trust Fund. Impact fee collections shall be used exclusively for land acquisition, capital improvements, purchases or expansion related to the public purpose for which such fees were collected, with the exception of impact fee administrative costs pursuant to paragraph (g) below. Funds shall be expended in the order in which they are collected.

g. The City shall be entitled to retain up to four percent (4%) of the impact fees collected as an administrative fee to offset the costs of administering this Section.

h. Any impact fees that are paid by check, draft or other negotiable instrument, that do not clear; the building permit or development order authorizing the development for which the impact fee was paid shall be suspended and the City shall send the appropriate suspension notice to the fee payer by certified mail. If the impact fee, together with any charges for funds not clearing, are not paid within ten (10) business days following mailing of the notice, the building permit or development order shall be of no further force and effect for purposes of this Article and a stop work order shall be issued and remain in effect until such time as the impact fee is paid and the funds clear.

21-322.08 - Refund

a. If a building permit expires and no construction has been commenced, the fee payer shall be entitled to a refund of the impact fee paid as a condition for its issuance, less the four percent (4%) of the fee retained as an administrative fee by the City, therefore, the fee payer shall be entitled to a refund equal to ninety-six percent (96%) of the impact fee paid. No interest will be paid to the fee payer on refunds due to non-commencement. Refunds resulting from City's

miscalculation shall not be charged the administrative fee on the amount refunded.

b. No refund shall be given for a change in land use or structure after occupancy has occurred.

c. Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the impact fee was paid shall, upon application of the fee payer within one hundred eighty (180) days of that date, be returned to the fee payer with interest at the rate of six percent (6%) per annum.

21-322.09 - Credits

a. An applicant shall be entitled to a credit against the Police Impact Fees assessed pursuant to this Section in an amount equal to the cost of improvements which create excess capacity for the general public or contributions to the City of land, money, facilities, equipment or services by the applicant or his predecessor in interest as a condition of any development agreement entered into with the City. Such credit shall be based on the following criteria:

1. The actual cost or estimated cost based on recent bid sheet information of the City of Edgewater or Volusia County, of off-site improvements. Improvements eligible for a credit are those improvements proposed that will benefit not only the dwellings on-site, but also the general public. Improvements not eligible for a credit are those facilities that are privately owned or that serve only the dwellings within the development.

2. The actual cost or estimated cost of improvements based on recent bid sheet information of the City of Edgewater or Volusia County with respect to that portion of on-site improvements which creates excess capacity for the general public.

3. The contribution of land, money, facilities, equipment or services by the applicant for improvements to the City's Police Department which creates excess capacity for the general public. Services must relate directly to the provision of land, facilities or equipment. The credit for land contributed will be based on a pro rata share of the appraised land value of the parent parcel as determined by an MAI appraiser selected and paid for by the applicant and approved by the City Manager or based on such other method as may be mutually agreed upon by the applicant and the City Manager. In the event that the City disagrees with the appraised value, the City may select and pay for another appraiser, and the credit shall be an amount equal to the average of the two (2) appraisals.

4. Unless otherwise provided in a development agreement between the City and the applicant or his predecessor in interest, no credit for contributions or donation made prior to the effective date of this Article shall be granted unless the cost of the improvements were paid for or the contributions were made within the two (2) years prior to the effective date of this Article.

5. No credit shall exceed the amount of the Police Impact Fee assessed under Section 21-322.03 of this Article.

6. No credit shall be allowed for security systems, widening of roads or other improvements with only an indirect benefit for police protection.

b. The amount of the credit shall be determined by the City Manager; provided, however, that the determination may be appealed to the City Council, whose decision shall be final and binding on the applicant.

c. Any credit issued pursuant to this Section may be transferred by the applicant to any successor in interest in the property.

21-322.10 - Exemptions

The following shall be exempt from payment of the Police Impact Fee:

a. Those residential or nonresidential dwellings which have been issued a building permit or certificate of occupancy prior to the effective date of this Article.

b. Additions to or expansions of single-family dwellings that do not create an additional living unit.

c. The replacement of a building, mobile home or structure that was in place on the effective date of this Article or the replacement of a building, mobile home or structure that was constructed subsequent thereto and for which the correct impact fee had been paid or otherwise provided for, with a new building, mobile home or structure of the same use, provided that no additional impact fee will be produced over and above that produced by the original use of the land.

21-322.11 - Appeals

Any decision made by the City Manager or his designee in the course of administering this Article may be appealed in accordance with those procedures set forth in this Code for appeals of administrative decisions.

21-322.12 - Lien; Withholding of Permits for Non-Payment

a. If through error, omission or intent the impact fee imposed under this Article is not paid in full, the amount unpaid, together with statutory interest accruing from thirty (30) days following the date written notice was sent by certified mail, shall be a lien against the property on which the specific development for which the impact fee is due. Notice of the lien shall be recorded in the official records of the Clerk of the Circuit Court, in and for the County of Volusia. The lien shall have priority over all liens, mortgages, and encumbrances, except taxes. If the notice of lien is not recorded within three (3) years following the date the building permit is issued for the development for which the impact fee is owed, the lien shall be of no force and effect. If this shall occur, the amount of the impact fee is due and payable to the City of Edgewater. If the lien remains unpaid for more than thirty (30) days following recording, it may be foreclosed in the manner provided by law for foreclosures of mortgages on real property.

b. If the impact fee remains unpaid, no further building permits of any type shall be issued on the property for which the impact fee remains unpaid. Building permits, including certificates of occupancy and/or occupancy permits may be issued only upon full payment of any previously owed impact fee, together with any interest owing and current impact fee, if any.

21-322.13 - Violations; Relief

Knowingly furnishing false information to the City Manager on any matter relating to the administration of this Article shall constitute a violation thereof. Violation of this Article shall constitute a misdemeanor enforceable in accordance with the City Code or by an injunction or other legal or equitable relief in the Circuit Court against any person violating this Article or both civil injunctive and criminal relief.

SECTION 21-323 - TRANSPORTATION/ROAD IMPACT FEES

21-323.01 - Short Title; Statutory Authority; Applicability of Section

a. This Section shall be known and may be cited as the City of Edgewater Road Impact Fee Ordinance.

b. The planning for new and expanded roads needed to serve new growth and development that generate additional traffic and the implementation of these needs through the comprehensive planning process are the responsibility of the City under F.S. §163.61 et seq., F.S. ch. 166, and various special acts relating to the power of the City undertaking zoning, planning and development activities and is in the best interest of the health, safety and welfare of the citizens of the City. This Section is adopted pursuant to F.S. ch. 166 and the City Charter.

c. Applicability. This Section shall apply throughout the City of Edgewater.

21-323.02 - Purpose and Intent

a. The purpose of this Section is to enable the City to allow growth and development to proceed in compliance with the adopted Comprehensive Plan and to regulate growth and development so as to require it to share in the burdens of growth by paying its pro rata share for the reasonably anticipated costs of needed roadway improvements.

b. This Section is intended to implement and be consistent with the City's Comprehensive Plan.

c. It is not the purpose of this Section to collect fees from growth and development in excess of the cost of the reasonably anticipated improvements to the road network needed to serve the new growth and development. It is specifically acknowledged that this article has approached the problem of determining the Road Impact Fee in a conservative and reasonable manner. This Section will only partially recoup the governmental expenditures associated with growth. Existing development will be required to pay a fair share of the cost of needed improvements to the road network.

21-323.03 - Definitions and Rules of Construction

For the purposes of administration and enforcement of this Section, unless otherwise stated in this Section, the following rules of construction shall apply to the text of this Section:

a. In case of any difference of meaning or implementation between the text of this Section and any caption, illustration, summary table or illustrative table, the text shall control.

1. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

2. Words used in the present tense shall include the future; and words in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

3. The phrase "used for" includes "arranged for," "designed for," "maintained for" or "occupied for."

4. The word "person" includes an individual, a corporation, a partnership, a governmental entity or agency, an incorporated association or any other similar entity.

5. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of a like kind or character.

6. Any road right-of-way used to define transportation impact fee zone boundaries may be considered to be within any zone it bounds for purposes of using these funds.

7. The land use types listed shall have the same meaning as contained in the Land Development Code and City of Edgewater Code of Ordinances.

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

Accessory use means any use or attached or detached structure clearly incidental, subordinate and related to the principal use or structure and located on the same lot with such principal use or structure.

Apartment means a rental dwelling unit that is located within the same building with at least two (2) other dwelling units. Sites included in this land use are triplexes and all types of apartment buildings. The apartments in this land use include both low-rise or "walk-up"dwellings and high-rise.

Applicant means any person applying for or who has been granted a permit to proceed with a project.

Average trip length means the average length in miles of external trips.

Building means any structure with an impervious roof built for the support, shelter or enclosure of persons, animals, chattels or property of any kind, which has enclosing walls for fifty percent (50%) or more of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof."

Building area means the area included within surrounding exterior walls, or exterior walls and fire walls.

Building permit means the documentation required by the municipal building code authorizing construction or alteration of any building.

Capacity means the maximum number of vehicles for a given time period which a road can safely and efficiently carry; usually expressed in terms of vehicles per day.

Capital improvement includes transportation planning, preliminary engineering, engineering studies, design and construction plan preparation, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for any road construction project including, but not limited to:

1. Construction of new through lanes.
2. Construction of new turn lanes.
3. Construction of new bridges.
4. Construction of new drainage facilities and utilities in conjunction with new roadway construction.
5. Purchase and installation of traffic signalization (including new signalization and upgrading signalization).
6. Construction of curbs, medians, shoulders, sidewalks and bike paths.
7. Relocating utilities to accommodate new roadway construction.

Certificate of occupancy means the official document or permit issued by the City evidencing the completion of construction of a building in accordance with all applicable codes and its legal entitlement to permanent occupancy and use.

Collecting agency means the local governmental authority having jurisdiction to authorize the making of any material change of any structure, including the construction, enlargement, alteration or repair of buildings, or the local governmental authority having jurisdiction to authorize rezoning or special exceptions that make material changes in the use or appearance of land without making material changes of any structures on the land.

Dwelling means one or more rooms in a building forming a separate and independent housekeeping establishment, arranged, designed or intended to be used or occupied by one family, and having no enclosed space or cooking or sanitary facilities in common with any other dwelling unit with no ingress or egress through any other dwelling unit, and containing permanent provisions for sleeping

facilities, sanitary facilities and not more than one kitchen facility.

Dwelling, manufactured means a dwelling fabricated in a manufacturing facility and bearing a seal certifying it is constructed to standards as adopted under the authority of F.S. § 553.35 et seq. And rules adopted by the Florida Department of Community Affairs under Chapter 9B-1 et seq., Florida Administrative Code.

Dwelling, mobile home means a single-family dwelling fabricated in a manufacturing facility, having a width of more than 8 ½ feet and a length of more than forty (40) feet, and bearing a seal certifying it is constructed either to the Federal Manufactured Housing Construction and Safety Standards Code or to obsolete ANSI 119.1 Mobile Home Design and Construction Standards.

Dwelling, single-family means a building containing only one dwelling. This term includes a manufactured or mobile home dwelling.

Expansion. Expansion of the capacity of a road applies to all road and intersection capacity enhancements and includes extensions, widening, intersection improvements, upgrading signalization and improving pavement conditions.

External trip means and refers to any trip that has either its origin or destination at the development site and that impacts the major road network.

Fee payer means any person or entity who pays a transportation/road impact fee or his/her successor in interest with the right or entitlement to any refund of previously paid development impact fees which is required by this Section and which has been expressly transferred or assigned to the successor in interest. In the absence of an express transfer or assignment or entitlement to any refund or previously paid development impact fees, the right or entitlement shall be deemed "not to run with the land."

Frontage road and marginal-access road means a minor street which parallels and is adjacent to an arterial, thoroughfare or state road, and which provides access to abutting properties and protection from through traffic.

Hotel means a place of lodging that provides sleeping accommodations, restaurants, cocktail lounges, meeting and banquet rooms or convention facilities, and other retail and service shops. Some of the sites included in this land use category are actually large motels providing the facilities of a hotel.

Land development activity generating traffic means the carrying out of any building activity or the making of any material change in the use of appearance of any structure or land that attracts or produces vehicular trips over and above that produced by the existing use of the land.

Lot means an area of land which abuts a street and which either complies with or is exempt from the City Subdivision Regulations and is sufficient in size to meet the minimum area and width requirements for its classification.

Major sports facility means a stadium or racetrack for major sports events with a permanent seating capacity of at least 5,000 spectators. Further, a major sports facility is characterized by infrequent use such that there are no more than thirty (30) days of use per year where the facility is at, or above, ten percent (10%) occupancy. Actual fee for this land use category, provided it meets the definition, is based on the rate of frequency of use (greater than ten percent {10%} occupancy) on an annual basis.

Mobile Home Park means an area of land under one ownership where designated spaces for mobile home dwellings are rented. The overall operation is managed on a full or part time basis and provides various services and facilities for common use.

Motel means a place of lodging that provides sleeping accommodations and often a restaurant. Motels generally offer free on-site parking and provide little or no meeting space.

Multiple-family dwelling means a building containing three (3) or more dwellings intended to be occupied primarily by permanent residents.

Off-site improvements means road improvements, other than those referenced in the definition of site-related improvements, located outside of the boundaries of the parcel proposed for development, which are required to serve the development's external trips.

Percent of new trips means the number of new trips generated by the land development activity.

Site-related improvements means capital improvements and right-of-way dedications for direct access improvements to the development in question. Direct access improvements includes, but not limited to, the following:

1. Site driveways and roads;
2. Right and left turn lanes leading to those driveways and roads;
3. Traffic control measures for those driveways and roads;
4. Acceleration/deceleration lanes;
5. Frontage roads;
6. Median openings/closings; and
7. Roads necessary to provide direct access to the development.

Square foot, for the purpose of the fee schedule, subsection 3-323.05(f)(1), means total square footage of a building area, excluding overhangs.

Thoroughfare system means any roadway that has been designated as either an arterial or collector in the Transportation Element of the City's Comprehensive Plan.

Thoroughfare system plan means the thoroughfare plan as set out and included in the Comprehensive Plan.

Traffic generation statement means a documentation of proposed trip generation rates submitted prior to and as a part of a traffic impact analysis. This documentation shall include actual traffic generation information from a representative sampling of existing similar developments.

Transportation/road impact fee and fee means the fee required to be paid in accordance with this Section.

Trip means a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end).

21-323.04 - Interpretation of Article; Enforcement; Penalty

a. Interpretation.
The provisions of this Section shall be liberally construed to effectively carry out its purposes in the interest of public health, safety, welfare and convenience.

b. Methods of enforcement.
The City shall withhold any certificate of occupancy of any final inspection approval for construction applicable to this Section until the required fee has been paid.

c. Penalty.
A violation of this Section shall be punishable according to applicable municipal codes.

d. Building permits not to be issued to persons failing to pay fee. No building permit shall be issued by the municipality to any person who, while required by this Section to pay a Transportation/Road Impact Fee, has failed to pay such fee.

21-323.05 - Imposition of Fee

a. Applicability of fee.

1. Any person who makes or causes the making of an improvement to land which will generate additional traffic and which requires the issuance of a building permit, or any person who changes the use of any building to one which will generate additional traffic, shall be required to pay a Transportation/Road Impact Fee in the manner and amount set forth in this Section.

2. No person shall undertake construction of an improvement for which the fee imposed by this Section is applicable without having paid the proper transportation/road impact fee imposed by this Section. No person shall change the use or allow a change in use of any building where the fee imposed by this Section is applicable without having paid the proper Transportation/Road Impact Fee imposed by this Section.

b. Payment of fee required prior to issuance of any form of development permits which may

include, but not be limited to the following: building permit, certificate of occupancy, business tax receipt or use permit. No county or municipal certificate of occupancy, business tax receipt or use permit for which a complete application is submitted after January 31, 2005, for any activity requiring payment of an impact fee pursuant to this Section shall be issued unless and until the transportation/road impact fee required by this Section has been paid. The obligation of a person to pay the fee imposed by this Section shall not be extinguished by the inadvertent failure of the City to collect the fee at the time required.

c. Methods of determination.
The Transportation/Road Impact Fee for any development activity generating traffic in the City shall be determined either by using the fee schedule set forth in subsection (f)(1) of this Section, or by using the method set forth in Section 21-323.05.

d. Presumption of maximum impact.
Development is presumed to have the maximum impact on the road network. The proposed development activity for which an application for a building permit has been filed shall be presumed by the City engineer or his designee to generate the maximum number of average daily vehicle trips, vehicle miles of travel and lane miles of travel.

e. Transportation/Road Impact Fee formula.
The following formula shall be used to determine the impact fee per unit of development:

Impact Fee = (1/2)*(TGR)*(%NT)*(DF)*(ATL)*(CC/LM)(WCL)

Where:

TGR = trip generation rate assigned to each land use

NT = new trips generated by the land use

DF = distribution factor of trips utilizing the thoroughfare network

ATL = average trip length utilizing the thoroughfare network

CC = average road construction cost

LM = lane miles

WCL = weighted capacity per lane mile

f. Fee schedule. The following fee schedule has been prepared based upon the formula presented in subsection (e) of this Section using in part the Roadway Impact Fee update, dated September 25, 2003 prepared for Volusia County by TEI Engineers and Planners, and the Transportation Impact Fee Study dated August 2004 prepared for the City of Edgewater by B&H Consultants, Inc.

1. The Transportation/Road Impact Fee shall be determined in accordance with the Transportation/Road Impact Fee Schedule established by resolution of the City Council.

2. Credits for completed and accepted non-site-related improvements shall be determined for each application, and shall be deducted from the Transportation/Road Impact Fees listed in the Transportation/Road Impact Fee Schedule, at the time transportation/road impact fees are to be paid. The value of non-site-related improvements for which credits may be allowed shall be determined by the director of development services.

3. Credits for the present value of future gas or motor fuel tax payments utilized to fund capacity expansion of the thoroughfare road systems are included in the calculations of the fee schedule set out in this Section.

4. The fees charged for a building with more than one use shall be for that use having the highest traffic generation rate except for church buildings with mixed uses or buildings with residential and non-residential mixed uses. If the church building has more than one use, the separate uses are to be identified and appropriately charged according to the fee schedule. If a building has residential and non-residential uses, the square footage of the building identified as residential will be charged based on the number of dwelling units. The square footage identified as non-residential shall be charged for that use having the highest traffic generation rate.

5. If the type of development activity for which a building permit is applied is not specified on the fee schedule set out in this Section, the City shall use the fee applicable to the most nearly comparable type of land use on the fee schedule. The City shall be guided in the selection of a comparable type by the report titled "Institute of Transportation Engineers, Trip Generation: An Information Report" (sixth or any subsequent editions). If the City determines that there is no comparable type of land use on the fee schedule set out in this Section, then the fee shall be determined by using traffic generation statistics contained in the report titled "Institute of Transportation Engineers, Trip Generation: An Information Report" (sixth or any subsequent edition), average trip length and percent of new trips based upon the best data available to the City and by applying the formula set forth in subsection (e) of this Section.

6. In the case of an expansion of an existing use on the same lot or an adjoining lot (which may be intersected by an easement or right-of-way) requiring the issuance of a building permit, the impact fee shall be based upon the net increase in the impact fee for the new as compared to the previous use. The City shall be guided in this determination by the report titled "Institute of Transportation Engineers, Trip Generation: An Information Report" (sixth or any subsequent edition).

7. The transportation/road impact fee on a shopping center shall be computed using one retail-commercial rate for all stores except the out-parcels, which shall be calculated using the rate for that land use from the transportation/road impact fee schedule.

8. If an affidavit is filed by the owner of real property with the county or municipality certifying that a farm building on a farm is exempt from issuance of a building permit under Florida law, then the building shall also be exempt from impact fee charges.

9. Road construction and right-of-way credits issued by the City can be transferred between lots with identical land uses.

21-323.06 - Independent calculation

a. Any person may determine their Transportation/Road Impact Fee by providing independent traffic documentation that their impact on the thoroughfare system is less than the Transportation/Road Impact Fee as determined under subsection (f)(1) of Section 21-323.05. The documentation submitted shall show the basis upon which the Transportation/Road Impact Fee has been calculated, which shall conform to the following factors:

1. The trip generation rate, trip length and the percent of new trips shall be documented together. In no event shall they be documented separately. All other variables in the Transportation/Road Impact Fee formula cannot be altered, but shall be based upon data current at the time this fee shall be due. Petitioners requesting to undertake an independent calculation may substitute the trip generation rate and the percent of new trips and trip length in the Transportation/Road Impact Fee formula with data obtained from approved traffic surveys and actual traffic counts generated by approved traffic study sites.

2. The unit of measure used for trip generation in the independent calculation must be identical to the one used in the Transportation/Road Impact Fee formula, in order to measure accurately the project's impact on the thoroughfare system.

3. If a single business or shopping center is studied, at least two (2) sites within the City of Edgewater must be tested. The results of each site must be added together and averaged to obtain an alternative trip generation rate, trip length and percent of new trips. The results can be substituted in the Transportation/Road Impact Fee formula. If the study results indicate a lower fee, the charges will be adjusted accordingly.

4. If no suitable alternative site is available as determined by the City staff, the applicant may pay the Transportation/Road Impact Fee and employ a licensed engineer to conduct a traffic study on the project site within six (6) months after the enterprise is open for business. The traffic study time-frame and monitoring points must be approved by the City staff. Only the trip generation rate, trip length and the percent of new trips can be used in the analysis. Once the results of each sampling point are added together and averaged they may be substituted in the Transportation/Road

Impact Fee formula. The results will be used to determine an appropriate impact fee. If the traffic study results indicate a lower fee and accepted by the City staff, the difference will be refunded to the applicant. All refunds are subject to Section 21-323.10. This documentation shall be prepared and presented by licensed engineers. Specific actions such as the number of manual or automated counts, number of personal surveys, location of the sampling stations and the layout of the study sites will be negotiated by the applicant and City staff.

21-323.07 - Review of Fees

City Staff shall annually review all fees relating to this Section. All adjustments shall be based on the percentage change as contained in the CPI (Consumer Price Index - All Urban Consumers) or ENR (Engineering News Record) index as established/reported in April of each year and shall be automatically adjusted on October 1 of each fiscal year.

21-323.08 - Payment

a. Time of payment; lien.

1. The person applying for the issuance of a building permit shall pay the transportation/road impact fee.

   The obligation for payment of the impact fee shall run with the land. However, this Section shall not be construed to relieve an applicant of responsibility or liability for payment of the impact fees imposed by this Section.

   In the event the impact fee is not paid prior to the issuance of a building permit for the affected impact construction, the City may collect the impact fee, together with interest, as provided in Section 21-323.08(d).

   If no building permit is required upon a change of use of a building, the fee imposed by this Section shall be payable at such time as the person making such change shall be required to apply for an business tax receipt.

2. All fees due under this Section shall become a lien at the time of the issuance of the building permit or in the case of a change of use on the issuance of a business tax receipt, as the case may be, such fees shall be due, and shall remain a lien, coequal with the lien of all State, District, County and Municipal taxes, superior in dignity to all other liens, titles and claims, until paid. Such lien shall be upon the land on which an improvement is made requiring the payment of fees and shall be for the amount of the fee required, as well as for all penalties and interest due under the provisions of this Section.

b. Method of payment.
Payment of Transportation/Road Impact Fees shall be made to the City of Edgewater.

c. Disposition of funds.
All funds collected shall be promptly transferred for deposit into a Transportation/Road Impact Fee trust fund and used solely for the purposes specified in this Section.

d. Interest and administrative; penalty.

1. Interest at the rate set by law for judgments shall be due on all fees due under this Section from the time such fee was due according to the terms of subsection (a) of this Section. The inclusion in this Section of provisions concerning interest due shall be deemed to be cumulative of the City's rights already existing as a matter of law to prejudgment interest upon sums which are certain and due and payable at a specified time. Accordingly, the requirement for the payment of interest shall be deemed to apply retroactively to all fees which have previously become due under the terms of this Section; and nothing in this Section shall be construed in derogation of such right otherwise existing at law.

2. There shall be due and payable to the City an administrative penalty of five percent (5%) per month to a maximum of twenty-five percent (25%) of all fees unpaid at the time they were due according to the terms of this Section. Such administrative penalty shall accrue monthly on the anniversary of the date when such fee should have been paid. In the case of fees previously due under the terms of this Section, such penalty shall accrue at the rate of five percent (5%) per month to a maximum of twenty-five percent (25%) with the first monthly penalty accruing one (1) month following the effective date of the ordinance from which this subsection (e) is derived.

3. The City Attorney or a duly authorized representative may execute, serve upon the owner by certified mail and record a notice of nonpayment in the official records of the county, which shall contain the legal description of the property and the amount of the impact fee liability. Said notice shall thereupon operate as a lien against such property for the amount of the impact fee, together with interest, penalties, and the costs and fees for collection, coequal with the lien of all State, County, District and Municipal taxes.

21-323.09 - Trust funds; Use of funds

a. Trust funds.
There are hereby established a separate transportation/road impact fee trust fund. Subsequent to the adoption of the ordinance from which this Section is derived, should any parcel or area of land located within a zone be annexed into the City, the boundaries shall be deemed amended as of the date of annexation so as to include the land annexed within the zone of such municipality. Such amendment of zones shall be for the purposes of this Section only and shall not affect any prior payment of fees or expenditure of funds attributable to the annexed property.

b. Use of funds; administrative fee.

1. Funds collected from Transportation/Road Impact Fees shall be used for the purpose of capital improvements to and expansion of transportation/road facilities associated with the thoroughfare system plan. Such improvements shall be of the type made necessary by new development. Final determination of projects to be funded using transportation/road impact fee revenues shall be made by the City Council.

2. No funds shall be used for periodic or routine maintenance as defined in F.S. § 334.03.

3. Except as provided in subsection (5) of this subsection, funds shall be used exclusively for capital improvements or expansion within the municipal boundaries. Funds shall be deemed expended in the order in which they are collected.

4. The City shall, each fiscal year, prepare a preliminary capital improvement road program to be funded from each Transportation/Road Impact Fee Trust Fund.

5. The City shall be entitled to retain an amount not to exceed five percent (5%) of all impact fee funds it collects as an administrative fee to offset the actual administrative costs associated with the collection of the funds and administering this Section.

21-323.10 - Refunds

If it is determined by the City that fee assessments collected pursuant to this Section have not been spent or encumbered or expended by the end of the calendar quarter immediately following ten (10) years from the date the fee was received, or if the development for which the fees were paid was never begun, then such funds shall be eligible for refund to the then-present owner in accordance with the following procedures:

1. The then-present owner must petition the City Council for the refund within one (1) year following the end of the calendar quarter immediately following nine (9) years from the date on which the fee was received by the City.

2. The petition must be submitted to the City and must contain:

   (a) A notarized sworn statement that the petitioner is the current owner of the property;
   (b) A copy of the dated receipt issued for payment of the fee;
   (c) A certified copy of the latest recorded deed;
   (d) A copy of the most recent ad valorem tax bill; and
   (e) Such other information which may be reasonably necessary to ascertain current ownership of the property.

3. Within sixty (60) days from the date of receipt of a petition for refund, the City shall advise the petitioner of the status of the fee requested for refund. For the purpose of determining whether fees have been spent or encumbered, the first money placed in a

trust fund account shall be deemed to be the first money taken out of that account when withdrawals have been made.

4. When the money requested is still in the trust fund account and has not been spent or encumbered by the end of the calendar quarter immediately following ten (10) years from the date the fees were paid, the money shall be returned.

21-323.11 - Exemptions and credits

a. Exemptions.
The following activities shall be exempted from payment of the Transportation/Road Impact Fee:

1. All land development activities which have received a building permit prior to the effective date of the ordinance from which this Section is derived, except as provided for in other Sections.

2. Alterations or expansions of an existing building where no additional units are created and where no additional vehicular trips will be produced over and above that produced by the existing use.

3. The construction of an accessory building which will not produce additional vehicular trips over and above that which is produced by the principal building or use of the land.

4. The replacement of a building with a new building, provided that no additional trips will be produced over and above those produced by the original use of the land.

5. City owned and City operated buildings, structures or uses used solely for general governmental purposes.

b. Credits.

1. No credit shall be given for site related improvements, except as provided for in subsection (2) of the subsection (b).

2. All roadway improvements and/or right-of-way dedications required under a City development order or approval which are included within the roads contemplated in Section 21-323.09(b)(1), except for those improvements deemed site related, shall be credited against Transportation/Road Impact Fees. In addition, any person who constructs or contributes land, money or services for any road improvements (whether site related or not) contemplated in Section 21-323.09(b)(1), which are included within the most recently adopted five (5) year work program shall be entitled to credits against Transportation/Road Impact Fees imposed pursuant to this Section in accordance with subsection (3) of this subsection (b).

3. Credits shall apply to the person making the contribution. Such person shall have the right to transfer all or a portion of the available credits. Any transfers of this type which occur shall be filed with the Development Services Department at the time of or prior to the approval of a development order on a form provided by the City. The costs utilized in computing credits shall be reasonable, but not to exceed the actual costs of the improvements constructed or contributed. The person seeking determination of the credit shall present cost estimates and property appraisals prepared by qualified professionals to be utilized by the Public Works department and the Development Services Department in determining the amount of credits. The City retains the right to prepare its own cost estimate for its use in determining the credit allowed by this subsection.

21-323.12 - Periodic review

a. This Section shall be reviewed by the City Council no less than once every four (4) years.

b. The components of the Transportation/Road Impact Fee formula shall be reviewed by the City Council no less than once every four (4) years.

c. Failure of the City to undertake such a review shall result in the continued use and application of the existing fee schedule and other data.

21-323.13 - Administrative review; Procedures

a. A fee payer shall have the right of administrative review of any decision relating to:

1. A determination that a development activity is required to pay an impact fee under this Section;

2. A determination of the amount of the impact fee; or

3. A determination regarding the amount or application of a credit to be applied against the impact fee.

The administrative review shall be in the form of an administrative review de novo of the decision.

b. Except as otherwise provided in this Section, the administrative review must be requested by the fee payer within forty-five (45) calendar days (including Sundays and legal holidays) from the date of issuance of the impact fee statement or the date of the decision sought to be reviewed, whichever shall last occur. Failure to request administrative review within the time provided in this subsection will be deemed a waiver of that right.

c. A written request for administrative review must be filed with the City Manager. The request shall contain the following:

1. The name and address of the fee payer;

2. The telephone number at which the fee payer may be reached during daytime hours;

3. The legal description of the property in question;

4. If issued, the date the building permit/impact fee statement was issued and the building permit/impact fee statement number;

5. If paid, the impact fee receipt number and date of payment;

6. A brief description of the nature of the land development activity to be undertaken pursuant to the building permit/impact fee statement; and

7. A statement of the reasons why the fee payer is requesting the administrative review, including any supporting information and site or construction plans, if appropriate.

d. Within fifteen (15) calendar days of receipt of a request for administrative review, the decision of the City Manager shall be final and shall be binding upon the fee payer and the City.

e. The determination of the City Manager may be reviewed by the City Council in accordance with Section 21-323.14.

21-323.14 - Final administrative review; Hearings

a. A fee payer who is aggrieved by a determination of the City Manager shall have the right to request a review hearing before the City Council.

b. A review hearing shall be limited to a determination of whether the City Manager correctly applied this Section to the facts and circumstances of the fee payer's case.

c. A review hearing shall be requested by the fee payer by filing a written request for same with the City Manager, within thirty (30) calendar days after the determination is made by the director. Failure to request a hearing within the time provided shall be deemed a waiver of such right.

d. The written request for review hearing to be filed with the City Manager shall contain the following:

1. The name of the party seeking the review and the address if a fee payer;

2. The legal description of the property in question;

3. If issued, the date the building permit/impact fee statement was issued and the building permit/impact fee statement number;

4. If paid, the impact fee receipt number and date of payment; and

5. A brief description of the nature of the land development activity being undertaken pursuant to the building permit/impact fee statement.

e. Upon receipt of a request for review hearing, the City Manager shall schedule a hearing before the City Council at a regular meeting or special meeting called for the purpose of conducting the hearing. The City shall provide the fee payer with reasonable written notice of the time and place of the hearing. A review hearing shall be held within forty-five (45) days of the date the request for hearing was filed.

f. The review hearing shall be held by the City Council and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present evidence.

SECTION 21-324 -WATER SYSTEM EXTENSION

21-324.01 - Intent; Purpose; Basis

a. The City of Edgewater, herein referred to as the "City", as the owner and operator of the water system, hereinafter referred to as the "Edgewater water system" or the "City water system", hereby establishes this extension policy for the purpose of creating a uniform method of determining the capital charges to be borne by property owners, builders or developers within the water service area to defray or partially defray the cost of an on-site water distribution system, the allocable share of an off-site water distribution system and the allocable share of treatment plant costs. The City declares that this extension policy has as its goal the establishment of a uniform method of computing or determining such charges to the end that all such charges shall be nondiscriminatory among consumers in the area and shall be applied as nearly as possible with uniformity to all consumers or prospective consumers within the present or future service area.

21-324.02 - Availability

The provisions of this extension policy are available to consumers and property owners throughout the water service area of the Edgewater water system which shall allow the City to recover operating costs and expenses, required debt service, contributions to renewal and replacement funds and allocations from the general revenue fund for costs reasonably related to the water system. The term "water service area" as used herein is that area defined as the City's water service area in the adopted

Comprehensive Plan of the City of Edgewater, as may be amended from time to time.

21-324.03 - On-Site Facilities

1. Each developer, owner or builder (hereinafter referred to as "developer") shall be responsible for the design, installation, inspection and testing of the complete water system located in the streets or easements adjoining or within the boundaries of the developer's property.

2. The term "complete water system" as used herein includes, but is not limited to all component parts of a water distribution system, including pipes, valves, fittings, hydrants and all appurtenances as shown upon the approved design of such water distribution system.

3. In the event the City requires the installation of oversized lines or facilities designed to provide service for other properties, then the City shall pay for the cost of such oversizing by means of a direct cash payment by the City to the developer or a credit against water capital charges otherwise to be paid by the developer. The limited size of the developer's property for which service has been requested may indicate to the City the desirability of having the City design and install the water distribution system. In such event, the City reserves the right to compute the estimated cost of such extension and to require the developer to pay such cost of construction in lieu of the developer's installation of the water distribution system.

SECTION 21-325 - WATER CAPITAL CHARGES

21-325.01 - Intent; Purpose; Basis

a. The intent of this Section is to establish charges for the purpose of compensating the City for costs incurred in providing water treatment facilities and in extending water distribution and transmission lines to a point of reasonable availability for connection to the City water system. The charges shall be computed on the basis of real property use, zoning and size in approximate proportion to the benefits received. The determination of the point of reasonable availability for connection to the City water system shall be determined in accordance with policies from time to time established by the City. As set forth in this Section, the developer may incur additional charges and expenses in order to obtain water service, which charges and expenses are not defrayed by its payment of water capital charges. Nothing contained in this Section shall be construed to obligate the City to extend water services to any lands within its water service area.

b. The water capital charge shall be established by resolution of the City Council. Those persons, corporations or entities which have previously prepaid the existing water connection charge or who have entered into an agreement with the City providing credits against the water connection charge shall be exempt from paying this water capital charge. The amount of credit shall not exceed the amount prepaid or the approved credit authorized in the developer's agreement.

c. The water capital charge shall be paid prior to the execution by the City of the FDEP construction application, but in no event later than the issuance of the building permit.

d. Requested decreases and revised charges.

1. An applicant may submit data and other information on actual usage, anticipated usage, peak load requirements or a combination of the foregoing to the Director of Environmental Services (hereinafter referred to as "Director") to support a requested decrease in the total equivalent residential unit value. The Director may use this information to determine a revised value, which may be less than or greater than that established by resolution of the City Council, and which will be used to determine a revised water capital charge. In either case, the applicant shall pay the revised water capital charge instead of the water capital charge established herein.

2. Alternatively, an applicant may pay the water capital charge as established by the City and, after one (1) year of operation, submit one (1) year's data on actual usage to the Director for review. The Director may use this information to determine a total ERU value, which may be less than or greater than that established by the City and which will be used to determine a revised water capital charge. If the applicant desires to use this alternative method of calculation, the applicant must advise the Director of such determination prior to the payment of the water capital charge.

21-325.02 - Obligations of the City

a. The City shall maintain copies of this extension policy available for the inspection of any property owner, developer, builder or prospective consumer desiring information regarding all elements of the cost of connecting to the water facilities of the City. Such copies shall be maintained at the general office of the Edgewater water system.

b. The City shall maintain as-built information on its water facilities in the office of its designated representatives for the purpose of providing reasonable information concerning the location of its water facilities.

c. The City shall install all meters upon the request of prospective consumers, provided that all fees and charges as described herein and the established meter installation fees have been paid in accordance with the provisions of the extension policy.

d. In instances where the City undertakes the installation of water distribution lines at the cost and expense of the developer in lieu of the developer's installation of such facilities, the City will provide laterals for water service to a developer's lot line ready for plumber's hookup and the installation of meters.

21-325.03 - Obligations of Developer

It shall be the developer's obligation to furnish to the City accurate information with regard to matters of engineering, construction of buildings and dwellings and proposed densities. Developers who increase their density factors and/or consumption requirements during the course of construction of the project are exposed to an adjustment in their hydraulic share for off-site facilities and/or an increase in connection charges applicable to the developer's project. The developer is responsible for errors or changes in engineering information furnished to the City when such error or change results in increased cost to the City for any construction which the City may undertake in connection with installing water distribution facilities or which could necessitate a new design or redesign of water distribution plans.

21-325.04 - Developer Agreements Required

An owner, builder or developer may be required to execute a developer's agreement setting forth such reasonable provisions governing a developer's and the City's responsibility pertaining to the installation of service facilities; the interconnection of plumber's lines with the facilities of the City; the manner and method of payment of contributions in aid of construction; matters of exclusive service rights by the City; standards of construction or specifications; time commitments to take and use water services; engineering errors and omissions; rules, regulations and procedures of the City; prohibitions against improper use of the City's facilities; and other matters normally associated with and contained in developer agreements. Nothing contained in such developer agreements shall be in conflict with this extension policy or the City's ordinances and resolutions governing rates, fees and charges for services and other requirements regarding the rendition of water utility service. The City may require that the developer, in addition to the contribution formulas set forth herein, bear the cost of the preparation of developer agreements by independent counsel or persons qualified to draft and prepare such agreements. Said charge shall not exceed that amount normally to be contemplated for such services.

21-325.05 - Easements and Right-of-Way

As a prerequisite to the construction of any water distribution system proposed to be connected to the facilities of the City, the developer shall grant to the City easements or rights-of-way corresponding with the installation of the proposed facilities. Such grant or conveyance shall be in a form satisfactory to the City Attorney. All such easements or rights-of-way shall be in a form acceptable to the City. Such conveyances when located on the property of the developer shall be made without cost to the City. The City reserves the right to require such easement or right-of-way to the point at which the meter is proposed to be installed or at the point of deliver of service, being the point at which the facilities of the City join with the consumer's own installation.

21-325.06 - System Design; Independent Engineers; City's Engineer

a. The City shall recognize the design of water facilities prepared by a registered professional engineer regularly engaged in the field of civil engineering, covering the design of a developer's

on-site water distribution system and any off-site facilities which may be required by the City; provided, however, that each such design shall be fully subject to the approval of the Director and shall conform in all respects to the criteria of the City governing the installation of utility facilities ultimately to be accepted by the City for ownership, operation and maintenance. In addition to other fees and charges, the City reserves the right to charge a review fee commensurate with the cost to the City of reviewing such engineering plans and furnishing to the developer's engineer various information regarding location and criteria. Any such review fee shall be in accordance with resolutions adopted by the City Council. All designs of water distribution facilities are at all times subject to the approval of other agencies having jurisdiction over such design.

b. The City maintains a relationship with its consulting engineer to provide utility design services to developers for the purpose of facilitating the design of a developer's on-site water distribution system and any off-site facilities which may be required by the City. Designs prepared by the City's consulting engineer are acceptable to the City but are at all times subject to the approval of any other governmental agencies having jurisdiction over the subject matter of such design. The cost of plans prepared by the City's consulting engineer shall be borne by the developer. However, in such cases the developer will not be required to pay the charge for review of such plans as provided for in subsection (a).

21-325.07 - Meter Installation and Connection Fees

a. The City shall charge to each prospective consumer requesting water service a meter installation fee to defray the City's cost of the meter and meter appurtenances and the cost of installation and related administrative and overhead costs. Such meter installation fee shall be in accordance with the Meter Installation Fee Schedule established by resolution of the City Council. The City will require the payment of such meter installation fee concurrently with the request by prospective consumers for the meter installation. The meter installation fee shall be charged only one time for the installation of a meter at any one location. However, requests to exchange existing meters for meters of a larger size will result in a cost increase related to upsizing for the prospective consumer.

b. The City shall charge to each prospective consumer requesting connection to the City's water service system a meter connection fee. Such meter connection fee shall be in accordance with the Meter Connection Fee Schedule as adopted by resolution of the City Council. Meter connection fees are minimum fees and assume that the consumer's facility is ready for a meter set. The Director may assess such other fee as necessary to recover the cost of meter connection.

21-325.08 - Inspection Fees

a. The City reserves the right to inspect the installation of all water distribution facilities installed by a developer or developer's contractors, which facilities are proposed to be transferred to the City for ownership, operation and control. Such inspection is designed to assure the City that waterlines are installed in accordance with approved designs and are further consistent with the criteria and specifications governing the kind and quality of such installation. The City further

reserves the right to be present at tests of component parts of the water distribution system for the purpose of determining that the system, as constructed, conforms to the City's criteria for exfiltration, infiltration, pressure testing, line and grade. Such tests will be performed by the developer or developer's contractor but only under the direct supervision of the City's engineer or authorized inspector.

b. The City shall charge an inspection fee based on inspection time of the subject water facility as installed by the developer. The City maintains full-time inspection availability and the cost for inspection services as set forth herein is and shall continue to be designed to defray the actual cost of conducting such inspections and testing.

21-325.09 - Transfer of Contributed Property; Bills of Sale

a. Each developer who has constructed portions of the water distribution system on the developer's own property or on other property with respect to any required off-site facilities shall, prior to interconnection with the City's existing facilities, convey such component parts of the water distribution system free of patent and latent defects to the City by bill of sale in a form satisfactory to the City Attorney, together with such evidence as may be required by the City that the water distribution system is proposed to be transferred to the City is free of all liens and encumbrances.

b. Any facilities in the category of consumer's lines or plumber's lines located on the discharge side of the water meter or on the consumer's side of the point of delivery of service shall not be transferred to the City and shall remain the property of the developer, a subsequent owner-occupant or their successors and assigns. Such consumer's lines or plumber's lines shall remain the maintenance responsibility of the developer or subsequent consumers.

c. The City shall not be required to accept title to any component part of the water distribution system as constructed by the developer until the City has approved the construction of said lines, accepted the tests to determine that such construction is in accordance with the criteria established by the City and accepted for use by the FDEP and thereby has evidenced acceptance of such lines for the City's ownership, operation and maintenance.

d. The developer shall maintain accurate cost records establishing the construction costs of all utility facilities constructed by the developer and proposed to be transferred to the City. Such cost information shall be furnished to the City concurrently with the bill of sale and such cost information shall be a prerequisite for the acceptance by the City of the portion of the water distribution system constructed by the developer.

e. The City reserves the right to refuse connection and to deny the commencement of service to any consumer seeking to be connected to portions of the water distribution system installed by a developer until such time as the provisions of this Section have been fully met by the developer or developer's successors or assigns.

21-325.10 - Off-Site Facilities; Refundable Advances

a. There are properties within the City's water service area where the City does not have in place the off-site water infrastructure facilities necessary to connect a developer's property to the City water system. In these cases it may be necessary to undertake the extension of water mains and pumping stations necessary to connect the developer's property with the then terminus of the Edgewater water system in compliance with the City Water System Master Plan. Nothing in this Article shall be construed to require the City to extend any such off-site facilities to a developer's property or to enter into a refunding agreement or reimbursement agreement should a developer or others elect to undertake any such extension.

b. When a developer seeks water service for property for which the City does not have in place the off-site water infrastructure facilities necessary to connect such property to the City water system, the City may require, in addition to the contribution provisions set forth herein, that the developer pay (without any credits against the applicable water capital charges) the entire cost of any extension of off-site facilities necessary to connect the developer's property with the then terminus of the Edgewater water system in compliance with the City Water System Master Plan.

c. As an alternative to the developer's payment of the entire cost of extension of such off-site water facilities, the developer may request that the City and other property owners potentially benefited by such extension enter into a funding or reimbursement agreement to equitably allocate the cost of any such extension among the benefited properties, which agreement shall be in addition to the contribution provisions set forth herein. The City may accept or reject any proposed agreement which may be presented to share the cost of such extensions as aforesaid. If the City elects to accept such an agreement, it shall be on terms and conditions acceptable to the City in its discretion.

d. Refunding agreement.

    1. As another alternative to the developer's payment of the entire cost of extension of such off-site water facilities, the developer may request that the City enter into a refunding agreement whereby the refundable advance is made by the developer to further temporarily defray the cost of any off-site extension of water mains and pumping stations necessary to connect the developer's property with the then terminus of the Edgewater water system in compliance with the City Water System Master Plan. The City may accept or reject any such proposed refunding agreement. If the City elects to accept such a refunding agreement, it shall be on terms and conditions acceptable to the City and shall be consistent with the requirements of this subsection. Any such refunding agreement shall include the following as the minimum provisions thereof:

        (a) The developer shall always be responsible for his hydraulic share of the cost of such facilities, as determined by the City;

        (b) All amounts expended by the developer over and above the developer's hydraulic share for off-site facilities, as determined by the City, shall be refunded to the developer only if

a refund agreement is entered into with the City prior to the connection of the developer's property with the then terminus of the Edgewater water system;

(c) The refund agreement shall provide for a plan of refund based upon the connection of other properties, to the extent of their hydraulic share, which properties shall be served by the off-site facilities installed by the developer;

(d) The City may limit the life of such refund agreement to a term of not more than seven (7) years, after which time any portion of the refund not made to the developer by the terms and conditions of the refund agreement will have lapsed and thereafter such refund agreement will be canceled;

(e) In no event shall a developer recover an amount greater than the difference between the capitalized cost of such off-site improvements and the developer's own hydraulic share of such improvements;

(f) The City shall not include any interest upon the refund of a developer's advance;

(g) If the City advances any of the costs of such off-site facilities, the City shall be reimbursed in full before any payment is made to the developer;

(h) The refunding agreement shall contain a sketch or legal description of the benefited properties; and

(i) The refunding agreement shall be recorded in the public records of Volusia County, Florida

2. If the City enters into a refunding agreement as aforesaid then a developer or property owner who makes use of such off-site facilities provided by another developer under the terms of this Section shall be required to pay the City for a portion of the costs of such off-site facilities based upon his hydraulic share, as determined by the City. In accordance with the terms of the refunding agreement, the City shall pay the appropriate share of such reimbursement to the developer who initially funded the improvements; provided, however, that the payment will be retained by the City in the event that the developer has been fully reimbursed by the City or in the event that the reimbursement obligation of the City has lapsed under the terms of the refund agreement.

21-325.11 - Water Capital Charge Adjustment; Escalation

The basis for the water capital charge schedule set forth by resolution has been structured by the City with regard to two major but variable factors. First, the present level of construction costs of water distribution and water treatment plant facilities; second, the treatment facilities and treatment levels as prescribed by the State of Florida Department of Environmental Protection or other governmental entities with jurisdiction.

City Staff shall annually review all fees relating to this Section. All adjustments shall be based on the percentage change as contained in the CPI (Consumer Price Index – All Urban Consumers) or ENR (Engineering News Record) index as established/reported in April of each year and shall be automatically adjusted on October 1 of each fiscal year.

21-325.12 - Water Capital Charges for Consumers Outside City Limits

The water capital charges established herein, as from time to time adjusted pursuant to Section 21-325.11, shall be applicable only to consumers located within the corporate limits of the City. The water capital charges for consumers outside the corporate limits of the City shall be the water capital charges from time to time established by the City for consumers inside the corporate limits of the City plus a surcharge equal to that surcharge established by resolution of the City Council.

21-325.13 - Availability of Copies of Policy

Copies of this extension policy shall be maintained at the Edgewater water system's offices and shall be available to all prospective consumers upon request, either in person or by mail, addressed to the City.

SECTION 21-326 - SEWER SYSTEM EXTENSION

21-326.01 - Intent; Purpose; Basis

The City of Edgewater, hereinafter referred to as the "City", as the owner and operator of the sewer system, hereinafter referred to as the "Edgewater sewer system" or the "City sewer system", hereby established this extension policy for the purpose of creating a uniform method of determining the capital charges to be borne by property owners, builders or developers within the service area to defray or partially defray the cost of an on-site sewer system, the allocable share of an off-site sewer system and the allocable shares of treatment plant costs. The City declares that this extension policy has as its goal the establishment of a uniform method of computing or determining such contributions to the end that all such contributions shall be nondiscriminatory among consumers in the area and shall be applied as nearly as possible with uniformity to all consumers and prospective consumers within the present or future service area.

21-326.02 - Availability

The provisions of this extension policy are available to consumers and property owners throughout the service area of the Edgewater sewer system, which shall allow the City to recover operating costs and expenses, required debt service, contributions to renewal and replacement funds and allocations from the general revenue fund for costs reasonably related to the sewer system. The term "service area" as used herein is that area defined in the adopted Comprehensive Plan of the City of Edgewater, as may be amended from time to time.

21-326.03 - Agreements with Other Municipalities

The City may enter into an agreement with Volusia County or another municipality to provide wholesale service so that the County or municipality may provide service to a developer outside the City's service area. Such wholesale agreements shall be subject to sewer capital charges as provided in this Article.

21-326.04 - On-Site Facilities

a. Each developer, owner or builder, hereinafter referred to as "developer", shall be responsible for the design, installation, inspection and testing of the complete sewer system located in the street or streets adjoining or within the boundaries of the developer's property.

b. The term "complete sewer system" as used herein includes, but is not limited to, all component parts of a sewage collection system, including gravity lines, force mains, pump stations, valves and all appurtenances as shown upon the approved design of such sewer system.

c. In the event the City requires the installation of oversized lines or facilities designed to provide service for other properties then the City shall pay for the cost of such oversizing by means of a direct cash payment by the City to the developer or a credit against water capital charges otherwise to be paid by the developer.

SECTION 21-327 - SEWER CAPITAL CHARGES

21-327.01 - Intent; Purpose; Basis

a. The intent of this Section is to establish charges for the purpose of compensating the City for costs incurred in providing sewage treatment facilities, effluent disposal facilities and pumping stations and extending sewage collection lines to a point of reasonable availability for connection to the City sewer system. The charges shall be computed on the basis of real property use, zoning and size in approximate proportion to the benefits received. The determination of the point of reasonable availability for connection to the City sewer system shall be determined in accordance with policies from time to time established by the City. As set forth in this Section, the developer may incur additional charges and expenses in order to obtain sewer service, which charges and expenses are not defrayed by its payment of sewer capital charges. Nothing contained in this Section shall be construed to obligate the City to extend sewer services to any lands within its sewer system territory.

b. The sewer capital charge shall be established by resolution of the City Council. Those persons, corporations or entities which have previously prepaid the existing sewer capacity charges shall be exempt from paying this sewer capital charge. The exemption or credit shall equal the amount pre-purchased.

c. The sewer capital charge shall be paid prior to the execution by the City of the FDEP sewer

construction application, but in no event later than the issuance of the building permit.

d. Requested decreases and revised charges.

1. An applicant may submit data and other information on actual usage, anticipated usage, peak load requirements or a combination of the foregoing to the Director to support a requested decrease in the total equivalent residential unit value. The Director may use this information to determine a revised value, which may be less than or greater than that established by resolution of the City Council and which will be used to determine a revised sewer capital charge. In either case, the applicant shall pay the revised sewer capital charge instead of the sewer capital charge established herein.

2. Alternatively, an applicant may pay the sewer capital charge as established by the City, and after one (1) year of operation, submit one (1) year's data on actual usage to the Director for review. The Director may use this information to determine a total ERU value, which may be less than or greater than that established by the City, and which will be used to determine a revised sewer capital charge. If the applicant desires to use this alternative method of calculation, the applicant must advise the Director of such determination prior to the payment of the sewer capital charge.

21-327.02 - Obligations of City

a. The City shall maintain copies of this extension policy available for the inspection of any property owner, developer, builder or prospective consumer desiring information regarding all elements of the cost of connecting to the sewer facilities of the City. Such copies shall be maintained at the general office of the Edgewater sewer system.

b. The City shall maintain as-built information on its sewer facilities in its office or in the office of its designated representatives for the purpose of providing reasonable information concerning the location of its sewer facilities.

c. In instances where the City undertakes the installation of sewer lines at the cost and expense of the developer in lieu of the developer's installation of such facilities, the City will provide lines for sewer service to a developer's lot line ready for plumber's hookup and the installation of meters.

21-327.03 - Obligations of Developer

It shall be the developer's obligation to furnish to the City accurate information with regard to matters of engineering, construction of buildings and dwellings and proposed densities. Developers who increase their density factors and/or discharge requirements during the course of construction of the project are exposed to an adjustment in their proportionate share for off-site facilities and/or an increase in capital charges applicable to the developer's project. The developer is responsible for errors or changes in engineering information furnished to the City when such error or change results in increased cost to the City for any construction which the City may undertake in connection with

installing sewer facilities or which could necessitate a new design or redesign of sewer system plans.

21-327.04 - Developer Agreements Required

An owner, builder or developer may be required to execute a developer's agreement setting forth such reasonable provisions governing a developer's and the City's responsibility pertaining to the installation of service facilities; the interconnection of lines with the facilities of the City; the manner and method of payment of contributions in aid of construction; matters of exclusive service rights by the City; standards of construction or specifications; time commitments to take and use sewer service; engineering errors and omissions; rules, regulations and procedures of the City; prohibitions against improper use of the City's facilities; and other matters normally associated with and contained in developer agreements. Nothing contained in such developer agreement shall be in conflict with this extension policy or the City's ordinances and resolutions governing rates, fees and charges for services and other requirements regarding the rendition of sewer utility service. The developer, in addition to the contribution formulas set forth herein, shall bear the cost of the preparation of developer agreements by independent counsel or persons qualified to draft and prepare such agreements. Said charge shall not exceed that amount normally to be contemplated for such services.

21-327.05 - Easements and Rights-of-Way

As a prerequisite to the construction of any sewer system proposed to be connected to the facilities of the City, the developer shall grant to the City easements or rights-of-way corresponding with the installation of the proposed facilities. All such easements or rights-of-way shall be in a form acceptable to the City. Such grant or conveyance shall be in a form satisfactory to the City Attorney. Such conveyances when located on the property of the developer shall be made without cost to the City.

21-327.06 - System Design; Independent Engineer; City's Engineer

a. The City shall recognize the design of sewer facilities prepared by a registered professional engineer regularly engaged in the field of civil engineering, covering the design of a developer's on-site sewer system and any off-site improvements which may be required by the City; provided, however, that each such design shall be fully subject to the approval of the Director and shall conform in all respects to the criteria of the City governing the installation of utility facilities ultimately to be accepted by the City for ownership, operation and maintenance. In addition to other fees and charges, the City shall charge a review fee commensurate with the cost to the City of reviewing such engineering plans and furnishing to the developer's engineer various information regarding location and criteria. Any such review fee shall be in accordance with resolutions approved by the City Council. All designs of sewer facilities are at all times subject to the approval of other agencies having jurisdiction over such design.

b. The City maintains a relationship with its consulting engineer to provide utility design services to developers for the purpose of facilitating the design of developer's on-site sewer system and any off-site improvements which may be required by the City. Designs prepared by the City's

consulting engineer are acceptable to the City but are at all times subject to the approval of any other governmental agencies having jurisdiction over the subject matter of such design. The cost of plans prepared by the City's consulting engineer shall be borne by the developer. However, in such cases the developer will not required to pay the charge to review of such plans as provided for in subsection (a).

21-327.07 - Inspection Fees

a. The City reserves the right to inspect the installation of all sewer facilities installed by a developer or developer's contractors, which facilities are proposed to be transferred to the City for ownership, operation and control. Such inspection is designed to assure the City that sewer lines are installed in accordance with approved designs and are further consistent with the criteria and specifications governing the kind and quality of such installation. The City further reserves the right to be present at tests of component parts of the sewer system for the purpose of determining that the system, as constructed, conforms to the City criteria. Such tests will be performed by the developer or developer's contractor but only under the direct supervision of the City's engineer or authorized inspector.

b. The City shall charge an inspection fee based on inspection time of the subject sewer facility as installed by the developer. The City maintains full-time inspection availability and the cost for inspection services as set forth herein is and shall continue to be designed to defray the actual cost of conducting such inspections and testing.

21-327.08 - Transfer of Contributed Property; Bills of Sale

a. Each developer who has constructed portions of the sewer system on the developer's own property or other property with respect to any required off-site facilities shall, prior to interconnection with the City's existing facilities, convey such component parts of the sewer system to the City free of patent and latent defects by bill of sale in a form satisfactory to the City Attorney, together with such evidence as may be required by the City that the sewer system proposed to be transferred to the City is free of all liens and encumbrances.

b. Any facilities in the category of consumer's lines located on the consumer's side of the point of service shall not be transferred to the City and shall remain the property of the developer, a subsequent owner-occupant or their successors and assigns. Such consumer lines shall remain the maintenance responsibility of the developer or subsequent consumers.

c. The City shall not be required to accept title to any component part of the sewer system as constructed by the developer until the City has approved the construction of said lines, accepted the tests to determine that such construction is in accordance with the criteria established by the City and accepted for use by the FDEP and thereby has evidenced acceptance of such lines for the City's ownership, operation and maintenance.

d. The developer shall maintain accurate cost records establishing the construction costs of all utility facilities constructed by the developer and proposed to be transferred to the City. Such

cost information shall be furnished to the City concurrently with the bill of sale and such cost information shall be a prerequisite for the acceptance by the City of the portion of the water distribution system constructed by the developer.

e. The City reserves the right to refuse connection and to deny the commencement of service to any consumer seeking to be connected to portions of the sewer system installed by a developer until such time as the provisions of this Section have been fully met by the developer or the developer's successors or assigns.

21-327.09 - Off-Site Facilities; Refundable Advances

a. There are properties within the City's sewer service area where the City does not have in place the off-site sewer infrastructure lines and facilities necessary to connect a developer's property to the City sewer system. In these cases it may be necessary to undertake the extension of sewage lines and facilities necessary to connect the developer's property with the City sewer system and the primary interceptor force main in compliance with the City Sewer Master Plan. Nothing in this Article shall be construed to require the City to extend any such off-site lines and facilities to a developer's property or to enter into a refunding agreement or reimbursement agreement should a developer or others elect to undertake any such extension of lines and facilities; provided, however, that whenever a developer or others undertake any such extension of off-site lines and facilities the City may require the installation of oversized lines or facilities to provide service for other properties, in which case the City shall be responsible for the cost of any such oversized lines or facilities to the extent and in the manner provided for in Section 21-326.04 hereof.

b. When a developer seeks sewer service for property for which the City does not have in place the off-site sewer infrastructure lines and facilities necessary to connect such property to the City sewer system, the City may require, in addition to the contribution provisions set forth herein, that the developer pay (without any credits against the applicable sewer capital charges) the entire cost of any extension of off-site sewage lines and facilities necessary to connect the developer's property with the City sewer system and its primary interceptor force main in compliance with the City Sewer System Master Plan, subject to the provisions of Section 21-326.04 and 21-326.09 regarding oversized lines and facilities.

c. As an alternative to the developer's payment of the entire cost of extension of such off-site sewer lines and facilities, the developer may request that the City and other property owners potentially benefited by such extension enter into a funding or reimbursement agreement to equitably allocate the cost of any such extension among the benefited properties, which agreement shall be in addition to the contribution provisions set forth herein. The City may accept or reject any proposed agreement which may be presented to share the cost of such extensions as aforesaid. If the City elects to accept such an agreement, it shall be on terms and conditions acceptable to the City in its discretion.

d. Refunding agreement.

1. As another alternative to the developer's payment of the entire cost of extension of such off-

site sewer lines and facilities, the developer may request that the City enter into a refunding agreement whereby the refundable advance is made by the developer to further temporarily defray the cost of any off-site extension of sewage lines and facilities necessary to connect the developer's property to the City sewer system and the primary interceptor force main in compliance with the City Sewer System Master Plan. The City may accept or reject any such proposed refunding agreement. If the City elects to accept such a refunding agreement, it shall be on terms and conditions acceptable to the City and shall be consistent with the requirements of this subsection. Any such refunding agreement shall include the following as the minimum provisions thereof:

(a) The developer shall always be responsible for his proportionate share of the cost of such lines and facilities, as determined by the City; and

(b) All amounts expended by the developer over and above the developer's proportionate share for facilities, as determined by the City, shall be refunded to the developer only if a refund agreement is entered into with the City prior to the connection of the developer's property with the primary interceptor force main; and

(c) The refund agreement shall provide for a plan of refund based upon the connection of other properties to the extent of their proportionate share, which properties will be served by the facilities installed by the developer; and

(d) The City may limit the life of such refund agreement to a term of not more than seven (7) years, after which time any portion of the refund not made to the developer by the terms and conditions of the refund agreement will have lapsed and thereafter such refund agreement will be canceled; and

(e) In no event shall a developer recover an amount greater than the difference between the capitalized cost of such improvements and the developer's own proportionate share of such improvements; and

(f) The City shall not include any interest upon the refund of a developer's advance; and

(g) If the City advances any of the costs of such lines and facilities, the City shall be reimbursed in full before any payment is made to the developer; and

(h) The refunding agreement shall contain a sketch or legal description of the benefited properties; and

(i) The refunding agreement shall be recorded in the public records of Volusia County, Florida.

2. If the City enters into a refunding agreement as aforesaid, then a developer or property owner who makes use of lines and facilities provided by another developer under the terms of this Section shall be required to pay the City for his proportionate share of the costs of such

facilities, as determined by the City. In accordance with the terms of the refunding agreement, the City shall pay the appropriate share of such reimbursement to the developer who initially funded the improvements; provided, however, that the payment will be retained by the City in the event that the developer has been fully reimbursed by the City or in the event that the reimbursement obligations of the City has lapsed under the terms of the refund agreement.

21-327.10 - Sewer Capital Charge; Adjustment; Escalation

The basis for sewer capital charge schedule set forth herein has been structured by the City with regard to two (2) major but variable factors. First, the present level of construction costs of sewer collection and treatment plant facilities; second, the treatment level as prescribed by the State of Florida Department of Environmental Protection or other governmental entities with jurisdiction.

City Staff shall annually review all fees relating to this Section. All adjustments shall be based on the percentage change as contained in the CPI (Consumer Price Index – All Urban Consumers) or ENR (Engineering News Record) index as established/reported in April of each year and shall be automatically adjusted on October 1 of each fiscal year.

21-327.11 - Sewer Capital Charges for Consumers Outside City Limits

The sewer capital charges established herein, as from time to time adjusted pursuant to Section 21-327.10, shall be applicable only to consumers located within the corporate limits of the City. The sewer capital charges for consumers outside the corporate limits of the City shall be the sewer capital charges from time to time established by the City for consumers inside the corporate limits of the City plus a surcharge equal to that surcharge established by resolution of the City Council.

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ARTICLE XVIII

INDIAN RIVER BOULEVARD – S.R. 442 CORRIDOR DESIGN REGULATIONS

SECTION 21-410 - PURPOSE AND INTENT

These design regulations are intended to ensure high quality private development in the Indian River Boulevard Corridor. The two major components of these regulations are: 1) landscape, buffer and related site development treatments, especially areas immediately adjacent to the road and 2) building design standards for new and redeveloped structures, including signage.

Applicants for development within the Indian River Boulevard Corridor Overlay are required to obtain a copy of the complete design guideline package from City Hall.

SECTION 21- 420 - APPLICABILITY

Parcels that share a common boundary with Indian River Boulevard will be subject to the requirements, standards and criteria contained in these regulations. Furthermore, these requirements apply to all residential, commercial, office, institutional and industrial development, including both public and private facilities within the Indian River Boulevard Corridor. The provisions of this document are applicable to all properties that touch, front or are otherwise adjacent to Indian River Boulevard. Properties that include a complex or subdivision of buildings shall be considered to be included within the guidelines in their entirety, including parent tracts, out-parcels, flag lots, etc. They apply to both new development and redevelopment activities.

21-420.01 - Indian River Boulevard Corridor Districts

Indian River Boulevard has three distinct districts. These districts are defined below and are referred to throughout these regulations. In addition, intersecting roads are also defined below. Refer to the complete design guideline package available from the Development Services Department for a map showing the three separate districts.

District	***Intersecting Street***	***Intersecting Street***
The West Parkway District	Interstate 95	Pinedale Road
The Shores District	Pinedale Road	India Palm Drive
The East Village District	India Palm Drive	Riverside Drive

21-420.02 - Primary And Other Streets

The following major streets that intersect Indian River Boulevard shall be considered as Primary and Other Streets:

Street Type	***Intersecting Street***	***Number of feet from intersection that these regulations shall be applicable along these roads.***
Primary	Old Mission Road	500
Primary	Air Park Road	500
Primary	U.S. Highway 1	500
Primary	Riverside Drive	500
Other	All other streets	100

21-420.03 - Corner Lots/Parcels

Corner lots/parcels shall be considered to have two (2) front perimeters. For other streets that intersect now or in the future, the parcels that are corner lots or corner developments adjacent to Indian River Boulevard shall comply with these requirements.

21-420.04 - Conflict with Other Provisions of Code

The requirements for the Indian River Boulevard Corridor Overlay Area supersede the general requirements within this Land Development Code, however properties zoned RP (Residential Professional) shall adhere to sign requirements as set forth in Article III. The RP (Residential Professional) sign requirements shall apply first in the RP (Residential Professional) zoned property in the event of a conflict. However, when not in conflict with Article III, the remaining requirements as set forth in Article XVIII shall apply to RP (Residential Professional) zoned properties.

Existing developed or vacant properties adjacent to Indian River Boulevard from U.S. Highway 1 to Willow Oak Drive shall be developed in accordance with the standards set forth in Article V (Site Design Criteria) until such time as a change in use is proposed. A change in use shall mean a change in character involving activities that result in a different external impact.

21-420.05 - Registered Landscape Architect Required

A Landscape Architect registered in the State of Florida shall be required to prepare landscape plans and related irrigation plans for all lands for which this Article applies.

SECTION 21-430 - BUILDING LOCATION AND LANDSCAPE BUFFERS

The setback is the distance between the edge of the road's right-of-way, also referred to as the property line, and the closest edge or wall of the principal building on the site. The building location and landscape buffer requirements are identified below.

21-430.01 - West Parkway District

a. **Setback and Buffer**. A minimum fifty-foot (50') landscape buffer shall be provided in the West Parkway District. Buildings will not be allowed within one hundred feet (100') of the property line adjacent to Indian River Boulevard or primary streets.

b. **Management and Maintenance of Natural Vegetation.** Site plan submittals will be required to graphically identify the manner in which natural areas will be preserved and maintained. Site plan submittals shall identify where natural areas will be trimmed and to what limited extent they will be altered for visibility from the road.

If a certain view or angle from the road is desired, the site plan shall identify a "viewshed", i.e., the area within which trimming of small trees and understory vegetation is desired. The extent of trimming should be clearly noted in terms of extent and height, as well as the thinning of trees and vegetation. Trees larger than four inches (4") in diameter shall not be removed. Trimming of vegetation shall not be allowed lower than thirty-six inches (36") from the ground. Areas to remain undisturbed shall also be identified. This information becomes part of site plan approval, and will be utilized for maintenance as well as enforcement by the City.

21-430.02 - Shores District

A minimum ten-foot (10') landscape buffer shall be provided in the Shores District. Buildings shall not be allowed within forty feet (40') of the property line adjacent to Indian River Boulevard or primary streets.

21-430.03 - East Village District

A minimum twenty-foot (20') landscape buffer shall be provided from the front property line in the East Village District. Buildings will not be allowed within forty feet (40') of the property line adjacent to Indian River Boulevard or primary streets.

21-430.04 - Landscape Buffer Requirements For Primary Streets

The landscape buffer requirements along primary streets in the Indian River Boulevard Corridor shall be twenty feet (20') in width. Unless otherwise noted, additional requirements shall comply with the adjacent District within the Indian River Boulevard Corridor to the maximum extent practicable. Building will not be allowed within forty feet (40') of the property line adjacent to Indian River Boulevard or primary streets.

21-430.05 - Landscape Buffer Requirements Along Other Side Streets

The landscape buffer requirements along other existing or future streets that intersect Indian River Boulevard shall be a minimum of twenty feet (20') in width and shall comply with the adjacent District of Indian River Boulevard to the maximum extent practicable.

21-430.06 - Minimum Lot Width And Depth

The minimum lot width and depth for all new development along the corridor shall be 200 feet (200') by 200 feet (200'). This requirement ensures that minimum building setback and buffer requirements can be accomplished within the context of typical site development, building coverage, parking, stormwater and other customary site amenities. Any deviation from this standard for out-parcels, flag lots and other circumstances should ensure that the configuration of the resulting development site allows for compliance with the intent and purpose of these guidelines.

21-430.07 - Minimum Landscape Requirements In Buffer Yard

The following requirements are intended for private property outside of the public right-of-way adjacent to the corridor and primary streets.

a. **West Parkway District.** These requirements shall provide the basis for infill vegetation as needed where natural vegetation is sparse. The minimum landscaping in the buffer yard shall be eight (8) shade trees, ten (10) understory trees and seventy (70) shrubs per one hundred (100) lineal feet. To maintain a natural look, trees and shrubs shall be placed in an organic or curvilinear manner that is similar to and consistent with natural adjoining areas, which have been preserved. Linear arrangements are discouraged in the West Parkway District.

b. **Shores District.** Canopy trees shall be coordinated with the placement of the poles within the FPL easement along Indian River Boulevard. Where feasible, the minimum landscape buffer shall be one (1) shade tree (e.g. Oak) per fifty lineal feet (50') on private property alternating with the City's oak trees in the public right-of-way. Understory trees are optional and recommended at two (2) per twenty lineal feet (20'). Shrubs are optional unless a fence is put up. If a fence is visible from the public right-of-way, shrubs are required along the entire length of the fence spaced just far enough apart for the species to grow.

c. **East Village.** The minimum landscape buffer shall include a total of three (3) trees per every fifty lineal feet (50'). One (1) Magnolia placed every fifty (50) lineal feet. Two (2) Crepe Myrtles placed in between the Magnolia's fifty (50) lineal feet. Shrubs shall be placed at a minimum of forty (40) per one hundred (100) lineal feet.

d. **Varied Color.** Landscaping shall be arranged to display variety and color by utilizing flowering and variegated species whenever possible. Such variety and color shall be accomplished by using a combination of shrubs and ornamentals as approved by the City. Ornamentals shall not constitute more than fifty percent (50%) of required shrubs.

e. **Wetlands and Natural Vegetation Preservation.** Within the buffer, major wetlands shall be preserved as set forth in the City's Comprehensive Plan and Land Development Code. Natural uplands vegetation shall be preserved to the maximum extent feasible.

f. **Side and Rear Yards.** The side and rear yards of all properties shall be provided with landscape treatment consistent with this Land Development Code.

21-430.08 - Protection from Vehicle Encroachment

Landscape buffers shall be protected from vehicles in the parking area with curbs for those parking spaces adjacent to the buffer. Plantings adjacent to parking areas shall be located a minimum of three and one-half (3½) feet from the front end of the parking space to prevent encroachment into required landscape areas. Wheel stops shall not be utilized in any portion of the parking area. No paved areas will be allowed in the buffer other than required traffic circulation access. In already developed areas such as the East Village District, no additional pavement will be allowed in the buffer area.

21-430.09 - Stormwater in Buffer

In order to create shallow retention areas, removal of a maximum of fifty percent (50%) of understory trees and shrubs may be permitted to provide for shallow swales without removal or damage to existing shade trees.

Landscape buffers on primary and other streets may be combined with approved on-site, wet or dry-bottom stormwater retention areas provided that these areas are designed as visual amenities without chain link fences (or similar utilitarian appurtenances) and with shade trees.

21-430.10 - Parking Location

These standards shall prevent automobiles from being highly visible from the roadway. This applies to parking areas, automobile service areas and other vehicular circulation areas. For screening, a forty-inch (40") high decorative wall, berm or hedge shall be provided at the same or above the finished grade of parking and other vehicular use areas. Dense existing natural vegetation that provides a similar forty-inch (40") high screen from Indian River Boulevard may substitute for a berm, hedge or wall. These requirements for a hedge may be combined with the required landscape buffer requirement for shrubs.

21-430.11 - Pedestrian and Bicycle Circulation

The purpose of this subsection is to provide safe opportunities for alternative modes of transportation by connecting buildings with existing and future pedestrian and bicycle pathways and to provide safe passage from the public right-of-way to the building.

21-430.12 - Sidewalks

Sidewalks are provided throughout most of the Shores and East Village Districts. As development continues, developers should provide sidewalks where not already available, especially in the West Parkway District, which does not have sidewalks. In all districts, sidewalks will be separated from the curb a minimum of four feet (4') to provide safety for pedestrians, for passing vehicles and adequate space for landscaping. In the West Parkway District, additional separation may be necessary to preserve natural vegetation.

21-430.13 - Pedestrian Access Standards

Pedestrian circulation shall be provided by connecting buildings with existing and future

pedestrian and bicycle pathways as well as by providing safe passage from the public right-of-way to the building in the manner set forth below.

a. **Number of Pedestrian Ways Required.** Pedestrian ways shall be provided at a minimum ratio of one (1) for each customer vehicular entrance to a project. For example, if there are two (2) driveways into the site, two (2) sidewalk entries are required. Entrances designed primarily for service and delivery vehicles are not included in this ratio.

b. **Materials.** Pedestrian walkways shall be handicapped accessible. Materials may include specialty pavers, colored concrete or stamped pattern concrete. Natural materials for pedestrian paths may be encouraged in the West Parkway District.

c. **Pedestrian Shade.** Pedestrian walkways shall provide intermittent shaded areas when the walkway exceeds one hundred (100) linear feet in length at a ratio of one hundred (100) square feet of shade for every one hundred (100) linear feet of walkway.

21-430.14 - Drive-Through Requirements

Drive-through windows and lanes shall not be located on a side of the building visible from a public right-of-way. Drive-through lanes shall be designed primarily for pedestrian safety and crossing. Drive-through designs must have the same detail of the principal structure and match the materials and roof of the principal structure.

a. **Screening Drive-Throughs.** A dense hedge of evergreen shrubs shall be provided in the following manner to screen drive-throughs:

   1. At initial planting and installation, shrubs shall be at least thirty inches (30”) in height and shall be planted thirty inches (30”) or less on center.
   2. Within one (1) year of initial planting and installation, shrubs shall have attained, and be maintained at a minimum height of four feet (4’) and shall provide an opaque vegetative screen between the street and the drive-through. The hedge must continue for the entire length of the drive-through stacking area.
   3. In lieu of a vegetative hedge, the use of vegetated berms with appropriate landscape materials may be used in a manner that results in the visual separation of street right-of-way and the drive-through.

b. **Stacking Distance.** The following stacking distances, measured from the point of entry to the center of the farthest drive-through service window area, are required:

   1. Restaurants, full service car washes and day care facilities: Two hundred twenty feet (220’)
   2. Banks (per lane): One hundred seventy five feet (175’)
   3. Self Service Car Wash (per bay) and Dry Cleaners: Sixty-five feet (65’)
   4. Other uses may require the City to determine the stacking distance on a case-by-case basis.

5. Facilities not listed above with more than one (1) drive-through lane shall provide one hundred feet (100') of stacking distance per lane measured from the point of entry to the center of the farthest service window area.
6. Drive-Through Separate From Other Circulation: The drive-through lane shall be a separate lane from the circulation routes and aisles necessary for ingress and egress from the property or access to any off-street parking spaces.

c. **Pass Through Lanes.** A pass-through lane shall be required for all drive-through facilities constructed adjacent to at least one (1) stacking lane in order to provide egress from the stacking lane.

SECTION 21-440 - ARCHITECTURAL DESIGN STANDARDS

The architectural design standards are intended to be flexible and encourage design diversity and variations. The criteria for development along the corridor will primarily ensure that the architectural integrity and details of existing structures are maintained, as well as affirm the appropriateness of new development into the character of the districts. Special attention has been placed on the creation of an attractive, safe and functional urban environment.

21-440.01 - Building Orientation

All buildings shall be oriented so that primary façades face public rights-of-way. Buildings on corner lots shall be considered to have two (2) fronts and shall be designed with additional architectural embellishments such as towers or other design features at the corner to emphasize their location as gateways and transition points within the community.

Although the main aesthetic emphasis shall be on the primary façade(s), all building elevations shall receive architectural treatment. The style of windows shall remain uniform on all sides of the building.

21-440.02 - Primary Building Entrance

In general, the primary pedestrian entrance to all buildings shall face Indian River Boulevard, and shall be clearly defined and highly visible for the pedestrian. Multiple tenant buildings shall have all customer entrances distinguished pursuant to these regulations.

Primary entrances shall have either a protruding or raised roof, a stoop, a projection or recession in the building footprint a minimum of three feet (3') in depth that clearly identifies the entrance.

Corner lots shall provide an entrance on both public rights-of-way or a corner entrance.

In addition, every primary entrance shall have two (2) other distinguishing features from the list below:

1. Variation in roof height around door;

2. Canopy or portico;
3. Raised cornice or parapet over door;
4. Arches or columns;
5. Patterned specialty paving at entrance and along walkway;
6. Ornamental and structural architectural details other than cornices over or on the sides of the door; or
7. Any other treatment, which, in the opinion of the City, meets the intent of this Section.

21-440.03 - Building Height And Transition

Buildings will not be allowed to be any higher than already permitted in the respective zoning district. New developments that are more than twice the height of any existing building within three hundred feet (300') shall provide transitional stepped massing elements to minimize the contrast between the buildings. The transitional massing element shall include a primary façade that is no more than the average height of the adjacent buildings.

21-440.04 - Façade Treatments

Façade treatments of a building must be designed with consistent and uniform architectural style. Detail and trim features must be consistent with the style of the building. Diversity of architectural elements on the façade that are compatible with the style are required. These elements must be integrated with the massing and scale of the buildings.

Building walls and façade treatments must avoid large blank wall areas by including at least three (3) of the design elements listed below or their equivalent design feature. Design elements should be in intervals of no more than thirty feet (30') apart, and repetition is encouraged. At least one of the design elements should repeat horizontally.

At a minimum, buildings must provide at least two (2) of the following building design elements on the primary façade:

1. Awnings or attached canopies;
2. Arcades or colonnades;
3. Display windows a minimum of six feet (6') in height along sixty-five percent (65%) of the primary façade;
4. Clock or bell towers;
5. Decorative landscape planters or wing walls which incorporate landscaped areas;
6. Pergola;
7. Benches or other seating components built into the building;
8. Texture or pattern change;
9. Material module change;
10. Ornamental or structural detail;
11. Varied building setbacks or projections; or

12. Expression of architectural or structural bays, through a change in plane of no less than twelve inches (12”) in width, such as a reveal, an offset or a projecting rib.

Changes in color along the façade that are compatible with each other and the style of the building are encouraged but not sufficient to break up the mass of the façade.

21-440.05 - Prohibited Façade Treatments

The following treatments or features are prohibited on any façade that are visible from the public rights-of-way:

1. The use of reflective glass and reflective film is prohibited on all buildings. Windows and doors should be glazed in clear glass with no more than ten percent (10%) daylight reduction.
2. Garage doors used either as decoration or for vehicular service, storage or any other use (these elements must be side loaded).
3. Glass curtain walls.
4. Stained glass and art glass installations may be permitted, provided they are in character with the style of the building.

21-440.06 - Loading And Service Areas

Loading and service areas will be located behind or to the rear of buildings and will be screened with walls and landscaping. Materials, rooflines and colors are permitted to be consistent with the primary structures.

21-440.07 - Outdoor Shopping Cart Storage

All outdoor storage of customer shopping carts adjacent to the building shall be screened by a wall a minimum of four feet (4’) in height that is consistent in style, materials and color to the façade. Arcade or colonnade areas cannot be used for the storage of shopping carts.

21-440.08 - Fenestration

Fenestration is the placement of windows and doors. Windows and doors must cover at least thirty percent (30%) of the area of the primary façade. Windows must be located between three feet (3’) and seven feet (7’) measured from ground level.

a. **Exterior Wall Materials.** All buildings subject to the terms of this Section shall be clad with typical Florida building materials that are durable and appropriate to the visual environment and climate. Design flexibility and creativity is encouraged using ornamentation from a wide variety of architectural styles.

b. **Finish materials for walls.** Exterior walls are the most visible part of most buildings. Their exterior finishes shall be one of the following:

1. Concrete block with stucco;
2. Reinforced concrete with smooth finish or with stucco;

3. Natural brick or stone (excluding ashlar or rubble construction look);
4. Wood, pressure treated or naturally decay-resistant species;
5. Fiber-reinforced cement panels or boards that simulate wood; or
6. Synthetic stucco may be used only on non-façade walls.

c. **Prohibited Materials.** No exterior wall shall be covered with the following materials:

1. Plastic or vinyl siding;
2. Corrugated or reflective metal panels, steel buildings;
3. Applied stone in an ashlar or rubble look:
4. Smooth, scored or rib faced concrete block;
5. Any translucent material, other than glass; or
6. Any combination of the above.

d. **Corporate Design.** Corporate franchises should not be allowed to create visual clutter or to use architecture and building colors to act as signage. Therefore, exceptions to these guidelines shall not be made for corporate franchises. National corporate chains that typically design their buildings to read as signage have been known to modify their designs to blend with the character of the neighborhood.

21-440.09 - Roof Treatments and Materials

Variations in the rooflines must be used to add interest to and reduce the massing of buildings. Roof features and materials must be in scale with the building's mass and complement the character of adjoining and adjacent buildings and neighborhoods.

a. **Roof Standards.** While any roof type is acceptable, the following standards shall apply:

1. All flat roofs and any shed roof with a slope of less than 1:6 must be concealed by a parapet;
2. All hipped and gabled roofs and all shed roofs with a slope greater than 1:6 must have overhangs of at least eighteen inches (18");
3. Mansard roofs must have the lowest sloped surface, begin above a cornice line and then slope upward and inward;
4. Small towers, cupolas and widow's walks are encouraged (if they are compatible with the style of the building);
5. Unless specifically designed otherwise, roof overhangs shall wrap around all four (4) sides of the building so that there is visual continuity around the entire building unless site-specific conditions warrant otherwise; or
6. Skylight glazing must be flat to the pitch of the roof.

b. **Permitted Roof Materials.** The following roofing materials are permitted:

1. Standing Seam Metal: Steel (galvanized, enameled or terne-coated), stainless steel, copper and aluminum;
2. Architectural Shingles: Asphalt, fiber reinforced cement, metal, fiberglass and wood;

3. Tile: Clay, terra cotta or concrete; or
4. Flat roofs hidden by parapet: any material allowed by building code.

c. **Equipment on Roof.** All equipment located atop a roof of a building must be concealed so that it is not visible by a person standing anywhere on the site or on an adjacent public street.

21-440.10 - Building Color

Simple color schemes are encouraged. As a general rule, building façade should not exhibit more than three (3) colors.

a. **Prohibited Colors.** The use of garish or gaudy colors is prohibited. The use of black, neon or fluorescent colors is prohibited as the predominant building color.

b. **Trim on Façade.** Building trim and accent areas may feature any color, limited to ten percent (10%) of the affected façade segment, with a maximum trim height of twenty-four inches (24") total for its shortest distance.

21-440.11 - Multi-Building Complexes

Specific provisions must ensure a unified architectural design and site plan between a complex of buildings or between out-parcel buildings and the main building(s) on the site. The following standards assure an enhanced visual impact of the buildings, as well as providing safe and convenient vehicular pedestrian access and movement within the site.

a. **Building Groups and Complexes.** Buildings and structures, which are a part of a present or future group or complex, shall have a unity of character and design and the use, texture and color of materials shall create a harmonious whole. In addition, the design, scale and location on the site shall enhance rather than detract from the character, value and attractiveness of the surrounding community or neighborhood.

b. **Ancillary Structures.** Separate ancillary structures, including, but not limited to, car washes, cashier booths, and/or canopies over gas pumps shall have comparable pitch or parapets for roofs and shall otherwise have the same architectural detail, design elements, color scheme, building materials and roof design as the primary structure.

c. **Out-Parcel Façade.** All exterior façade of an out-parcel building must be considered primary façade and must employ architectural site and landscaping design elements which are integrated with, and common to, those used on the main development including color, materials, and decorative treatments.

d. **Connect Circulation of Out-Parcels.** Out-parcel structures that are adjacent to each other must provide for vehicular connections between their respective parking lots and provide interconnection of pedestrian walkways.

e. **Common Wall and Side-By-Side Buildings.** When the use of common wall, side-by-side development occurs, continuity of façade and consolidated parking for several businesses in one parking lot may be used.

f. **Service Areas.** Service areas shall not be located in front yards and shall not be visible from a public right-of-way. Waste disposal areas shall be screened one hundred percent (100%) by a masonry wall and landscape buffer. The wall shall be consistent in style, materials and color to the façade. The landscape buffer shall be a minimum of five feet (5') in width and shall contain a hedge three feet (3') in height at planting and capable of attaining five feet (5') in height and total opacity within eighteen (18) months.

Mechanical equipment, satellite dishes, and other service support equipment shall be located behind the building line and shall be fully screened from the view of adjacent properties both at ground and roof top levels.

g. **Pay Phones.** All telephones on private property shall be confined to a space built into the building or buildings or enclosed in a separate structure compatible with the main building.

h. **Building Security Devices.** Exterior mounted security gates or solid roll down metal windows shall be prohibited. Link or grill type security devices shall be permitted only if installed from the inside, within the window or doorframes. Other types of security devices fastened to the exterior walls are not permitted.

SECTION 21-450 - SIGNS

Sign regulations are important because they ensure consistency of signage along the corridor and thereby prevent clutter and confusion exemplified by older, unregulated strip commercial areas. The purpose and intent of sign regulations will be to augment the City of Edgewater's existing sign code to fit the higher aesthetic standard being established for Indian River Boulevard. This Section covers freestanding or detached signs, attached or building signs, multi-tenant development signs and specialty signs. Properties zoned RP (Residential Professional) shall adhere to sign requirements as set forth in Article III.

21-450.01 - Freestanding Signs

Freestanding signs include signs that are typically placed in front of businesses and developments in order to achieve visibility from the highway. By definition, freestanding signs are unattached to the building(s).

21-450.02 - Ground Signs Required

Freestanding ground signs shall be allowed in the Indian River Boulevard Corridor. Pole signs are prohibited.

a. **Height.** The maximum height of the entire sign structure shall be eight feet (8').

b. **Sign Area.** The sign area of ground signs shall be calculated at a ratio of one square foot (1') of sign area per two linear feet (2') of addressed building frontage, with the following maximums.

1. **Typical Building.** Ground signs shall not exceed forty-eight (48) square feet for buildings with Indian River Boulevard road frontage.

2. **Primary Streets and Other Intersecting Streets.** Ground signs on primary streets and other streets intersecting Indian River Boulevard may be up to thirty-two square feet (32').

c. **Number of Ground Signs.** One (1) sign shall be allowed per parcel with four hundred feet (400') or less of road frontage. If a parcel's road frontage exceeds four hundred feet (400') and is less than seven hundred feet (700'), then a maximum of two (2) ground signs shall be allowed but no closer than three hundred feet (300') apart. If a parcel's road frontage exceeds seven-hundred feet (700'), then a maximum of three (3) ground signs shall be allowed, but no closer than three hundred feet (300') apart.

d. **Ground Sign Planter Specifications.** Vertical structure supports for ground signs shall be concealed in an enclosed base. The width of such enclosed base shall be equal to at least two-thirds (2/3) the horizontal width of the sign surface. A planter structure shall enclose the foot of the base. The planter shall be between two feet (2') and three feet (3') in height above the ground, with a minimum length equal to the width of the sign and a minimum width of three feet (3'). The materials will be consistent with the sign and principal structure. The planter shall be irrigated and planted with low shrubs, ornamentals or flowers. Such plantings shall be maintained indefinitely.

e. **Ground Sign Setback.** The planter setback shall be a minimum of ten feet (10') from the right-of-way.

f. **Movement.** No ground sign nor its parts shall move, rotate or use flashing lights.

g. **Electronic Message Centers (EMC)/Signage.** EMC signage shall conform to the requirements contained in Article VI, however, in the event of conflicting language, the requirements of Article XVIII shall supersede. All other requirements contained in this Article shall also apply.

21-450.03 - Business Identification Signs

Business identification signs include signs that are attached to the building wall or window. They include wall signs (flat against building wall), projecting/hanging signs (perpendicular to the building), window signs, canopy/marquis and awning signs.

The following general design criteria shall apply to all attached signs located in the Indian River Boulevard Corridor. No sign shall cover architectural detailing. Only one (1) business identification shall be allowed per sign to reduce clutter.

a. **Wall Signs.** Wall signs should be limited to one (1) per business per façade. The total amount of wall signs allowed shall be two (2) square feet of signage per one (1) linear foot of addressed business frontage, not to exceed sixty-four (64) square feet, provided however that copy area shall not exceed fifty percent (50%) of the primary frontage (width) of the tenant space. Wall signs should be placed on the building façade and not perpendicular to the wall.

b. **Projecting/Hanging Signs.** Projecting/hanging signs should not exceed four (4) square feet and should be located adjacent to the entry to the building or to the

tenant space. If located under an awning or marquis, the projecting sign should be located perpendicular to the building face.

c. **Window Signs.** Window signs should be maintained properly. Window signs shall be painted or decal only and should not exceed twenty five percent (25%) of window area. Sign location shall be between four feet (4') to six feet (6') above grade to allow visibility into the store for pedestrians. Promotional posters for civic events shall be permitted on windows and should not be included in the sign area calculation.

d. **Canopy/Marquis or Awning Valance Signs.** Signs shall not be permitted on canopy/marquis or awning valance structures.

21-450.04 - Multi-Tenant Buildings

Developments that have multiple tenants shall limit the ground sign to just the name of the center/complex (may also possibly include an anchor store) and wall signs to identify the individual tenants to prevent clutter along the corridor.

a. **Directory Signs (for multi-use developments).** Sites with two (2) or more businesses on the premises are allowed a directory sign. The size of the sign should not exceed six (6) square feet. The location of directory signs should be approved at the discretion of the City.

21-450.05 - Specialty Signs

a. **Easel.** Easel signs should be limited to one (1) sign per active store entranceway. The sign should relate to the business or merchandise line of the particular place of business. Easel signs should be no larger than twenty four inches (24") wide by thirty six inches (36") high.

   1. Signs placed on easels should be no larger than twenty-four inches (24") wide by twenty-four inches (24") high.
   2. Signs shall be located directly in front of the business entrance at a distance of no greater than five feet (5') from the building and shall not block pedestrian movement.

b. **Flags.** A maximum of one (1) state, one (1) federal and one (1) local/county flag per parcel; each a maximum of thirty-five (35) square feet. Flags shall be set back from road right-of-way a minimum distance of ten feet (10').

c. **Opening Banners.** Opening banners shall be allowed from two (2) weeks prior to opening until one (1) month after opening. Banners shall be located on building walls.

21-450.06 - Signage Performance Standards

Only permanent durable materials allowed and must be maintained. Signs should be executed by a qualified, professional sign maker; homemade signs are prohibited.

21-450.07 - Exempted Signs

Real estate signs and construction signs shall meet Land Development Code standards.

21-450.08 - Prohibited Signs

a. Signs that are prohibited in the Indian River Boulevard Corridor include animated signs, billboards, off-site signs, flashing signs, snipe signs, portable signs (trailer signs), roof signs, beacon lights, trash receptacle signs, gutter signs, signs on public property, immoral display, obstruction, streamers, spinners and pennants. Bench signs are prohibited except those placed on public transportation benches and shelters as approved through a competitive selection process pursuant to City standard procedures.

b. No advertising or signage is allowed on any exposed amenity including but not limited to trash containers and fences. Bench signs are prohibited except those placed on public transportation benches and shelters as approved through a competitive selection process pursuant to City standard procedures.

21-450.09 - Sign Illumination

a. Sign lights shall be focused, directed and so arranged as to prevent glare or direct illumination or traffic hazard from said lights onto residential districts or onto the abutting roadways. No objectionable glare shall be directly visible from a public right-of-way or residential zone. Illuminated signs shall provide shielding from any source of illumination other than neon.

b. Any external, above-ground light source shall be located and hidden within the sign planter bed. Light sources located outside the sign planter bed shall be in a burial fixture.

21-450.10 - Prohibited Lighting

a. No flashing or pulsating light shall be permitted on any sign. No sign shall be permitted which involves lighting or motion resembling traffic or directional signals, warnings or other similar devices, which are normally associated with highway safety or regulations. In addition, no sign shall be permitted which constitutes a safety hazard or hindrance because of light, glare, focus, animation, flashing or intensity of illumination. Lighted signs shall be designed and located so as to prevent direct glare or hazardous interference of any kind to adjoining streets or properties. High intensity lights such as beacon lights, spotlights or floodlights shall not be permitted in the Indian River Boulevard Corridor.

b. No prisms, mirrors or polished reflecting surfaces shall be used for purpose of augmenting intensity of light sources and no hi-intensity lights or stroboscopic lights or effect is permitted.

1. No more than forty-five (45) milli-amperes on high voltage side of neon transformer shall be permitted.
2. Maximum wattage of incandescent bulbs shall be limited to eleven (11) watts.
3. A maximum of sixty (60) milli-amperes shall be permitted on neon tubing.

4. Letters or border decoration of buildings with a maximum of eleven (11) watt maximum incandescent bulbs shall be permitted.
5. Strip lighting includes lighting used to outline a structure or any part thereof and shall be prohibited. Streamer lights and/or neon strip lighting shall be prohibited above the roof level of any building. Strip lighting, as referred to here, shall not include Christmas decorations and related lights.

SECTION 21-460 – NONCONFORMING STRUCTURES

21-460.01 – Existing Nonconforming Structures

These guidelines apply to buildings and structures. Further, any structure which is lawfully existing when these regulations are adopted (or amended) and which does not conform with all the provisions of these regulations may remain and be continued subject to the following regulations.

a. The intent and purpose of these nonconforming structure provisions shall be to improve and otherwise encourage such structures to be redeveloped and revitalized in ways that conform with these regulations to the greatest extent feasible. Therefore, such structures, may be used, enlarged, replaced, altered and/or expanded subject to the following:

b. Such use, enlargement, replacement, alterations, expansions and/or extension is approved (as a conditional use/special exception/administrative variance) by the Planning and Zoning Board under the procedures of these regulations.

c. All applications shall be subject to all appropriate safeguards and conditions necessary to ensure that any such approval will not be contrary to the public interest, the intent of these Indian River Boulevard Design Guidelines or injurious to the specific area in which the existing nonconforming structure is located.

d. All applications shall provide complete and written justification regarding any provisions of these regulations that the applicant believes cannot be fully complied with. Such justification shall not include monetary considerations.

e. Under no circumstances shall the provisions of this Section be construed to mean that any existing nonconforming structure may be changed, or that any provision, requirement and/or regulation contained within these regulations can be waived or reduced which can reasonably be complied with by the applicant. The provisions of this Section shall not be construed and/or applied in such a manner as to permit the enlargement, replacement, alterations, expansion and/or extension of any existing nonconforming structure without justifiable reasons based on a legally existing and nonconforming status; that would result in any undue hardship or injurious activity that would deprive adjacent individual property owners of their property rights; or that would be detrimental to the area surrounding the nonconforming premises in general.

21-460.02 – Guidelines for Nonconforming Structures

a. No nonconforming structure shall be enlarged, replaced or altered in any way which increases it's nonconformity except in conformance with these regulations.

b. It is further stated that any alterations, replacement or modification of the exterior of a nonconforming structure shall comply with these design guidelines to the maximum extent feasible.

c. Nonconforming structures may be restored to a safe condition if declared unsafe, providing that such restoration does not constitute more than fifty-percent (50%) of the structure's appraised fair market value.

d. If damaged by more than fifty-percent (50%) of its appraised fair market value, a nonconforming structure shall not be restored except in conformance with these regulations.

e. Nonconforming structures may have normal repair and maintenance performed to permit continuation of the nonconforming structure.

21-460.03 – Existing Nonconforming Signs

a. No nonconforming sign shall be enlarged, replaced or altered in any way except in conformance with these regulations.

b. It is further stated that any alterations, replacement or modification of the exterior of a nonconforming sign shall comply with these design guidelines to the maximum extent feasible.

c. Non-conforming signs shall be brought into conformance with this Article within a five (5) year grace period of the date of any permit issuance to modify and/or improve said non-conforming sign. No permits to modify and/or improve a non-conforming sign which heretofore grants the five (5) year grace period and does not bring said non-conforming sign into conformance with this Article shall be issued after December 31, 2015.

SECTION 21-470 -RESERVED

SECTION 21-480 -RESERVED

SECTION 21-490 -RESERVED

ARTICLE XIX

ADULT ENTERTAINMENT REGULATIONS

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ARTICLE XIX

ADULT ENTERTAINMENT REGULATIONS

SECTION 21-500 - GENERAL PROVISIONS

21-500.01- Definitions

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

Adult bookstore means:

a. An establishment which, as its principal business purpose, sells or rents adult material or which offers adult materials for sale or rent as a significant portion of its stock and trade.

b. Any establishment in which any one or more of the following five elements occur shall be presumed to be an adult bookstore/adult video store:

1. That the adult material is accessible to customers; "accessible to customers" means that the item can be physically touched, picked up, handled by a customer before being transferred from the control of a worker, or is visually displayed so that an adult or child present in the store can view substantially more than its name alone; or

2. That the individual items of adult material offered for sale and/or rental comprise more than 25 percent of the unused individual items publicly displayed at the establishment as stock in trade in the following categories: books, magazines, periodicals, other printed matter, slides, photographs, films, motion pictures, videotapes, compact disks, computer digital graphic recordings, other visual representations, audio recordings and other audio matter, and more than 25 percent of the total used items publicly displayed at the establishments as stock in trade in each of the same categories set out above; or

3. The gross income each month from the sale and rental of adult material comprises more than ten percent of that month's gross income from the sale and rental of the goods and material at the establishment; or

4. The floor area used to display adult material comprises more than ten percent of the floor area used for display of all goods and material at the establishment; or

5. The establishment uses any of the following terms in advertisements or any other promotional activities relating to the adult material: "XXX," "XX," "X," or any series of the letter "X" whether or not interspersed with other letters, figures or characters; "erotic" or deviations of that word; "adult entertainment," "adult books," "adult videos" or similar phases; "sexual acts" or similar phrases; "nude" or "nudies" or similar phrases which letters, words or phrases a reasonable person would believe to be promotional of the purchase or rental of adult material.

c. In recognition of the provisions of F.S. §§ 847.013 and 847.0133, which protects minors from exposure to obscene material, any business which is an adult bookstore/adult video store shall have in place at each entrance to such business a sign, no less than one square foot in size, stating "Persons under 18 years of age not permitted."

Adult booth means a small enclosure inside an adult entertainment establishment accessible to any person over the age of 18, regardless of whether a fee is charged for access. The term adult booth includes, but is not limited to, a peep-show booth or other booth used to view adult material, but does not include a restroom or a foyer through which the public enters or exits the establishment.

Adult entertainment establishment means an adult theater, an adult bookstore, an adult-performance establishment, a commercial physical-contact parlor or an escort service operated for commercial or pecuniary gain, regardless of whether such establishment is licensed under this Article. "Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. An establishment which has a business tax receipt or an establishment which advertises itself as a type of adult entertainment establishment shall be presumed to be operated for commercial or pecuniary gain. An establishment with an adult entertainment license shall be presumed to be an adult entertainment establishment.

Adult material means any one or more of the following, regardless of whether it is new or used:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videotapes, slides or other visual representations, or recordings, computer digital graphic recordings, other visual representations, tape recordings or other audio matter, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or

b. Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities, excluding bona fide birth-control devices.

Adult motel means any motel, hotel, boardinghouse, roominghouse or other place of temporary lodging which includes the word "adult" in any name it uses or otherwise advertises the presentation of films, motion pictures, videotapes, slides or other photographic reproductions, which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. The term "adult motel" is included within the definition of "adult theater."

Adult-performance establishment.

a. Adult-performance establishment means an establishment where any worker:

1. Engages in a private performance or displays or exposes any specified anatomical areas to a customer, regardless of whether the worker engages in dancing or any particular activity;

2. Wears and displays to a customer any covering, tape, pasty or other device which simulates or otherwise gives the appearance of the display or exposure of any

specified anatomical areas, regardless of whether the employee actually engages in performing or dancing;

3. Offers, solicits or contracts to dance or perform with a customer and accepts any consideration, tip, remuneration or compensation from or on behalf of that customer; or

4. Dances or performs with or within 18 inches of a person other than another employee and accepts any consideration, tip, remuneration or compensation from or on behalf of that person.

b. It is an affirmative defense that an establishment is not an adult-performance establishment if the establishment is a bona fide private club whose membership as a whole engages in social nudism or naturalism as in a nudist resort or camp, or such other establishment in which the predominant business or attraction of the establishment is not the offering to customers of a product, service or entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and the establishment is not distinguished by an emphasis on or the advertising or promotion of materials relating to or workers depicting, describing, displaying, exposing or simulating specified sexual activities or specified anatomical areas.

c. An adult-performance establishment shall not be deemed a place provided or set apart for the purpose of exposing or exhibiting a person's sexual organs in a manner contrary to the first sentence of F.S. § 800.03, the state's indecent-exposure statute as set forth in the decision of the Supreme Court of Florida in the case of Hoffman v. Carson , 250 So. 2d 891, 893 (Fla. 1971), appeal dismissed 404 U.S. 981 (1971).

Adult theater means any establishment which has adult booths where adult material may be viewed or any establishment which has an auditorium, rooms or an open-air area where persons may view films, motion pictures, videocassettes, slides or other photographic reproductions which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. Adult motels and adult booths or peep-show arcades are considered to be adult theaters.

Alcoholic beverage means a beverage containing more than one percent of alcohol by weight. It shall be prima facie evidence that a beverage is an alcoholic beverage if there is proof that the beverage in question was or is known as beer, wine, whiskey, moonshine whiskey, moonshine, shine, rum, gin, tequila, bourbon, vodka, scotch, scotch whiskey, brandy, malt liquor or by any other similar name or names, or was contained in a bottle or can labeled as any of the above names, or a name similar thereto, and the bottle or can bears the manufacturer's insignia, name or trademark. Any person who, by experience in the handling of alcoholic beverages, or who by taste, smell or drinking of such alcoholic beverages has knowledge of the alcoholic nature thereof, may testify as to such person's opinion about whether such beverage is an alcoholic beverage.

Child Care Facility means that as defined by Sec. 402.302(2), Florida Statutes.

Commercial physical contact means to manipulate, wash, scrub, stroke or touch, for commercial or pecuniary gain, another person's body tissues directly or indirectly, through a medium using any object, instrument, substance or device.

It is an affirmative defense to an alleged violation of this Article regarding engaging in commercial physical contact or operating a commercial physical-contact parlor if the alleged violator, business or establishment can establish membership in one of the following classes of persons or businesses and the activity alleged to be commercial physical contact is part of the bona fide practice of the profession or business of the person, which overlaps into the field regulated by this Article:

a. Persons licensed as a massage therapist or apprentice massage therapist pursuant to F.S. ch. 480, if providing massage services only in a massage establishment licensed under F.S. ch. 480.

b. Persons licensed under the laws of the state to practice medicine, surgery, osteopathy, chiropody, naturopathy or podiatry, or persons licensed as a physician's assistant or holding a drugless practitioner's certificate.

c. Registered nurses under the laws of the state.

d. Barbers or beauticians licensed under the laws of the state.

e. Cosmetologists licensed under the laws of the state.

f. Persons performing services in any hospital, nursing home or sanitarium licensed under the laws of the state.

g. Instructors, coaches or athletic trainers employed by, or on behalf of, any bona fide professional, Olympic or sanctioned amateur athletic team, governmental entity or any bona fide state, county or private educational institution.

h. Physical therapists licensed under the laws of the state.

Commercial physical-contact parlor means a business, establishment or place operated for commercial or pecuniary gain, where any worker engages in commercial physical contact, or any business or establishment for which any portion is set aside, advertised or promoted as a place where commercial physical contact occurs or a place designated as a "body scrub salon," or a place designated as a "relaxation salon."

Conviction means a determination of guilt resulting from a plea or trial, regardless of whether adjudication was withheld or whether imposition of sentence was suspended.

Customer means any person at an establishment, excluding an employee or operator, who does any of the following:

a. Is present at an establishment, regardless of whether that person has actually given any consideration or spent any money for goods or services; or

b. Has paid or has offered, agreed, been solicited or had someone else offer or agree on that person's behalf to, pay any consideration, fee or tip to an operator or worker of an adult entertainment establishment.

Department means the building department, fire department, health department, police department, Development Services Department or City Clerk, including the respective director, workers, officers and agents thereof.

Educational institution means a premises or site upon which there is an institution of learning for minors, whether public or private, which conducts regular classes and/or courses of study required for eligibility to, certification by, accreditation to, or membership in the state department of education, Southern Association of Colleges and Secondary Schools or the Florida Council of Independent Schools. The term "educational institution" includes a premises or site upon which there is a kindergarten, elementary school, middle school, senior high school. However, the term "educational institution" does not include a premises or site upon which there is a vocational institution, professional institution or an institution of higher education, including a community college, junior college, four-year college or university.

Escort means any person who, for commercial or pecuniary gain, compensation or tips agrees to, offers to go or goes to any place, including a business, hotel, motel, residence or conveyance to do any of the following acts:

a. Act as a companion or date for, or converse with, a customer;

b. Engage in physical contact with another person;

c. Provide private adult entertainment;

d. Display specified anatomical areas, strip naked or go topless; or

e. Engage in any specified sexual activity.

Caveat: Nothing in this definition shall be construed to legalize prostitution or other conduct prohibited by this Article or other law.

Escort service or escort agency means a person, business, establishment or place operated for commercial or pecuniary gain, which does any of the following:

a. Advertises as an escort service or escort agency or otherwise offers or advertises that it can furnish escorts or private dancers; or

b. Offers or actually provides, arranges, dispatches or refers workers to act as an escort for a customer.

It is an affirmative defense that a business is not an escort service if the person seeking to invoke this defense can demonstrate that the business is a bona fide dating or matching service which arranges social matches or dates for two persons who each wish to meet a compatible companion when neither of such persons solicits, accepts or receives any financial gain or any monetary tip, consideration or compensation for the meeting or date.

Establishment means any place, site or premises, or portion thereof, upon which any person, corporation or business conducts activities or operations for commercial or pecuniary gain, including any place, site or premises from where an escort service dispatches or refers workers to other locations or at which an escort service receives business calls from customers.

Law enforcement officer means an officer who is on official duty for a law-enforcement agency, including, but not limited to, the police department of the City.

Licensee means any person whose application for an adult entertainment establishment has been granted and who owns, operates or controls the establishment.

Operated for commercial or pecuniary gain means any business or attempt to generate income and shall not depend upon actual profit or loss. An establishment which has a business tax receipt shall be presumed to be operated for commercial or pecuniary gain.

Operator means any person who engages in or performs any activity necessary to, or which facilitates, the operation of an adult entertainment establishment, including but not limited to the licensee, manager, owner, doorman, bouncer, bartender, disc jockey, sales clerk, ticket taker, movie projectionist, dispatcher, receptionist or attendant.

Park means a tract of land within a city or unincorporated area of a county which is kept for ornament or recreation and which is maintained as public property.

Preexisting means as follows:

a. When used together with the terms "adult entertainment establishment," "religious institution," "educational institution," "commercial establishment that in any manner sells or dispenses alcohol for on-premises consumption" or "residence," the word "preexisting" shall mean:

    1. The establishment, institution or residence is already being lawfully used or lawfully occupied;

    2. A building permit for the establishment, institution or residence has been lawfully issued, all fees associated with the permit have been paid and the permit has not expired; or

3. An application or plan to allow the establishment, institution or residence to be constructed, used or occupied has been filed and is undergoing review or is approved, with or without conditions.

b. When used together with the term "park," the word "preexisting" shall mean:

1. The park is already being used; or

2. The park site has been approved or otherwise designated by the appropriate governing body.

Private performance means posing, or the display or exposure of any specified anatomical area by a worker of an adult entertainment establishment to a customer, while the person is in an area not accessible during such display to all other persons in the establishment, or while the customer or worker is in an area which is private or in which the customer or worker is totally or partially screened or partitioned during such display from the view of all persons outside the area.

Public nudity means the appearance at an adult entertainment establishment of a specified anatomical area as defined herein.

Religious institution means a premises or site which is used primarily or exclusively for religious worship and related religious activities.

Sexually oriented business means a commercial physical-contact establishment or escort service, regardless of whether such business is licensed under this Article.

Specified anatomical areas means:

(Editor's note: the source of the footnotes below is The New Webster's Medical Dictionary (Bolander, 1991). The definitions of terms set forth in footnotes are a material part of this Article and apply to the use of the term each time it is used in this Article.)

(a) Any of the following in a state that is less than completely and opaquely covered:

a. The male or female genitals[1];

b. The male or female pubic area[2];

c. The vulva[3];

d. The anus[4];

---

[1]Genitals, Genitalia – organs of the reproductive system, especially the external organs.

[2]Pubic Area - (1) Pubes, the pubic region; the anterior region of the innominate bone covered with pubic hair; os pubis. (2) Pubic, pertaining to the pubes. (3) Pubis, pubic bone, or the innominate bone.

[3]Vulva - External female genitalia, including the mons pubis, labia majora and minora, clitoris and vestibule of the vagina.

e. The penis[5];
f. The scrotum[6];
g. The anal[7] cleft.
h. The breast[8] of a female;
i. The human male genitals in a discernibly turgid state, even if completely and opaquely covered.

For purposes of this definition, body paint, body dyes, tattoos, liquid latex whether wet or dried, and dental floss shall not be considered an opaque covering.

Specified sexual activity means:

a. Human genitals in a state of sexual stimulation, arousal, erection or tumescence; or

b. Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast;

c. Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy or urolagnia; or

d. Excretory functions as part of or in connection with any of the activities set forth in subsections (1), (2) or (3) of this definition.

Straddle dance, also known as a lap dance, face dance or friction dance, means either of the following acts at an establishment:

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[4]Anus - Outline of the rectum leading from the bowel.

[5]Penis - The male organ for urination and copulation, a pendulous structure that is suspended from the front and the sides of the pubic arch.

[6]Scrotum - The external double pouch that contains the testicles.

[7]Anal - A ring, pertaining to the rectal opening; near the anus.

[8]Breast - A portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and the areola (the darker colored area of the breast surrounding the nipple) and an outside area of such gland wherein such outside area is (i) reasonably compact and contiguous to the areola, and (ii) contains at least the nipple and the areola and one-fourth of the outside surface area of such gland. The female breast shall not include any portion of the cleavage between the human female breasts typically exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided that the areola is not exposed.

a. The use by a worker of any part of the worker's body to touch the genital or pubic area of another person, or the touching of the genital or pubic area of any worker to another person. It shall be termed a "straddle dance" regardless of whether the touch or touching occurs while the worker is displaying or exposing any specified anatomical area. It shall also be termed a "straddle dance" regardless of whether the touch or touching is direct or indirect (through a medium); or

b. The straddling of the legs of a worker over any part of the body of another person at the establishment, regardless of whether there is a touch or touching.

Worker means a person who works, performs or provides services at an adult entertainment establishment or who is an escort, irrespective of whether such person is paid a salary or wage, and shall include, but is not limited to, employees, independent contractors, subcontractors, lessees or sublessees who work or perform at an adult entertainment establishment.

21-500.02- Authority for Article

This Article is enacted under the Home Rule Power of the City in the interest of the health, peace, safety and general welfare of the people of the City and under the authority of the City to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment to the Constitution of the United States.

21-500.03- Scope of Article

This Article shall be effective throughout the City.

21-500.04- Purpose of Article

The intent of the City Council in adopting this Article is to establish reasonable and uniform regulations for the adult entertainment industry that will protect the health, safety, property values and general welfare of the people, businesses and industries of the City. It is not the intent of the City Council to legislate with respect to matters of obscenity. These matters are regulated by federal and state law, including F.S. ch. 847.

21-500.05- Findings of fact

Based on evidence and testimony presented at public hearings before the City Council and on the findings incorporated in the United States Attorney General's Commission on Pornography (1986), Jacksonville Ordinance Code, Chapter 410, Ord. 77-257-256, Section 1, the Los Angeles Municipal Code, Section 12.70, Ord. 156509 (1982), the Detroit Zoning Ordinance, 66,0000, Ord. 742-G, Section 1, 10-24-72, and A Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values, conducted by the division of planning, department of metropolitan development, Indianapolis, January 1984, and the findings of fact set out in section 3-5 of the adult entertainment code of Orange County, Florida, a county in central Florida, and evidence and affidavits presented by the Metropolitan Bureau of Investigation of the Ninth Judicial Circuit of Florida, the cases of *City of Renton v. Playtime Theaters, Inc*., 475 U.S. 41 (1986); *Young v. American Mini*

Theaters, 426 U.S. 50 (1976); *Barnes v. Glen Theater, Inc*., 501 U.S. 560 (1991); *City of Erie v. Pap's A.M.*, 120 S. Ct. 1382 (2000); *City of Los Angeles v. Alameda Books*, 535 U.S. 425 (2003); *City of Littleton v. Z.J. Gifts, LLC*, 124 S.Ct. 2219 (U.S. 2004); and on materials made of record relating to the Seminole County and St. Johns County Public Nudity Ordinances, and on the substance of and findings made or incorporated in studies accomplished in other communities and ordinances enacted in other communities, including, but not limited to, New York, New York; city of Houston Ordinance Number 97-75; Senate Bill Number 232, as passed by the Kansas State Legislature; Phoenix, Arizona; Tucson, Arizona; St. Paul, Minnesota; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Austin, Texas; Macon-Bibb County, Georgia; Palm Beach County, Florida; Manatee County, Florida; the findings of the attorney general of the State of Minnesota; the report of United States Attorney General's Council on Pornography (1986); Jacksonville, Florida; Detroit, Michigan; and "A Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values," conducted by the division of planning, department of metropolitan development, Indianapolis, January 1984; the publication entitled "Protecting Communities From Sexually Oriented Businesses" (Southwest Legal Press, Inc.); the publication entitled "Local Regulation Of Adult Businesses" (Clark, Boardman and Callaghan); publications prepared by the Florida Family Association, Inc. (Tampa, Florida) relating to the regulation of sexually oriented businesses and adverse secondary effects of sexually oriented businesses; the "Report to: The American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses", Peter R. Hecht, Ph.D. (1996); and the findings of fact relating to the adult entertainment codes of Orange and Seminole Counties, two neighboring and contiguous counties in central Florida, and the findings of fact relating to the sexually oriented business and adult entertainment establishment ordinance of Brevard County, Florida, the county in which the city is located, the publications of Dr. William George regarding erotica and alcohol: Alcohol and Human Sexuality: Review and Integration, Leif C. Crowe and William H. George, Psychological Bulletin, 1989; Alcohol and Hypermasculinity as Determinants of Men's Empathic Responses to Violent Pornography, Jeanette Norris, William H. George, Kelly Cue Davis, Joel Martell, R. Jacob Leonesio; Journal of Int'l Violence, 1999; Alcohol Expectancies and Sexuality: A Self-Fulfilling Prophecy, Analysis of Dyadic Perceptions and Behavior, William H. George, Ph.D., and Susan A. Stoner, B.A., Jeanette Norris, Ph.D., Peter A. Lopez, Ph.D. and Gail L. Lehman, Ph.D., Journal of Studies on Alcohol, 1998; The Effect of Alcohol and Anger on Interest in Violence, Erotica & Deviance, William H. George and G. Alan Marlatt, Journal of Abnormal Psychology, 1986; Perception of Postdrinking Female Sexuality: Effects of Gender, Beverage Choice, and Drink Payment, William H. George, Susan J. Gournic, and Marry P. McAfee, Journal of Applied Social Psychology, 1988; Postdrinking Sexual Inferences: Evidence of Linear Rather than Curvilinear Dosage Effects, William H. George, Gail L. Lehman, Kelly L. Cue, Lorraine J. Martinez, Peter A. Lopez, and Jeanette Norris, Journal of Applied Social Psychology, 1997; Self-Reported Alcohol Expectancies and Postdrinking Sexual Inferences About Women, William H. George, Kelly L. Cue, Peter A. Lopez, Lief C. Crowe, and Jeanette Norris, Journal of Applied Social Psychology, 1995; Self-Reported Alcohol Expectancies for Self and Other as a Function of Behavior Type and Dosage Set; William H. George and Kurt H. Dermen, Journal of Substance Abuse, 1988; *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F. 3d 993 (11th Cir. 1998); *City of Daytona Beach v. Del Percio* 476 So. 2d 197 (Fla. 1985); *SOB, Inc. v. County of Benton*, 317 F. 3d 856 (8th Cir. 2003); *New York State Liquor Auth. V. Bellanca*, 452 U.S. 714 (1981); *California v. LaRue*, 409 U.S. 109 (1972) (result upheld in *44 Liquormart v. R.I.*, 517 U.S. 484 (1996)); *Seminole Entertainment, Inc. v. city of Casselberry*, 813 So. 2d 186 (Fla. 5th DCA 2002), rev. denied 835 So. 2d 269 (2002), cert. denied 123 S. Ct. 2276, 71 USLW 3641 (2003) (including the entire record presented to the Casselberry city council and the order of the

city council revoking Rachel's adult entertainment license); *McKee v. City of Casselberry*, 10 Fla. L. Weekly Supp. 408a, Per Curium Affirmed 2004 WL 1178246; (Fla. 5th DCA 2004); and matters and materials submitted at the public hearings relating to this article and other matters and documents relating to all of the above; and the experiences of other central Florida communities, the Council hereby finds that:

a. Commercial establishments exist or may exist within the City and other nearby cities or counties in central Florida where books, magazines, periodicals or other printed material, or photographs, films, motion pictures, prints, videotapes, slides, computer digital graphic recordings or other visual representations or recordings, or recordings or other audio matter, or instruments, novelties, devices or paraphernalia which depict, illustrate, describe or relate to specific sexual activities or specified anatomical areas are possessed, displayed, exhibited, distributed and/or sold.

b. Commercial establishments exist or may exist within the City and other nearby cities or counties in central Florida where adult entertainment activities in the form of nude, seminude or topless dancers, entertainers, performers or other individuals who, for commercial gain, perform or are presented while displaying or exposing specified anatomical areas; or engage in straddle dancing or touching with customers.

c. Commercial sexually oriented businesses exist or operate or may exist or operate within the City and other nearby cities or counties in central Florida where sexually oriented services are offered for commercial or pecuniary gain in the form of commercial physical contact or escort services. The workers of such sexually oriented businesses operating in central Florida engage in physical contact or touching with customers, including acts of prostitution, or encourage or entice the customers to engage in lewdness.

d. The activities described in subsections (A), (B) and (C) of this section occur at establishments which operate primarily for the purpose of making a profit and, as such, are subject to regulation by the City in the interest of the health, safety, economy, property values and general welfare of the people, businesses and industries of the City. A major industry which is important to the community's economic welfare is tourism by persons seeking to bring children to visit attractions who wish to stay in a community with a family atmosphere not dominated by commercialized sexual themes.

e. When the activities described in subsections (A), (B) and (C) of this section are present in establishments, other activities which are illegal, unsafe or unhealthful tend to accompany them, concentrate around them and be aggravated by them. Such other activities include, but are not limited to, prostitution, pandering, solicitation for prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution and transportation of obscene materials, sale or possession of controlled substances and violent crimes against persons and property.

f. When the activities described in subsections (A),(B) and (C) of this section are competitively exploited in establishments, they tend to attract an undesirable number of transients, blight neighborhoods, adversely affect neighboring businesses, lower real-property values, promote the

particular crimes described in subsection(E)of this section, and ultimately lead residents and businesses to move to other locations.

g. The establishments in which the activities described in subsections (A),(B) and(C) of this section occur are often constructed, in part or in whole, of substandard materials, maintained in a manner reflecting disregard for the health and safety of the occupants, and have exterior signs or appearance that lower the surrounding property values and contribute to urban decline.

h. The activities described in subsections (A),(B) and(C)of this section often occur in establishments concurrent with the sale and consumption of alcoholic beverages, which concurrence leads to a further increase in criminal activity, unsafe activity and disturbances of the peace and order of the surrounding community and creates additional hazards to the health and safety of customers and workers and further depreciates the value of adjoining real property, harming the economic welfare of the surrounding community and adversely affecting the quality of life, commerce and community environment.

i. In order to preserve and safeguard the health, safety, property values and general welfare of the people, businesses and industries of the City, it is necessary and advisable for the City to regulate the sale and consumption of alcoholic beverages at establishments where the activities described in subsections (A),(B) and(C) of this section occur.

j. Workers at adult entertainment establishments and sexually oriented businesses engage in a higher incidence of certain types of unhealthy or criminal behavior than workers of other establishments, including a very high incidence of illegal prostitution or engaging in lewdness in violation of F.S. ch. 796, operation without business tax receipts and illegal unlicensed massage.

k. Physical contact or touching within establishments at which the activities described in subsections (A),(B) and (C) of this section occur between workers exhibiting specified anatomical areas and customers poses a threat to the health of both and promotes the spread of communicable and social diseases.

l. In order to preserve and safeguard the health, safety and general welfare of the people of the City, it is necessary and advisable for the City to regulate the conduct of owners, managers, operators, agents, workers, entertainers, performers and customers at establishments where the activities described in subsections (A),(B) and(C)of this section occur.

m. The potential dangers to the health, safety and general welfare of the people of the City posed by permitting an establishment at which the activities described in subsections (A), (B) and(C) of this section occur to operate without first meeting the requirements for obtaining a license under this Article are so great as to require the licensure of such establishments prior to their being permitted to operate.

n. Requiring operators of establishments at which the activities described in subsections (1), (2) and (3) of this section occur to keep records of information concerning workers and certain recent past workers will help reduce the incidence of certain types of criminal behavior by facilitating

the identification of potential witnesses or suspects, and by making it difficult for minors to work in such establishments.

o. Prohibiting establishments at which the activities described in subsections (A),(B) and(C) of this section occur from operating within set distances of educational institutions, religious institutions, residences, areas zoned or designated for residential use and parks, at which minors are customarily found, will serve to protect minors from the adverse effects of the activities that accompany such establishments.

p. Straddle dancing, unregulated private performances and enclosed adult booths in establishments at which the activities described in subsections (A),(B) and(C) of this section occur have resulted in indiscriminate commercial sex between strangers, pose a threat to the health of the participants and promote the spread of communicable, sexually transmitted diseases. Straddle dancing is primarily conduct rather than communication or expression.

q. Physical contact or touching between workers of sexually oriented businesses and customers poses a threat to the health of both, and promotes the spread of communicable and sexually transmittable diseases.

r. The practice of not paying workers at sexually oriented businesses and requiring them to earn their entire income from tips or gratuities from their customers who are predisposed to want sexual activity has resulted in an extremely high, nearly universal, incidence of prostitution and crimes related to lewdness by workers.

s. Sexually oriented businesses involve activities the sole purpose of which is financial gain rather than free speech or expressive activity, and therefore are subject to and require increased regulation to protect the health, welfare and safety of the community.

t. Requiring sexually oriented businesses to post a listing of services provided, to restrict services to those listed and to maintain a customer contract and transaction record in a daily register will discourage incidents of criminal behavior such as lewdness and prostitution, thereby further safeguarding the health of both workers and customers and facilitating the identification of potential witnesses or suspects if criminal acts do occur.

21-500.06- Construction

This Article shall be liberally construed to accomplish its purpose of licensing, regulating and dispersing adult entertainment and related activities. Unless otherwise indicated, all provisions of this Article shall apply equally to all persons, regardless of sex.

SECTION 21-510- ADMINISTRATION AND ENFORCEMENT

21-510.01- Enforcement

The provisions of this Article may be enforced by:

a. A suit brought by the City Council in the circuit court to restrain, enjoin or prevent a violation of this Article;

b. Enforcement proceedings by the City's code enforcement board; or

c. Criminal prosecution as provided in the criminal provisions in division 6 of this Article.

21-510.02- Responsibilities of Departments

Ultimate responsibility for the administration of this Article is vested in the City Council. The other departments are responsible for the following:

a. The Development Services Department is responsible for granting, denying, revoking, renewing, suspending and canceling adult entertainment licenses for proposed and existing adult entertainment establishments as set out in the licensing provisions of this Article.

b. The Police Department is responsible for verifying information contained in an application and for inspecting proposed or existing adult entertainment establishments in order to ascertain compliance with applicable criminal statutes and ordinances, including those set forth in the criminal provisions in of this Article, and for enforcing applicable criminal statutes and ordinances, including those set forth in the criminal provisions of this Article.

c. The Building Department is responsible for inspecting any proposed establishment or existing adult entertainment establishment in order to ascertain compliance with the general operational rules in this Article and all applicable building codes, statutes, ordinances and regulations.

d. The Fire Department is responsible for inspecting any proposed or existing adult entertainment establishment in order to ascertain compliance with the general operational rules in this Article and all applicable fire codes, statutes, ordinances and regulations.

e. The Health Department is responsible for inspecting any proposed or existing adult entertainment establishment in order to ascertain compliance with the general operational rules in this Article and all applicable health codes, statutes, ordinances and regulations.

f. The Development Services Department is responsible for ascertaining whether the location of proposed adult entertainment establishments complies with all distance, zoning and location requirements of the distance restrictions in this Article, applicable portions of the general operational rules in this Article and all applicable zoning regulations in the City and whether existing adult entertainment establishments are in compliance with the distance restrictions and general operational rules of this Article and all applicable zoning regulations and land use laws.

21-510.03- Appeals

An applicant may appeal the decision of the Development Services Department regarding a denial of a license application or renewal of a license under this Article to the City Council by filing a written notice of appeal with the Development Services Department within fifteen (15) days after

service of notice upon the applicant of the Development Services Department's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Development Services Department may, within fifteen (15) days of service upon it of the applicant's memorandum, submit a responsive memorandum to the City Council. After reviewing such memoranda, as well as the Development Services Department's written decision, if any, and exhibits submitted to the Development Services Department, the City Council shall vote either to uphold or overrule the decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the Development Services Department receives the notice of appeal. The status quo immediately prior to denial of the license shall be maintained during the pendency of the appeal. Judicial review of a denial by the Development Services Department and City Council may be made pursuant to Section 21-520.11 of this Article. The status quo shall continue to be maintained during the pendency of judicial review.

21-510.04 Notice

Any notice required under this Article shall be accomplished by sending a written notification by certified mail to the mailing address set forth on the application for the license. This mailing address shall be considered the correct mailing address unless the Development Services Department has been otherwise notified in writing or by personal service or delivery to the applicant or licensee.

21-510.05- Immunity from Prosecution

The City or any of its departments or agents or any law enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon an adult entertainment establishment while acting within the scope of the authority under this Article.

SECTION 21-520- LICENSE

21-520.01- Required.

No adult entertainment establishment shall be permitted to operate without having been first granted an adult entertainment license by the Development Services Department under this Article. The operation of an adult entertainment establishment without a valid adult entertainment license is unlawful and shall be grounds for the closing of the establishment or business upon a finding of fact by a court or other body with proper jurisdiction that the establishment does not have a valid adult entertainment license. In no event shall a business tax receipt serve as a substitute for a adult entertainment license required by this Article.

21-520.02- Classifications

a. *Generally*. Adult entertainment establishment licenses referred to in this Article shall be classified as follows:

1. Adult bookstore;

2. Adult theater;

3. Adult-performance establishment;

4. Commercial physical-contact parlor; or

5. Escort service.

b. *Single classification of license*. An adult entertainment license for a particular adult entertainment establishment shall be limited to one classification of license.

21-520.03- Application; fee; consent by applicant

a. *Application required*. Any person desiring to operate an adult entertainment establishment shall file with the Development Services Department a sworn license application on standard application forms supplied by the Development Services Department.

b. *Contents of application*. The completed application shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

a. An individual. The individual shall state his or her legal name and any aliases and submit satisfactory proof of identity and that the applicant is at least 18 years of age or older;

b. A partnership. The partnership shall state its complete name, the names and residential addresses and residential telephone numbers of all partners, whether general or limited, and the residence address of at least one person authorized to accept service of process, and provide a copy of any existing partnership agreement; or

c. A corporation. The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing, the names and capacities of all officers, directors and principal stockholders, the name and address of the registered corporate agent for service of process, the name, residential address and residential telephone number of the person making the application for the corporation, and provide a copy of its articles of incorporation;

2. All business names and telephone numbers to be used by the establishment. If the applicant intends to conduct the establishment under a name other than that of the applicant, the establishment's fictitious-name registration under F.S. § 865.09;

3. Whether the applicant or any of the other individuals listed pursuant to subsection (B)(1) of this section have had a previous license under this Article suspended or revoked, including the name and location of the establishment for which the license was suspended

or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to subsection (B)(1) of this section have been a partner in a partnership or an officer, director or principal stockholder of a corporation whose license under this Article has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation;

4. Whether the applicant or any other individuals listed pursuant to subsection (B)(1) of this section hold any other licenses under this Article, and if so, the names and locations of such other licensed establishments;

5. The single classification of license for which the applicant is filing;

6. The location of the proposed establishment, including a legal description of the property site, a legal street address, the name and address of the real property owner of the site and a notarized statement of consent to the specific proposed adult entertainment use from the owner of the property;

7. The applicant's mailing address and telephone number(s);

8. A site plan of the proposed establishment drawn to appropriate scale, including but not limited to:

   a. All property lines, rights-of-way and the location of buildings, parking areas and spaces, curb cuts and driveways;

   b. All windows, doors, entrances and exits, fixed structural features, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters and similar structures;

   c. All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size;

9. A notarized statement that the owner of the real property has approved of the proposed adult entertainment use, if the applicant is not the title owner.

c. *Application fee*. Each application shall be accompanied by a nonrefundable fee of $200.00. Such application fee shall be used to defray the costs and expenses incurred by the various departments in reviewing applications. If the application for a license is approved and a license is granted, the fee shall be applied as a credit toward the annual license fee required for the first year pursuant to Section 21-520.07.

d. *False, incorrect or incomplete application*. If the Development Services Department determines or learns that the applicant has falsely or incorrectly completed an application, or has not properly completed the application for a proposed establishment, the applicant shall promptly notify the applicant of such fact and shall allow the applicant ten days to properly complete the

application. The revised application shall then be promptly forwarded to the appropriate departments for further review. (The time period for granting or denying a license under Section 21-520.05 shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.) Upon receipt of a revised application, the 30-day time period for granting or denying a license shall be extended for ten (10) additional days to a total of 40 days.

e. *Consent.* By applying for a license under this Article, the applicant shall be deemed to have consented to the provisions of this Article and to the exercise of their responsibilities under this Article by the agents or departments of the City.

21-520.04- Processing of Application; Investigation; Findings

a. *Processing*. Upon receipt of a complete application properly filed with the Development Services Department and upon payment of the nonrefundable application fee, the Development Services Department shall immediately stamp the application with the date it was received and shall immediately thereafter send photocopies of the application and all attachments to the police department, the building department, the fire department, and the health department.

b. *Findings.* After investigation, each department shall report its findings in writing and shall forward its findings to the Development Services Department within fourteen (14) days and shall state whether the department finds that false, incomplete or incorrect information was given on the application or whether the proposed establishment will be in violation of any provision of the distance restrictions in division 4 or general operational rules in division 5 of this Article or of any building, fire, health or zoning statute, code, ordinance, regulation, lease, deed restriction or court order.

21-520.05- Grant; Denial; Rejection

a. *Time period for granting or denying license*. If application is made for a license under this Article, the Development Services Department shall issue a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

2. The applicant has failed to comply with the F.S. ch. 607, regarding corporations, F.S. ch. 620, regarding partnerships, or F.S. § 865.09, regarding fictitious names;

3. The granting of the application would violate a statute or ordinance, deed restriction, lease or an order from a court of law which prohibits the applicant from obtaining an adult entertainment establishment license;

4. The applicant or any of the other individuals listed pursuant to subsection have been denied a license by the City to operate a adult entertainment establishment within the

preceding twelve (12) months, or whose license to operate a adult entertainment establishment has been revoked within the preceding twelve (12) months;

5. An applicant is under the age of eighteen (18) years;

6. The license fee required under this ordinance has not been paid; or

7. The premises to be used for the adult entertainment establishment have not been approved by departments specified in Section 21-510.02 as being in compliance with applicable laws and ordinances.

b. If the Development Services Department denies the application, the Development Services Department shall, within seven (7) days, notify the applicant of the denial and state the reasons for the denial.

c. A license issued pursuant to subsection (A) of this Section, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the establishment. The license shall be posted in a conspicuous place at or near the entrance to the establishment so that it may be easily read at any time.

d. In the event the Development Services Department fails to render a decision on the application within the time specified herein, the applicant shall be permitted to commence operation of the business in accordance with the ordinances and codes of the City and other applicable federal and state laws as if a license has been issued on the 31st day of the receipt of the completed application by the Development Services Department and shall be governed by the term specified in Section 21-520.06.

e. In the event that the Development Services Department determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within thirty (30) days of the receipt of the completed application by the Development Services Department, provided that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not more than ten (10) days in order to make modifications necessary to comply with this ordinance.

21-520.06- Term; Renewal; Expiration; Cancellation; Reports; Consent

a. *Contents*. An adult entertainment license shall state the name of the licensee, the name of the establishment, the street address of the establishment, the classification of the license, the date of issuance and the date of expiration.

b. *Term*. All licenses issued under this Article shall be annual licenses, which shall commence running on October 1 if they have been paid for, and shall expire on the last day of September of the following year. If a license is issued after October 1 and before March 31 of the following year, the applicant shall pay the applicable license fee in full. If a license is issued after March 31 and before October 1 of the same year, the applicant shall pay one-half of the applicable license fee.

c. *Renewals*. A license issued under this Article shall be subject to annual renewal upon the written application to the Development Services Department. Subject to other provisions of this Article, a licensee under this Article shall be entitled to a renewal of his or her annual license from year to year, as a matter of course, by October 1 by presenting the license for the previous year, restating and updating all information required for a license application and by paying the applicable license fee unless the licensee has committed any act during the existence of the previous license which would serve as grounds for the denial of the initial license application as set forth in Section 21-520.05. Non-renewal of a license shall be subject to the appeal provision of Section 21-510.03 and judicial review as set forth in Section 21-520.11.

d. *Expiration*. A license that is not renewed under this Article by October 1 of each year shall expire. An expired license may be renewed by November 30 of the same year upon presentment of an affidavit stating that no adult entertainment activity has taken place at the establishment subsequent to expiration and upon payment of a penalty of ten percent of the appropriate license fee for the month of October, or fraction thereof, and an additional penalty of five percent of the appropriate license fee for the month of November, or fraction thereof. Any application for renewal of a license under this Article received by the Development Services Department after November 30 of the same year of its expiration shall be treated as an initial application for a license as set forth in Section 21-520.03.

e. *Cancellation*. All expired licenses not renewed by November 30 shall be summarily canceled by the Development Services Department.

f. *Reports and records*. Each licensee shall keep such records and make such reports as may be required by the Development Services Department and other departments to implement this Article and to carry out its purpose. Whenever the information required by or provided under subsection 21-520.03(b) has changed, the licensee shall promptly report the change to the Development Services Department.

g. *Consent.* By holding a license under this Article, the licensee shall be deemed to have consented to the provisions of this Article and to the exercise by the Development Services Department and other departments of their responsibilities under this Article.

21-520.07- Annual fee

a. *Levy*. The following annual license fees are hereby levied under this Article for an adult entertainment establishment:

1. Adult bookstore: $750.00.

2. Adult theater, as follows:

a Having adult booths: $35.00 for each booth.

b. Having a hall or auditorium: $3.50 for each seat.

c. Having an outdoor area designed to permit viewing by customers seated in vehicles: $3.50 for each parking space.

d. Having a combination of subsections (2)a, (2)b and/or (2)c: the cumulative license fee applicable to each under such subsections.

3. Adult motel: $750.00.

4. Adult-performance establishment: $750.00.

5. Commercial physical-contact parlor: $750.00.

6. Escort service: $750.00.

b. *Regulatory fees*. The annual license fees collected under this Article are declared to be regulatory fees collected for the purpose of examination and inspection of adult entertainment establishments under this Article and the administration thereof. These regulatory fees are in addition to and not in lieu of the business tax receipt imposed by other ordinances.

21-520.08- Transfer

a. *Requirements*. An adult entertainment license is not transferable to another person by surrendering possession, control or operation of the licensed establishment. An adult entertainment license may be transferred to another person only upon satisfaction of the following requirements:

1. Application is made to the Development Services Department for a license transfer setting forth the information called for under Section 21-520.03.

2. Satisfactory proof is provided that control of the establishment has been or will be transferred through a bona fide sale, lease, rental or other transaction;

3. A transfer fee of ten percent of the annual license fee is paid; and

4. A transferred license has been issued by the Development Services Department.

b. *Effect of suspension or revocation procedures*. No license may be transferred pursuant to subsection (a) of this Section when the Development Services Department has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.

c. *No transfer to a different location*. A licensee shall not transfer his or her license to another location.

d. *Attempted improper transfer void*. Any attempted transfer of a license, either directly or indirectly, in violation of this Section is hereby declared void.

21-520.09- Changing name of establishment

No licensee may change the name of an adult entertainment establishment unless and until the licensee satisfies each of the following requirements:

a. Thirty days notice in writing to the Development Services Department of the proposed name change;

b. Payment to the Development Services Department of a $10.00 change-of-name fee; and

c. Compliance with F.S. § 865.09, regarding fictitious names.

21-520.10- Suspension and revocation

a. *Generally.*

1. *Violation of building, fire, health or zoning statute, code, ordinance or regulation.* If a department learns or finds upon sufficient cause that a licensed adult entertainment establishment is operating in violation of this Article, the department shall promptly notify the licensee of the violation and shall allow the licensee a seven-day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the seven-day period, the department shall notify the Development Services Department, who shall forthwith suspend the license, and shall notify the licensee of the suspension in writing. The suspension shall remain in effect until the department which reported the violation notifies the Development Services Department in writing that the violation of the provision in question has been corrected.

2. *Illegal transfer*. If the Development Services Department learns or finds upon sufficient cause that a licensee engaged in a license transfer contrary to Section 21-520.08, the Development Services Department shall forthwith suspend the license and notify the licensee of the suspension in writing. The suspension shall remain in effect until the Development Services Department is satisfied that the requirements of subsection 21-520.08(A) have been met.

3. *Effective date of suspension.* All periods of suspension shall begin ten days after the date on which the Development Services Department mails the notice of suspension to the licensee or the date on which the licensee delivers the license to the Development Services Department, whichever occurs first.

b. *Revocation.*

1. *False information.* If the Development Services Department receives evidence that a license was granted, renewed or transferred based upon false information, misrepresentation of facts or erroneous information, the Development Services Department shall forthwith revoke the license and notify the licensee of the revocation.

2. *Effect of final revocation*. If a license is revoked, the licensee of the adult entertainment establishment shall not be allowed to obtain another adult entertainment license for a period of one year, and no adult entertainment license shall be issued again to any other person for the location upon which the adult entertainment establishment was situated.

c. *Effective date of suspension or revocation*. The suspension or revocation of a license shall take effect the day after delivery of a notice of final suspension or revocation to the licensee in person, or by mail to the licensee's record address, or on the date the licensee surrenders the license, whichever happens first. The licensee shall immediately return and surrender a revoked license to the business tax receipt department or surrender the revoked license, upon demand, to the Development Services Department. A suspension or revocation shall be abated during an appeal of the Development Services Department's ruling to the City Council until the day following the decision of the Council.

d. *Suspension and revocation proceedings*.

1. *Challenge to suspension or revocation*. If the Development Services Department notifies a licensee in writing of the pending suspension or revocation of a license, then the suspension or revocation shall become final and effective ten (10) days after mailing to the licensee's record address or actual delivery of the notice to the licensee, unless the licensee first files with the Development Services Department a written response stating the reasons why the suspension or revocation is alleged to be in error or inappropriate and a written notice of intent to challenge the suspension or revocation requesting a hearing before the City Council to determine whether the suspension or revocation will become effective.

2. *Hearing on suspension or revocation*.

a. When a licensee files a written response and notice of intent to challenge a pending or existing suspension or revocation, then a public hearing to determine if the pending suspension or revocation will become effective and final shall be held by the City Council. The Development Services Department shall notify the City Attorney and any appropriate City staff, who shall schedule and provide notice of the hearing.

b. The suspension or revocation hearing should be held within twenty-one (21) calendar days of a written challenge and request for a hearing, or as soon thereafter as can reasonably be scheduled, but no sooner than after seven (7) days' notice mailed to the licensee and posting to the public at a place for notices in a public building, and shall be quasi-judicial in nature.

c. The participants before the City Council shall be the licensee, any witnesses of the licensee, City staff, any interested members of the public and any witnesses of the interested members of the public. Any interested member of the public who participates at the hearing shall provide a mailing address to the City Council.

d. The licensee and any witnesses of the licensee shall be limited to a total of 30 minutes to present the licensee's case. City staff shall be similarly limited to a total of 30 minutes. Interested members of the public and their witnesses shall be limited to ten minutes. For good cause shown, the City Council may grant additional time to each side or the public.

e Testimony and evidence may be submitted by any witness but shall be limited to matters directly relating to the grounds for suspension or revocation. Irrelevant, immaterial or unduly repetitious testimony or evidence may be excluded.

f. All testimony shall be under oath. The City Council shall decide all questions of procedure and standing. The order of presentation of testimony and evidence shall be as follows:

i. The licensee and any witnesses of the licensee.
ii Interested members of the public and their witnesses, if any.
iii City staff and any witnesses.
iv Rebuttal witnesses from the licensee.
v. Rebuttal witnesses from City staff.
vi Summation by the licensee.
vii Summation by City staff.

g. The City Council may also call and question witnesses or request additional evidence as the City Council deems necessary and appropriate.

h. To the maximum extent practicable, the hearing shall be informal. Reasonable cross-examination of witnesses shall be permitted, but questioning shall be confined as closely as possible to the scope of direct testimony.

i. If the City Council comes to believe that any facts, claims or allegations necessitate additional review or response by either the licensee or staff, then the City Council may order the hearing continued until an announced date.

j. The City Council shall render a written decision determining whether the suspension or revocation will become or remain effective within ten (10) days after the conclusion of the suspension or revocation hearing.

3. *Filing of decision*. The original of the written decision of the City Council shall be filed with the Development Services Department, and copies shall be provided to the licensee and to any interested member of the public who participated at the hearing.

4. *Notice of final suspension or revocation*. If no response or request for a suspension or revocation hearing is filed within ten (10) days of the notice of a pending suspension or revocation by the Development Services Department, or if the licensee who requested the hearing does not appear at the revocation hearing after notice, the suspension or revocation shall become final.

21-520.11- Judicial Review

Within thirty (30) days of an affirmation by the City Council of a denial of an initial or renewal application, or affirmation by the City Council of a suspension or revocation of a license by the Development Services Department, the applicant or licensee may seek prompt judicial review of such administrative action by filing a petition for writ of certiorari with the Seventh Judicial Circuit of the State of Florida. The appellate record before the circuit court shall consist of the complete record of the proceedings before the City Council. Judicial review shall be available only after the administrative remedies set forth in this Article have been exhausted.

SECTION 21-530- ZONING AND DISTANCE RESTRICTIONS

21-530.01- Prohibited locations

a. No person or entity shall propose, cause or permit the operation of, or enlargement of, an adult entertainment establishment that would or will be located within, 1,000 feet of a preexisting adult entertainment establishment, within 500 feet of a preexisting commercial establishment that in any manner sells or dispenses alcohol for on-premises consumption, within 500 feet of a preexisting religious institution, within 500 feet of a preexisting park, or within 2,500 feet of a preexisting educational institution. In this subsection the term "enlargement" includes, but is not limited to, increasing the floor size of the establishment by more than ten percent.

b. In addition to the distance requirements set forth in subsection (A) of this Section, an adult entertainment establishment shall not be allowed to open anywhere except in the I-1 district (with the exception of parcels having frontage on Park Avenue) where adult entertainment establishments are an expressly permitted use. No adult entertainment establishment shall be allowed to open in violation of Section 847.0134, Florida Statutes, unless otherwise permitted in subsection (A) of this Section.

c. The distance requirements of subsection (A) are independent of and do not supersede the distance requirements for alcoholic beverage establishments which may be contained in other laws, rules, ordinances or regulations.

21-530.02- Measurement of Distance

The distance from a proposed or existing adult entertainment establishment to a preexisting adult entertainment establishment, a preexisting religious institution, a preexisting educational institution, a preexisting park or a preexisting commercial establishment that sells or dispenses alcohol for on-premises consumption shall be measured by drawing a straight line between the closest property lines of the proposed or existing adult entertainment establishment and the other establishment, use or operation.

21-530.03- Nonconforming Uses

a. An adult entertainment establishment which, on April 1, 2007, was located on a site which is prohibited by this Section, shall cease operations by October 1, 2020.

b. When a nonconforming use of an adult entertainment establishment has been discontinued, whether voluntarily or involuntarily, for 90 consecutive days or more, the nonconforming use shall be deemed abandoned and the future use of the premises or site shall revert to only those uses permitted on the site on which the establishment is located.

21-530.04- Variances.

The Planning and Zoning Board is authorized to grant a variance from the distance requirements of this division, pursuant to the procedures and criteria for other variance requests as set forth in the land development regulations.

SECTION 540- GENERAL OPERATIONAL RULES

21-540.01- General Requirements for All Adult Entertainment Establishments

Each adult entertainment establishment is subject to all of the following general requirements and shall:

a. Conform to all applicable building, fire, health, zoning and land use statutes, codes, ordinances and regulations, whether federal, state or local.

b. Clearly indicate that all patrons of the establishment must enter and leave the establishment only through the front door. All other exits will be used only in the event of an emergency.

c. In order to protect surrounding residential neighborhoods from excessive noise during business hours, ensure that no doors or windows of the establishment are left open for an extended period of time.

d. On the first Monday of each month, provide the police department with a report of all persons who are workers, or who were workers at the establishment or for the adult entertainment business during the previous month, which report shall contain the actual legal name, proof of age, position and stage name, if any, for each such worker.

e. Provide prior notification to the chief of police or the chief's designee of parties or events of a private nature which utilize the dancers within the establishment or at other locations within the community, thereby ensuring that such parties or events meet all City requirements pertaining to adult entertainment and that no special entertainment permit or license is required for such activity.

f. Keep the adult entertainment license posted in a conspicuous place at the establishment available for inspection by the public at all times.

g. Cover opaquely each window or other opening through which a person outside the establishment may otherwise see inside the establishment.

h. Maintain all exterior walls and surfaces of the establishment, excluding signs, a single achromatic or light pastel color, and maintain all awnings, canopies, window shutters, window treatment or other trim the same color or a single different shade of the same achromatic or light pastel color. The trim color shall not exceed 20 percent of the entire exterior surface of the building. Nothing in this subsection shall be construed to require the painting of an otherwise unpainted exterior portion of an establishment such as brick or stone.

i. Install a minimum of four 175-watt mercury-vapor or sodium lighting fixtures for the rear parking lot and any adjacent motel area.

j. Install, construct, keep, maintain or allow only those signs at the establishment which comply with the City sign ordinances and the provisions of this subsection.

1. No sign shall contain any flashing lights, photographs, silhouettes, drawings or pictorial representations of any manner, except for the logo of the establishment, provided the logo shall not contain any specified anatomical areas, or any portion of a male or female form at or below the clavicle; and

2. No sign shall contain in the name or logo of the establishment, or otherwise, any words or material which depict, describe, reference or infer in any manner, sexual activities, specified anatomical areas or the display of specified anatomical areas.

k. Each entrance and exit shall remain unlocked when any customer is inside.

21-540.02- Adult Theaters

In addition to the general requirements for an adult entertainment establishment contained above, an adult theater shall comply with the following special requirements:

a. If an adult theater contains a hall or auditorium area, the area shall have:

1. Individual separate seats, not couches, benches or the like, to accommodate the number of persons allowed to occupy the area;

2. A continuous main aisle alongside the seating areas in order that each person seated in the areas shall be visible from the aisle at all times;

3. A sign posted in a conspicuous place at or near each entrance to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area; and

4. Sufficient illumination so that persons in all areas of the auditorium can be seen.

b. If an adult theater contains adult booths, each adult booth shall have:

1. A sign posted in a conspicuous place at or near the entrance which states the maximum number of persons allowed to occupy the booth, which number shall correlate with the number of seats in the booth;

2. A permanently open entrance not less than 32 inches wide and not less than six feet high, which entrance shall not have any curtain rods, hinges, rails or the like which would allow the entrance to be closed or partially closed by a curtain, door or other partition;

3. Individual, separate seats, not couches, benches or the like, which correlate with the maximum number of persons who may occupy the booth;

4. A well-illuminated continuous main aisle alongside the booth in order that each person situated in the booth shall be visible from the aisle at all times;

5. Except for the entrance, walls or partitions of solid construction without any holes or openings in such walls or partitions; and

6 Illumination by a light bulb of no less than 25 watts.

c. If an adult theater is designed to permit outdoor viewing by persons seated in automobiles, it shall have the motion-picture screen so situated, or the perimeter of the establishment so fenced, that the material to be seen by those customers may not be seen by other persons from any public right-of-way, property zoned for residential use, religious institution, educational institution or park.

21-540.03- Adult-performance Establishments

In addition to the general requirements for an adult entertainment establishment contained above, an adult-performance establishment shall comply with the following special requirements:

a. Have a stage provided for the display or exposure of any specified anatomical area by a worker to a customer consisting of a permanent platform, or other similar permanent structure, raised a minimum of 18 inches above the surrounding floor and encompassing an area of at least 100 square feet; and

b. Any area in which a private performance occurs shall:

1. Have a permanently open entrance not less than 32 inches wide and not less than six feet high, which entrance shall not have any curtain rods, hinges, rails or the like which would allow the entrance to be closed or partially closed by a curtain, door or other partition; and

2. Have a wall-to-wall, floor-to-ceiling partition of solid construction without any holes or openings, which partition may be completely or partially transparent, and which partition separates the worker from the customer viewing the private performance.

The requirements of subsections (A) and (B) of this Section shall not apply to any adult-performance establishments in operation on the adoption date of Ordinance Number 14-95 (April 11, 1995). Notwithstanding this provision, all adult-performance establishments--whether or not in operation on the adoption date of Ordinance Number 14-95 (April 11, 1995)--must comply with subsections (A) and (B) of this Section on or before midnight, October 1, 2020.

21-540.04- Adult Bookstores

In addition to the general requirements for an adult entertainment establishment contained above, an adult bookstore shall not display merchandise or adult material in a manner that allows such merchandise or adult material to be visible from outside the structures at the establishment.

21-540.05- Commercial Physical-Contact Parlors

In addition to the general requirements for an adult entertainment establishment contained above, a commercial physical-contact parlor shall comply with the following special requirements:

a. Operate only from a fixed physical commercial location at which are displayed its adult entertainment license and all other required business tax receipts.

b. Provide clean linen and towels for each customer without any reuse of towels or linens without relaundering; provided, however, that heavy white paper may be substituted for sheets, provided that such paper is used only for one customer, then discarded into a sanitary receptacle.

c. Provide closed cabinets for the storage of clean linen, towels and other materials used in connection with administering commercial physical contact.

d. Disinfect and sterilize all nondisposable instruments and materials after use on each customer.

e. Require each worker to wear a clean outer garment in the nature of a surgical gown when providing commercial physical contact, and during all other times during working hours conceal, with a fully opaque covering, all specified anatomical areas of his or her body.

f. Inform each customer, in his or her customer contract, that he or she must cover his or her specified anatomical areas by a towel, cloth, robe, undergarment, swimsuit or other similar fully opaque material while in the presence of a worker.

g. Not permit, suffer or allow any animal, except a seeing-eye guide dog, to be on the premises of the commercial physical-contact parlor.

h. If male and female customers are to be served simultaneously, provide two separate work areas for commercial physical contact, one for males and the other for females.

i. Configure all work areas where commercial physical contact is to be provided so that the areas are readily visible at all times from common areas of the establishment outside of the work areas.

21-540.06- Escort Services

In addition to the general requirements for an adult entertainment establishment contained above, an escort service shall comply with the following special requirements:

a. If offering or providing escorts within the City, an escort service must notify the business tax receipt department of an authorized physical commercial location, which may or may not be within the City, from which the escort service operates and dispatches escorts.

b. Include in all advertising or promotional literature posted, placed, published or distributed within the City the number of a valid adult entertainment escort-service licenses issued by the business tax receipt department, unless the escort service does not refer, send or dispatch escorts to any location within the jurisdictional limits of the City.

c. Ensure that every escort and worker of an escort service is provided or obtains, carries while working as an escort and displays upon the request of any law-enforcement officer, a business tax receipt to engage in the occupation of escort within the City. An escort or worker of an escort service who is a paid employee for whom taxes and social security payments are withheld and paid by the escort service, and who is not an independent contractor, may substitute and carry a copy of the adult entertainment escort-service license of the employing escort service.

21-540.07- Records and Inspection of Records

a. An adult entertainment establishment shall maintain a worker record for each worker who currently works or performs at the establishment, and for each former worker who worked or performed at the establishment during the preceding one-year period. The worker record shall contain the current or former worker's full legal name, including any aliases, and proof of age of worker.

b. An operator of the establishment shall, upon request by a law enforcement officer when the establishment is open for business, immediately make available for inspection the original, or the true and exact photocopies, of each of the records set forth in subsection (A).

SECTION 21-550- ENFORCEMENT AND CRIMINAL PROVISIONS

21-550.01- Penalty for Violation of Article

Whoever violates any section of this division may be punished as provided in the City’s Code of Ordinances or F.S. ch. 162.

21-550.02- Operation without valid adult entertainment license

It shall be unlawful for any person to be an operator of an adult entertainment establishment when:

a. The establishment does not have a valid adult entertainment license for each applicable classification;

b. The license of the establishment is under suspension;

c. The license of the establishment has been revoked or canceled; or

d. The establishment has a license which has expired.

21-550.03- Working at Unlicensed Establishment

It shall be unlawful for any person to act as a worker of an adult entertainment establishment that he or she knows or should know does not have a valid license under this Article, or which has a license which is under suspension, has been revoked or canceled, or has expired, or which does not have each applicable adult entertainment license conspicuously displayed.

21-550.04- Operation Contrary to Certain Provisions

It shall be unlawful for any person to be an operator of an adult entertainment establishment:

a. Which does not satisfy all of the general requirements of subsection 21-540.01(C), (D) or (E);

b. Which is an adult theater and does not satisfy all of the special requirements of Section 21-540.02;

c. Which is an adult-performance establishment and does not satisfy all of the special requirements of Section 21-540.03;

d. Which is an adult bookstore that does not satisfy all of the special requirements of Section 21-540.03;

e. Which is a commercial physical-contact establishment that does not satisfy all of the special requirements of Section 21-540.05;

f. Which is an escort service that does not satisfy all of the special requirements of Section 21-540.06; or

g. While the entrance or exit of the establishment is locked when a customer is inside the establishment.

21-550.05- Prohibited Acts

It shall be unlawful for a worker of an adult entertainment establishment to commit any of the following acts or for an operator of an adult entertainment establishment to knowingly or permit, suffer or allow any worker to commit any of the following acts:

a. Engage in a straddle dance with a person at the establishment;

b. Offer, contract or otherwise agree to engage in a straddle dance with a person at the establishment;

c. Engage in any specified sexual activity at the establishment;

d. Engage in public nudity as defined in Section 21-500.01 at the establishment;

e. Display or expose at the establishment specified anatomical areas while such worker is not continuously positioned at least 18 inches away from all other persons or while such worker is not in an area as described in subsection 21-540.03(A).

f. Display or expose specified anatomical areas at an establishment where alcoholic beverages are sold, offered for sale or consumed;

g. Display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment;

h. Engage in a private performance unless such worker is in an area which complies with the requirements of subsection 21-540.03(1) and (2);

i. Intentionally touch any person at the adult entertainment establishment while engaged in the display or exposure of any specified anatomical area; or

j. Intentionally touch the clothed or unclothed body of any person at the adult entertainment establishment, at any point below the waist and above the knee of the person, or to intentionally touch the clothed or unclothed breast of any female person.

Notwithstanding any provision indicating to the contrary, it shall not be unlawful for any worker or operator of an adult entertainment establishment to expose any specified anatomical area during the worker's or operator's bona fide use of a restroom, or bona fide use of a dressing room which is used and occupied only by other workers or operators.

21-550.06- Touching of Workers Prohibited

a. It shall be unlawful for any person in an adult entertainment establishment to intentionally touch a worker who is displaying or exposing any specified anatomical area at the adult entertainment establishment.

b. It shall be unlawful for any person in an adult entertainment establishment to intentionally touch the clothed or unclothed breast of a worker, or to touch the clothed or unclothed body of a worker at any point below the waist and above the knee of the worker.

21-550.07- Advertising Prohibited Activity

It shall be unlawful for an operator of an adult entertainment establishment to advertise, encourage or promote any activity prohibited by this Article or any applicable state statute or ordinance.

21-550.08- Minors Prohibited

It shall be unlawful for an operator or worker of an adult entertainment establishment to knowingly, or with reason to know, permit, suffer or allow a person under 18 years of age to:

a. Enter or remain in the establishment;

b. Purchase goods or services at the establishment; or

c. Work or perform at the establishment as a worker.

21-550.09- Failure to Maintain Required Records and Licenses

a. It shall be unlawful to be an operator of an adult entertainment establishment at which the license required by the licensing provisions of this Article and each record required by the general operational rules of this Article, are not made available for inspection by a law enforcement officer upon request when the establishment is open for business.

b. It shall be unlawful to be a worker of an adult entertainment establishment who fails to obtain, carry and display upon demand of a law enforcement officer, while working in the adult entertainment occupation, a business tax receipt for the adult entertainment occupation in which the worker is engaged.

c. It is an affirmative defense and subsection (b) of this Section does not apply to a worker of an adult entertainment establishment who is a paid employee for whom taxes and social security payments are withheld and paid to the federal government by the adult entertainment establishment, and who is not an independent contractor, except an employee who is an escort working away from the establishment premises who shall then be required to obtain, carry and display to a law enforcement officer, upon demand, a copy of the adult entertainment license of the employing escort service.

21-550.10- Exceeding Occupancy Limit of Adult Booth

It shall be unlawful for any person to occupy an adult booth in which there are more people than are specified on the posted sign required by Section 21-540.02.

21-550.11- Hours of Operation

It shall be unlawful between the hours of 2:00 a.m. and 9:00 a.m. of any day for:

a. An operator of an adult entertainment establishment to allow such establishment to remain open for business, or to allow, suffer or permit any worker to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service.

b. A worker of an adult entertainment establishment to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service.

21-550.12- Alteration of License

It shall be unlawful for any person, except the business tax receipt department, to alter or otherwise change the contents or appearance of an adult entertainment license.

21-550.13- False or Misleading Statement in Required Documents

It shall be unlawful for any person applying for an adult entertainment license pursuant to the licensing provisions in division 3 of this Article to make a false or misleading statement or provide false or misleading information which is intended to facilitate the issuance of a license on the application required by this Article, to provide false information in the monthly reports required by this Article or to falsify the records required by this Article.

21-550.14- Solicitation or Personal Advertising

It shall be unlawful for any worker of an adult entertainment establishment pursuant to the licensing provisions of this Article, while situated outside any structure on the site of the adult entertainment establishment, or while the worker is situated at a place at the adult entertainment establishment where the worker is visible from any public right-of-way or sidewalk, to display or expose specified anatomical areas or engage in personal advertising, pandering or solicitation, whether passive or otherwise, on behalf of the worker, any other worker or the adult entertainment establishment. "Personal advertising" includes, but is not limited to, sitting or standing outside any structure on the site of the adult entertainment establishment, gesturing, waving, repeatedly speaking in a raised tone of voice or otherwise encouraging or enticing potential customers beyond the adult entertainment establishment to enter the adult entertainment establishment. Additionally, it shall be unlawful for an operator or any worker to suffer, permit or allow any door that is visible from a public right-of-way or sidewalk to be opened or remain opened except when a person is entering or exiting the establishment.

21-550.15- Allowing Customers to Engage in Specified Sexual Activity

It shall be unlawful for a worker of an adult entertainment establishment to knowingly, or with reason to know, permit, suffer, entice or allow a customer to engage in any specified sexual activity at the establishment while remaining in the presence of the worker.

21-550.16- Prohibited Acts by Customers at Adult Entertainment Establishments

It shall be unlawful for any customer of an adult entertainment establishment (commercial physical-contact parlor or escort service) to do any of the following acts or for a worker or operator of a adult entertainment establishment to knowingly suffer, permit, aid, assist or allow a customer to do any of the following acts:

a. Touch, massage or manipulate, directly or indirectly, the body of any worker of the adult entertainment establishment;

b. Touch, massage, manipulate, display or expose any of the customer's own specified anatomical areas; or

c. Engage in any specified sexual activity while in the presence of a worker of the adult entertainment establishment.

21-550.17- Prohibited Acts by Commercial Physical-Contact Parlor Workers

It shall be unlawful for a worker of a commercial physical-contact parlor to commit any of the following acts or for an operator of a commercial physical-contact parlor to knowingly or with reason to know, permit, suffer, aid, assist or allow any worker to commit any of the following acts:

a. Fail to, while engaged in providing commercial physical contact, wear a clean outer garment in the nature of a surgical gown;

b. Display or expose specified anatomical areas to a customer at a commercial physical-contact parlor;

c. Fail to require all customers to cover their specified anatomical areas by a towel, cloth, robe, undergarment, swimsuit or other similar fully opaque material at all times while in the presence of a worker;

d. Perform commercial physical contact on a customer while not on the premises of a commercial physical-contact parlor licensed under this Article;

e. Engage in, or offer to engage in, any escort services in relation to the commercial physical-contact parlor;

f. Solicit or require a customer to remove any item of clothing as a prerequisite to providing commercial physical contact; or

g. Solicit a tip or gratuity in exchange for a promise or suggestion of any act or enhanced service.

21-550.18- Prohibited Acts by Escort-Service Workers

It shall be unlawful for a worker of an escort service to commit any of the following acts or for an operator of an escort service to knowingly or with reason to know, permit, suffer, aid, assist or allow any escort or escort-service worker to commit any of the following acts:

a. Entering a hotel, motel or other transient place of lodging for the purpose of meeting or serving a customer without immediately meeting with the front-desk or reception-area personnel and doing each of the following:

1. Providing the time of arrival and the estimated time of departure;

2. Presenting a copy of the escort service's adult entertainment license and the escort's business tax receipt; and

3. Identifying himself or herself, identifying the escort service that sent him or her, stating the name of the customer he or she is meeting or servicing, and the location of the meeting, including any applicable room number; and notifying the front-desk or reception-area personnel upon departing the premises.

b. Distributing, placing, posting or leaving any unsolicited business cards, advertisements or promotional material on or within the premises of any other business.

c. Beginning a meeting or service with a customer between 10:00 p.m. any day of the week and 9:00 a.m. of the following day.

d. Beginning a meeting or service with a customer without first meeting such customer in a public place such as a bar or restaurant before accompanying the customer to any place which is not open and occupied by the public, such as a hotel room or residence.

e. Displaying or exposing specified anatomical areas to a customer of an escort service.

f. Requiring, enticing or soliciting a customer to remove any item of clothing.

g. Soliciting a tip or gratuity from a customer in exchange for a promise or suggestion of any act or enhanced service.

21-550.19- Enforcement of Article by Injunction

A person who operates or causes to be operated an adult entertainment establishment without a valid license, or in violation of this Article, is subject to a suit for injunction.

SECTION 21-560-RESERVED

SECTION 21-570-RESERVED

SECTION 21-580-RESERVED

SECTION 21-590-RESERVED

ARTICLE XX

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ARTICLE XX

RIDGEWOOD AVENUE CORRIDOR DESIGN REGULATIONS

SECTION 21-610 - PURPOSE AND INTENT

These design regulations are intended to ensure high quality private development in the Ridgewood Avenue Corridor. The two major components of these regulations are: 1) landscape, buffer and related site development treatments, especially areas immediately adjacent to the road and 2) building design standards for new and redeveloped structures, including signage.

SECTION 21- 620 - APPLICABILITY

Parcels that share a common boundary with Ridgewood Avenue will be subject to the requirements, standards and criteria contained in these regulations. Furthermore, these requirements apply to all residential, commercial, office, institutional and industrial development, including both public and private facilities within the Ridgewood Avenue Corridor. The provisions of this document are applicable to all properties that touch, front or are otherwise adjacent to Ridgewood Avenue. Properties that include a complex or subdivision of buildings shall be considered to be included within the guidelines in their entirety, including parent tracts, out-parcels, flag lots, etc. They apply to both new development and redevelopment activities.

21-620.01 - Corner Lots/Parcels

Corner lots/parcels shall be considered to have two (2) front perimeters. For other streets that intersect now or in the future, the parcels that are corner lots or corner developments adjacent to Ridgewood Avenue shall comply with these requirements.

21-620.02 - Conflict with Other Provisions of Code

The requirements for the Ridgewood Avenue Corridor Overlay Area supersede the general requirements within this Land Development Code, however properties determined to be located on U.S. 1 (Ridgewood Avenue) within the Indian River-S.R. 442 Corridor Overlay shall meet requirements set forth in Article XVIII.

Unless otherwise noted in this Article, all other development requirements shall meet the general requirements contained elsewhere in the Land Development Code.

21-620.03 - Registered Landscape Architect Required

A Landscape Architect registered in the State of Florida shall be required to prepare landscape plans and related irrigation plans for all lands for which this Article applies.

SECTION 21-630 - BUILDING LOCATION AND LANDSCAPE BUFFERS

The setback is the distance between the edge of the road's right-of-way, also referred to as the property line, and the closest edge or wall of the principal building on the site. The building location and landscape buffer requirements are identified below.

21-630.01 – Location

a. **Setback and Buffer**. Minimum setbacks shall be as set forth in Article V for each respective zoning designation.

b. **Management and Maintenance of Natural Vegetation.** Site plan submittals will be required to graphically identify the manner in which natural areas will be preserved and maintained. Site plan submittals shall identify where natural areas will be trimmed and to what limited

extent they will be altered for visibility from the road. If a certain view or angle from the road is desired, the site plan shall identify a "viewshed", i.e., the area within which trimming of small trees and understory vegetation is desired. The extent of trimming should be clearly noted in terms of extent and height, as well as the thinning of trees and vegetation. Trees larger than four inches (4") in diameter shall not be removed. Trimming of vegetation shall not be allowed lower than thirty-six inches (36") from the ground. Areas to remain undisturbed shall also be identified. This information becomes part of site plan approval, and will be utilized for maintenance as well as enforcement by the City.

21-630.02 – Front Property Line Buffers

A minimum ten-foot (10') landscape buffer shall be provided from the front property line in the Ridgewood Avenue corridors.

21-630.03 - Minimum Landscape Requirements in Buffer Yard

The following requirements are intended for private property outside of the public right-of-way adjacent to the corridor and primary streets.

a. The minimum landscape buffer shall include a total of three (3) trees per every fifty lineal feet (50'). One (1) Magnolia placed every fifty (50) lineal feet. Two (2) Crepe Myrtles placed in between the Magnolia's fifty (50) lineal feet. Shrubs shall be placed at a minimum of forty (40) per one hundred (100) lineal feet.

b. **Varied Color.** Landscaping shall be arranged to display variety and color by utilizing flowering and variegated species whenever possible. Such variety and color shall be accomplished by using a combination of shrubs and ornamentals as approved by the City. Ornamentals shall not constitute more than fifty percent (50%) of required shrubs.

c. **Wetlands and Natural Vegetation Preservation.** Within the buffer, major wetlands shall be preserved as set forth in the City's Comprehensive Plan and Land Development Code. Natural uplands vegetation shall be preserved to the maximum extent feasible.

d. **Side and Rear Yards.** The side and rear yards of all properties shall be provided with landscape treatment consistent with this Land Development Code.

21-630.04 - Protection from Vehicle Encroachment

Landscape buffers shall be protected from vehicles in the parking area with curbs for those parking spaces adjacent to the buffer. Plantings adjacent to parking areas shall be located a minimum of three and one-half (3½) feet from the front end of the parking space to prevent encroachment into required landscape areas. Wheel stops shall not be utilized in any portion of the parking area. No paved areas will be allowed in the buffer other than required traffic circulation access.

21-630.05 - Stormwater in Buffer

In order to create shallow retention areas, removal of a maximum of fifty percent (50%) of understory trees and shrubs may be permitted to provide for shallow swales without removal or damage to existing shade trees.

Landscape buffers on primary and other streets may be combined with approved on-site, wet or dry-bottom stormwater retention areas provided that these areas are designed as visual amenities without chain link fences (or similar utilitarian appurtenances) and with shade trees.

21-630.06 - Parking Location

These standards shall prevent automobiles from being highly visible from the roadway. This applies to parking areas, automobile service areas and other vehicular circulation areas. For screening, a forty-inch (40") high decorative wall, berm or hedge shall be provided at the same or above the finished grade of parking and other vehicular use areas. Dense existing natural vegetation that provides a similar forty-inch (40") high screen from Ridgewood Avenue may substitute for a berm, hedge or wall. These requirements for a hedge may be combined with the required landscape buffer requirement for shrubs.

21-630.07 - Pedestrian and Bicycle Circulation

The purpose of this subsection is to provide safe opportunities for alternative modes of transportation by connecting buildings with existing and future pedestrian and bicycle pathways and to provide safe passage from the public right-of-way to the building.

21-630.08 - Sidewalks

Developers shall provide sidewalks to provide safe movement of pedestrians separately from motor vehicles.

21-630.09 - Pedestrian Access Standards

Pedestrian circulation shall be provided by connecting buildings with existing and future pedestrian and bicycle pathways as well as by providing safe passage from the public right-of-way to the building in the manner set forth below.

a. **Number of Pedestrian Ways Required.** Pedestrian ways shall be provided at a minimum ratio of one (1) for each customer vehicular entrance to a project. For example, if there are two (2) driveways into the site, two (2) sidewalk entries are required. Entrances designed primarily for service and delivery vehicles are not included in this ratio.

b. **Materials.** Pedestrian walkways shall be handicapped accessible. Materials may include specialty pavers, colored concrete or stamped pattern concrete.

21-630.10 - Drive-Through Requirements

Drive-through windows and lanes shall not be located on a side of the building visible from the right-of-way of U.S. 1. Drive-through lanes shall be designed primarily for pedestrian safety and crossing. Drive-through designs must have the same detail of the principal structure and match the materials and roof of the principal structure.

a. **Screening Drive-Throughs.** A dense hedge of evergreen shrubs shall be provided in the following manner to screen drive-throughs:

    1. At initial planting and installation, shrubs shall be at least thirty inches (30") in height and shall be planted thirty inches (30") or less on center.

    2. Within one (1) year of initial planting and installation, shrubs shall have attained, and be maintained at a minimum height of four feet (4') and shall provide an opaque vegetative screen between the street and the drive-through. The hedge must continue for the entire length of the drive-through stacking area.

    3. In lieu of a vegetative hedge, the use of vegetated berms with appropriate landscape materials may be used in a manner that results in the visual separation of street right-of-way and the drive-through.

b. **Stacking Distance.** The following stacking distances, measured from the point of entry to the center of the farthest drive-through service window area, are required:

1. Restaurants, full service car washes and day care facilities: Two hundred twenty feet (220')
2. Banks (per lane): One hundred seventy five feet (175')
3. Self Service Car Wash (per bay) and Dry Cleaners: Sixty-five feet (65')
4. Other uses may require the City to determine the stacking distance on a case-by-case basis.
5. Facilities not listed above with more than one (1) drive-through lane shall provide one hundred feet (100') of stacking distance per lane measured from the point of entry to the center of the farthest service window area.
6. Drive-Through Separate From Other Circulation: The drive-through lane shall be a separate lane from the circulation routes and aisles necessary for ingress and egress from the property or access to any off-street parking spaces.

c. **Pass Through Lanes.** A pass-through lane shall be required for all drive-through facilities constructed adjacent to at least one (1) stacking lane in order to provide egress from the stacking lane.

SECTION 21-640 - ARCHITECTURAL DESIGN STANDARDS

The architectural design standards are intended to be flexible and encourage design diversity and variations. The criteria for development along the corridor will primarily ensure that the architectural integrity and details of existing structures are maintained, as well as affirm the appropriateness of new development into the character of the area. Special attention has been placed on the creation of an attractive, safe and functional urban environment.

21-640.01 - Building Orientation

All buildings shall be oriented so that primary façades face public rights-of-way. Buildings on corner lots shall be considered to have two (2) fronts and shall be designed with additional architectural embellishments such as towers or other design features at the corner to emphasize their location as gateways and transition points within the community.

Although the main aesthetic emphasis shall be on the primary façade(s), all building elevations shall receive architectural treatment. The style of windows shall remain uniform on all sides of the building. All telephones on private property shall be confined to a space built into the building or buildings or enclosed in a separate structure compatible with the main building. Exterior mounted security gates or solid roll down metal windows shall be prohibited. Link or grill type security devices shall be permitted only if installed from the inside, within the window or doorframes. Other types of security devices fastened to the exterior walls are not permitted.

21-640.02 - Primary Building Entrance

In general, the primary pedestrian entrance to all buildings shall face Ridgewood Avenue, and shall be clearly defined and highly visible for the pedestrian. Multiple tenant buildings shall have all customer entrances distinguished pursuant to these regulations.

Primary entrances shall have either, a protruding or raised roof, a stoop, a projection or recession in the building footprint a minimum of three feet (3') in depth that clearly identifies the entrance.

Corner lots shall provide an entrance on both public rights-of-way or a corner entrance.

In addition, every primary entrance shall have two (2) other distinguishing features from the list below:

1. Variation in roof height around door;
2. Canopy or portico;
3. Raised cornice or parapet over door;
4. Arches or columns;
5. Patterned specialty paving at entrance and along walkway;
6. Ornamental and structural architectural details other than cornices over or on the sides of the door; or
7. Any other treatment, which, in the opinion of the City, meets the intent of this Section.

21-640.03 - Building Height and Transition

Buildings will not be allowed to be any higher than already permitted in the respective zoning district. New developments that are more than twice the height of any existing building within three hundred feet (300') shall provide transitional stepped massing elements to minimize the contrast between the buildings. The transitional massing element shall include a primary façade that is no more than the average height of the adjacent buildings.

21-640.04 - Façade Treatments

Façade treatments of a building must be designed with consistent and uniform architectural style. Detail and trim features must be consistent with the style of the building. Diversity of architectural elements on the façade that are compatible with the style is required. These elements must be integrated with the massing and scale of the buildings.

Building walls and façade treatments must avoid large blank wall areas by including at least three (3) of the design elements listed below or their equivalent design feature. Design elements should be in intervals of no more than thirty feet (30') apart, and repetition is encouraged. At least one of the design elements should repeat horizontally.

At a minimum, buildings must provide at least two (2) of the following building design elements on the primary façade:

1. Awnings or attached canopies;
2. Arcades or colonnades;
3. Display windows a minimum of six feet (6') in height along sixty-five percent (65%) of the primary façade;
4. Clock or bell towers;
5. Decorative landscape planters or wing walls which incorporate landscaped areas;
6. Pergola;
7. Benches or other seating components built into the building;
8. Texture or pattern change;
9. Material module change;
10. Ornamental or structural detail;

11. Varied building setbacks or projections; or
12. Expression of architectural or structural bays, through a change in plane of no less than twelve inches (12”) in width, such as a reveal, an offset or a projecting rib.

Changes in color along the façade that are compatible with each other and the style of the building are encouraged but not sufficient to break up the mass of the façade.

21-640.05 - Prohibited Façade Treatments

The following treatments or features are prohibited on any façade that are visible from the U.S. 1 right-of-way:

1. Windows and doors should be glazed in clear glass with no more than ten percent (10%) daylight reduction.
2. Garage doors used either as decoration or for vehicular service, storage or any other use (these elements must be side loaded).
3. Glass curtain walls.
4. Stained glass and art glass installations may be permitted provided they are in character with the style of the building.

21-640.06 - Loading and Service Areas

Loading and service areas will be located behind or to the rear of buildings and will be screened with walls and landscaping. Materials, rooflines and colors are permitted to be consistent with the primary structures.

21-640.07 - Outdoor Shopping Cart Storage

All outdoor storage of customer shopping carts adjacent to the building shall be screened by a wall a minimum of four feet (4’) in height that is consistent in style, materials and color to the façade. Arcade or colonnade areas cannot be used for the storage of shopping carts.

21-640.08 - Fenestration

Fenestration is the placement of windows and doors. Windows and doors must cover at least thirty percent (30%) of the area of the primary façade. Windows must be located between three feet (3’) and seven feet (7’) measured from ground level.

a. **Exterior Wall Materials.** All buildings subject to the terms of this Section shall be clad with typical Florida building materials that are durable and appropriate to the visual environment and climate. Design flexibility and creativity is encouraged using ornamentation from a wide variety of architectural styles.

b. **Finish materials for walls.** Exterior walls are the most visible part of most buildings. Their exterior finishes shall be one of the following:

    1. Concrete block with stucco;
    2. Reinforced concrete with smooth finish or with stucco;
    3. Natural brick or stone (excluding ashlar or rubble construction look);
    4. Wood, pressure treated or naturally decay-resistant species;
    5. Fiber-reinforced cement panels or boards that simulate wood; or
    6. Synthetic stucco may be used only on non-façade walls.

c. **Prohibited Materials.** No exterior wall shall be covered with the following materials:

1. Plastic or vinyl siding;
2. Corrugated or reflective metal panels, steel buildings;
3. Applied stone in an ashlar or rubble look:
4. Smooth, scored or rib faced concrete block;
5. Any translucent material, other than glass; or
6. Any combination of the above.

d. **Corporate Design.** Corporate franchises shall not be allowed to create visual clutter or to use architecture and building colors to act as signage. Therefore, exceptions to these guidelines shall not be made for corporate franchises. National corporate chains that typically design their buildings to read as signage have been known to modify their designs to blend with the character of the neighborhood.

21-640.09 - Roof Treatments and Materials

Variations in the rooflines must be used to add interest to and reduce the massing of buildings. Roof features and materials must be in scale with the buildings mass and complement the character of adjoining and adjacent buildings and neighborhoods.

a. **Roof Standards.** While any roof type is acceptable, the following standards shall apply:

1. All flat roofs and any shed roof with a slope of less than 1:6 must be concealed by a parapet;
2. All hipped and gabled roofs and all shed roofs with a slope greater than 1:6 must have overhangs of at least eighteen inches (18”);
3. Mansard roofs must have the lowest sloped surface begin above a cornice line and then slope upward and inward;
4. Small towers, cupolas and widow’s walks are encouraged (if they are compatible with the style of the building);
5. Unless specifically designed otherwise, roof overhangs shall wrap around all four (4) sides of the building so that there is visual continuity around the entire building unless site-specific conditions warrant otherwise; or
6. Skylight glazing must be flat to the pitch of the roof.

b. **Permitted Roof Materials.** The following roofing materials are permitted:

1. Standing Seam Metal: Steel (galvanized, enameled or terne-coated), stainless steel, copper and aluminum;
2. Architectural Shingles: Asphalt, fiber reinforced cement, metal, fiberglass and wood;
3. Tile: Clay, terra cotta or concrete; or
4. Flat roofs hidden by parapet: any material allowed by building code.

c. **Equipment on Roof.** All equipment located atop a roof of a building must be concealed so that it is not visible by a person standing anywhere on the site or on an adjacent public street.

21-640.10 - Building Color

Simple color schemes are encouraged. As a general rule, building façade should not exhibit more than three (3) colors.

a. **Prohibited Colors.** The use of garish or gaudy colors is prohibited. The use of black, neon or fluorescent colors is prohibited as the predominant building color.

b. **Trim on Façade.** Building trim and accent areas may feature any color, limited to ten percent (10%) of the affected façade segment, with a maximum trim height of twenty-four inches (24") total for its shortest distance.

21-640.11 - Multi-Building Complexes

Specific provisions must ensure a unified architectural design and site plan between a complex of buildings or between out-parcel buildings and the main building(s) on the site. The following standards assure an enhanced visual impact of the buildings, as well as providing safe and convenient vehicular pedestrian access and movement within the site.

a. **Building Groups and Complexes.** Buildings and structures, which are a part of a present or future group or complex, shall have a unity of character and design and the use, texture and color of materials shall create a harmonious whole. In addition, the design, scale and location on the site shall enhance rather than detract from the character, value and attractiveness of the surrounding community or neighborhood.

b. **Ancillary Structures.** Separate ancillary structures, including, but not limited to, car washes, cashier booths, and/or canopies over gas pumps shall have comparable pitch or parapets for roofs and shall otherwise have the same architectural detail, design elements, color scheme, building materials and roof design as the primary structure.

c. **Out-Parcel Façade.** All exterior façade of an out-parcel building must be considered primary façade and must employ architectural site and landscaping design elements which are integrated with, and common to, those used on the main development including color, materials, and decorative treatments.

d. **Connect Circulation of Out-Parcels.** Out-parcel structures that are adjacent to each other must provide for vehicular connections between their respective parking lots and provide interconnection of pedestrian walkways.

e. **Common Wall and Side-By-Side Buildings.** When the use of common wall, side-by-side development occurs, continuity of façade and consolidated parking for several businesses in one parking lot may be used.

f. **Service Areas.** Service areas shall not be located in front yards and shall not be visible from a public right-of-way. Waste disposal areas shall be screened one hundred percent (100%) by a masonry wall and landscape buffer. The wall shall be consistent in style, materials and color to the façade. The landscape buffer shall be a minimum of five feet (5') in width and shall contain a hedge three feet (3') in height at planting and capable of attaining five feet (5') in height and total opacity within eighteen (18) months.

   Mechanical equipment, satellite dishes, and other service support equipment shall be located behind the building line and shall be fully screened from the view of adjacent properties both at ground and roof top levels.

SECTION 21-650 - SIGNS

Sign regulations are important because they ensure consistency of signage along the corridor and thereby prevent clutter and confusion exemplified by older, unregulated strip commercial areas. The purpose and intent of sign regulations will be to augment the City of Edgewater's existing sign code to fit the higher aesthetic standard being established for Ridgewood Avenue. This Section covers freestanding or detached signs, attached or building signs, multi-tenant development signs and specialty signs.

21-650.01 - Ground Signs Required

Freestanding ground signs shall be allowed in the Ridgewood Avenue Corridor. Pole signs are prohibited.

a. **Height.** The maximum height of the entire sign structure shall be eight feet (8').

b. **Sign Area.** The sign area of ground signs shall be calculated at a ratio of one square foot (1') of sign area per two linear feet (2') of addressed building frontage, with the following maximums.

   1. **Typical Building.** Ground signs shall not exceed forty-eight (48) square feet for buildings with Ridgewood Avenue road frontage.

   2. **Intersecting Streets.** Ground signs on streets intersecting Ridgewood Avenue may be permitted up to thirty-two (32) square feet.

c. **Number of Ground Signs.** One (1) sign shall be allowed per parcel with four hundred feet (400') or less of road frontage. If a parcel's road frontage exceeds four hundred feet (400') and is less than seven hundred feet (700'), then a maximum of two (2) ground signs shall be allowed but no closer than three hundred feet (300') apart. If a parcel's road frontage exceeds seven-hundred feet (700'), then a maximum of three (3) ground signs shall be allowed, but no closer than three hundred feet (300') apart. Corner lots/parcels shall also be permitted one (1) ground sign in conformance with Section 21-650.01 (b)(2) of this Article on the intersecting street frontage, if said intersecting street frontage is two hundred feet (200') or greater. Said intersecting street ground signage shall be located no closer than two hundred feet (200') from any other ground sign.

d. **Ground Sign Base Specifications.** Vertical structure supports for ground signs shall be concealed in an enclosed base. The width of such enclosed base shall be equal to at least two-thirds (2/3) the horizontal width of the sign surface.

e. **Ground Sign Setback.** The base setback shall be a minimum of ten feet (10') from the right-of-way.

f. **Movement.** No ground sign or its parts shall move, rotate or use flashing lights.

g. **Electronic Message Centers (EMC)/Signage.** EMC signage shall conform to the requirements contained in Article VI, however, in the event of conflicting language, the requirements of this Article shall supersede. All other requirements contained in this Article shall also apply.

21-650.02 - Business Identification Signs

Business identification signs include signs that are attached to the building wall or window. They include wall signs (designed as a sign that is to be permanently affixed flat against the building wall), projecting/hanging signs (perpendicular to the building), and window signs.

The following general design criteria shall apply to all attached signs located in Ridgewood Avenue Corridor. No sign shall cover architectural detailing. Only one (1) business identification shall be allowed per sign to reduce clutter.

a. **Wall Signs.** Wall signs should be limited to one (1) per business per façade. The total amount of wall signs allowed shall be two (2) square feet of signage per one (1) linear foot of addressed business frontage, not to exceed sixty-four (64) square feet, provided however that copy area shall not exceed fifty percent (50%) of the primary frontage (width) of the tenant space. Wall signs should be placed on the building façade and not perpendicular to the wall.

b. **Projecting/Hanging Signs.** Projecting/hanging signs should not exceed four (4) square feet and should be located adjacent to the entry to the building or to the tenant space. If located under an awning or marquis, the projecting sign should be located perpendicular to the building face.

c. **Window Signs.** Window signs should be maintained properly. Window signs shall be painted or decal only and should not exceed twenty five percent (25%) of window area. Sign location shall be between four feet (4') to six feet (6') above grade to allow visibility into the store for pedestrians. Promotional posters for civic events shall be permitted on windows and should not be included in the sign area calculation.

d. **Canopy/Marquis or Awning Valance Signs.** Signs shall not be permitted on canopy/marquis or awning valance structures.

21-650.03 - Multi-Tenant Buildings/Developments

a. **Multi-Tenant Buildings/Developments less than 25,000 square feet.** Developments less than 25,000 square feet in total building square footage shall comply with Section 21-650.01(c) of this Article and shall contain no more than eight (8) separate tenant panels within the permitted ground sign(s).

b. **Multi-Tenant Buildings/Developments equal to or greater than 25,000 square feet.** Developments equal to or greater than 25,000 square feet shall be permitted one (1) ground with the name of the center/complex. Additional ground signs permitted for Multi-Tenant Buildings/Developments shall be in conformance with Section 21-650.01 (c) of this Article and shall contain no more than eight (8) separate tenant panels within the permitted ground sign(s).

c. **Directory Signs (for multi-use developments).** Sites with two (2) or more businesses on the premises are allowed a directory sign. The size of the sign should not exceed six (6) square feet. The location of directory signs should be approved at the discretion of the City.

21-650.04 - Specialty Signs

a. **Easel.** Easel signs should be limited to one (1) sign per active store entranceway. The sign should relate to the business or merchandise line of the particular place of business. Easel signs should be no larger than twenty four inches (24") wide by thirty six inches (36") high.

    1. Signs placed on easels should be no larger than twenty-four inches (24") wide by twenty-four inches (24") high.

2. Signs shall be located directly in front of the business entrance at a distance of no greater than five feet (5') from the building entrance and shall not block pedestrian movement.

b. **Flags.** A maximum of one (1) state, one (1) federal and one (1) local/county flag per parcel; each a maximum of thirty-five (35) square feet. Flags shall be set back from road right-of-way a minimum distance of ten feet (10').

c. **Opening Banners.** Opening banners shall be allowed from two (2) weeks prior to opening until one (1) month after opening. Banners shall be located on building walls.

21-650.05 - Signage Performance Standards

Only permanent durable materials allowed and must be maintained. Signs should be executed by a qualified, professional sign maker; homemade signs are prohibited.

21-650.06 - Exempted Signs

Real estate signs and construction signs shall meet Land Development Code standards.

21-650.07 - Prohibited Signs

a. Signs that are prohibited in the Ridgewood Avenue Corridor include animated signs, billboards, off-site signs, flashing signs, snipe signs, portable signs (trailer signs), roof signs, beacon lights, trash receptacle signs, gutter signs, signs on public property, immoral display, obstruction, streamers, spinners and pennants. Bench signs are prohibited except those placed on public transportation benches and shelters as approved through a competitive selection process pursuant to City standard procedures.

b. No advertising or signage is allowed on any exposed amenity including, but not limited to, trash containers and fences. Bench signs are prohibited except those placed on public transportation benches and shelters as approved through a competitive selection process pursuant to City standard procedures.

21-650.08 - Sign Illumination

a. Sign lights shall be focused, directed and so arranged as to prevent glare or direct illumination or traffic hazard from said lights onto residential districts or onto the abutting roadways. No objectionable glare shall be directly visible from a public right-of-way or residential zone. Illuminated signs shall provide shielding from any source of illumination other than neon.

b. Any external, above-ground light source shall be located and hidden within the sign planter bed. Light sources located outside the sign planter bed shall be in a burial fixture.

21-650.09 - Prohibited Lighting

a. No flashing or pulsating light shall be permitted on any sign. No sign shall be permitted which involves lighting or motion resembling traffic or directional signals, warnings or other similar devices, which are normally associated with highway safety or regulations. In addition, no sign shall be permitted which constitutes a safety hazard or hindrance because of light, glare, focus, animation, flashing or intensity of illumination. Lighted signs shall be designed and located so as to prevent direct glare or hazardous interference of any kind to adjoining streets or properties. High intensity lights such as beacon lights, spotlights or floodlights shall not be permitted in the Ridgewood Avenue Corridor.

b. No prisms, mirrors or polished reflecting surfaces shall be used for purpose of augmenting intensity of light sources and no hi-intensity lights or stroboscopic lights or effect is permitted.

1. No more than forty-five (45) milli-amperes on high voltage side of neon transformer shall be permitted.
2. Maximum wattage of incandescent bulbs shall be limited to eleven (11) watts.
3. A maximum of sixty (60) milli-amperes shall be permitted on neon tubing.
4. Letters or border decoration of buildings with a maximum of eleven (11) watt maximum incandescent bulbs shall be permitted.
5. Strip lighting includes lighting used to outline a structure or any part thereof and shall be prohibited. Streamer lights and/or neon strip lighting shall be prohibited above the roof level of any building. Strip lighting, as referred to here, shall not include Christmas decorations and related lights.

SECTION 21-660 – NONCONFORMING STRUCTURES

21-660.01 – Existing Nonconforming Structures

These guidelines apply to buildings and structures. Further, any structure which lawfully exists when these regulations are adopted (or amended) and which does not conform to all the provisions of these regulations may remain and be continued subject to the following regulations:

a. The intent and purpose of these nonconforming structure provisions shall be to improve and otherwise encourage such structures to be redeveloped and revitalized in ways that conform with these regulations to the greatest extent feasible. Therefore, such structures, may be used, enlarged, replaced, altered and/or expanded subject to the following:

1. All applications shall be subject to all appropriate safeguards and conditions necessary to ensure that any such approval will not be contrary to the public interest, the intent of these Ridgewood Avenue Design Guidelines or injurious to the specific area in which the existing nonconforming structure is located.
2. All applications shall provide complete and written justification regarding any provisions of these regulations that the applicant believes cannot be fully complied with. Such justification shall not include monetary considerations.
3. Under no circumstances shall the provisions of this Section be construed to mean that any existing nonconforming structure may be changed, or that any provision, requirement and/or regulation contained within these regulations can be waived or reduced which can reasonably be complied with by the applicant. The provisions of this Section shall not be construed and/or applied in such a manner as to permit the enlargement, replacement, alterations, expansion and/or extension of any existing nonconforming structure without justifiable reasons based on a legally existing and nonconforming status; that would result in any undue hardship or injurious activity that would deprive adjacent individual property owners of their property rights; or that would be detrimental to the area surrounding the nonconforming premises in general.

21-660.02 – Guidelines for Nonconforming Structures

a. No nonconforming structure shall be enlarged, replaced or altered in any way which increases it's nonconformity except in conformance with these regulations;

b. It is further stated that any alterations, replacement or modification of the exterior of a nonconforming structure shall comply with these design guidelines to the maximum extent feasible;

c. Nonconforming structures may be restored to a safe condition if declared unsafe, providing that such restoration does not constitute more than fifty-percent (50%) of the structure's appraised fair market value, with the following exception:

    1. Any existing single-family residential use considered non-conforming and permitted prior to the adoption of this Code may be permitted to restore damaged or destroyed buildings, not to exceed the existing footprint (prior to the damage or destruction), unless approval of a variance is granted by City Council to expand the footprint of the structure. City Council may also consider requests to waive the application fee.

d. If damaged by more than fifty-percent (50%) of its appraised fair market value, a nonconforming structure shall not be restored except in conformance with these regulations, with the following exception:

    1. Any existing single-family residential use considered non-conforming and permitted prior to the adoption of this Code may be permitted to restore damaged or destroyed buildings, not to exceed the existing footprint (prior to the damage or destruction), unless approval of a variance is granted by City Council to expand the footprint of the structure. City Council may also consider requests to waive the application fee.

e. Nonconforming structures may have normal repair and maintenance performed to permit continuation of the nonconforming structure.

21-660.03 – Existing Nonconforming Signs

a. No nonconforming sign shall be enlarged, replaced or altered in any way except in conformance with these regulations.

b. It is further stated that any alterations, replacement or modification of a nonconforming sign shall comply with these design guidelines to the maximum extent feasible.

c. Non-conforming signs shall be brought into conformance with this Article within a five (5) year grace period of the date of any permit issuance to modify and/or improve said non-conforming sign. No permits to modify and/or improve a non-conforming sign which heretofore grants the five (5) year grace period and does not bring said non-conforming sign into conformance with this Article shall be issued after December 31, 2015.

SECTION 21-670 -RESERVED

SECTION 21-680 -RESERVED

SECTION 21-690 -RESERVED