

Council Members

Roger Manning-Mayor
Katrina Long Robinson-Vice Mayor
John Stanavitch-Seat 1
Kara Crump-Seat 2
Phillip Everett-Seat 3



City of Westlake

4001 Seminole Pratt Whitney Rd.
Westlake, Florida 33470
Phone: 561-530-5880
Fax: 561-790-5466

Council Workshop
Monday, February 11, 2019

Meeting Location
Westlake Council Chambers
4005 Seminole Pratt-Whitney Road
Westlake, FL 33470
6:30 PM

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the City Council with respect to any matter considered at this meeting or hearing, such interested person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The meeting/hearing may be continued to another date and time as may be found necessary during the aforesaid meeting. In accordance with the provisions of the Americans with Disabilities Act (ADA), any person requiring special accommodations at these meetings because of disability or physical impairment should contact the Interim City Manager at (954)753-5841 at least two (2) calendar days prior to the meeting.

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4001 Seminole Pratt Whitney Rd.
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February 5, 2019

City Council
City of Westlake

Dear Mayor and Council:

The City Council of the City of Westlake will hold a workshop on Monday, February 11, 2019 at 6:30 p.m. at the Westlake Council Chambers, 4005 Seminole Pratt Whitney Road, Westlake, Florida. Following is the advance agenda for the meeting.

1. Call to Order/ Roll Call
2. Pledge of Allegiance
3. Approval of Agenda
4. Audience Comments on Agenda Items (3) Minute Time Limit
5. Alcoholic Beverages Code Presentation
6. Building Department Presentation
7. Code Compliance Presentation
8. Manager's Report
9. Attorney's Report
10. Audience Comments on Other Items (3) Minute Time Limit
11. Council Comments
12. Adjournment

Any additional supporting material for the items listed above, not included in the agenda package, will be distributed at the meeting. Staff will present their reports at the meeting. I look forward to seeing you, but in the meantime if you have any questions, please contact me.

Sincerely,

Kenneth Cassel

Kenneth G. Cassel
City Manager

cc: Pam E. Booker, Esq.
Terry Lewis
John Carter
Kelley Burke

Fifth Order of Business

ALCOHOLIC BEVERAGES

CHAPTER 19

The regulation of time and location of alcoholic beverage(s) sale and consumption for the protection of the health, safety and welfare of the City, its residents and visitors.

ALCHOLIC BEVERAGES DEFINED

- ▶ Florida Statutes Section 561.01(4) defines alcoholic beverages as any beverage having $\frac{1}{2}\%$ or more of alcohol by volume
- ▶ Florida Statutes Section 561.01 defines beer as brewed beverage . . . Containing less than 6% of alcohol by volume and malt beverages as brewed beverage containing malt.
- ▶ Florida Statutes Section 561.01 defines liquor or distilled spirits as beverages created by distillation and mixture of distilled beverages



STATUTORY REGULATIONS FOR THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES

- ▶ Beverage Laws are found in the Following Florida Statutes
- ▶ F.S. Chapter 561, 562, 563, 564, 565, 567 and 568



CLASSIFICATION OF VENDORS

- ▶ Package Store
- ▶ Retail Store
- ▶ Consumption on Premise Vendors
- ▶ Restaurant
- ▶ Hotels and Motels
- ▶ Alcoholic Beverage Establishment
- ▶ Entertainment Establishment
- ▶ Entertainment Venues
- ▶ Manufacturer of Alcoholic Beverages
- ▶ Alcoholic Beverage Distributor
- ▶ Private Club

RESTRICTIONS ON ALCHOLIC BEVERAGE SALES

- ▶ Minimum distance separation from schools, place of worship and parks
- ▶ 1,000ft minimum separation from schools, place of worship & parks
- ▶ 500 feet minimum separation from another business
- ▶ Measured from door to door of each establishment
- ▶ Hours of sales 2:00am until 7:00am Prohibited

EXAMPLE OF DISTANCE MEASURES



PROPOSED 7-11 Gas Station and Convenience Store

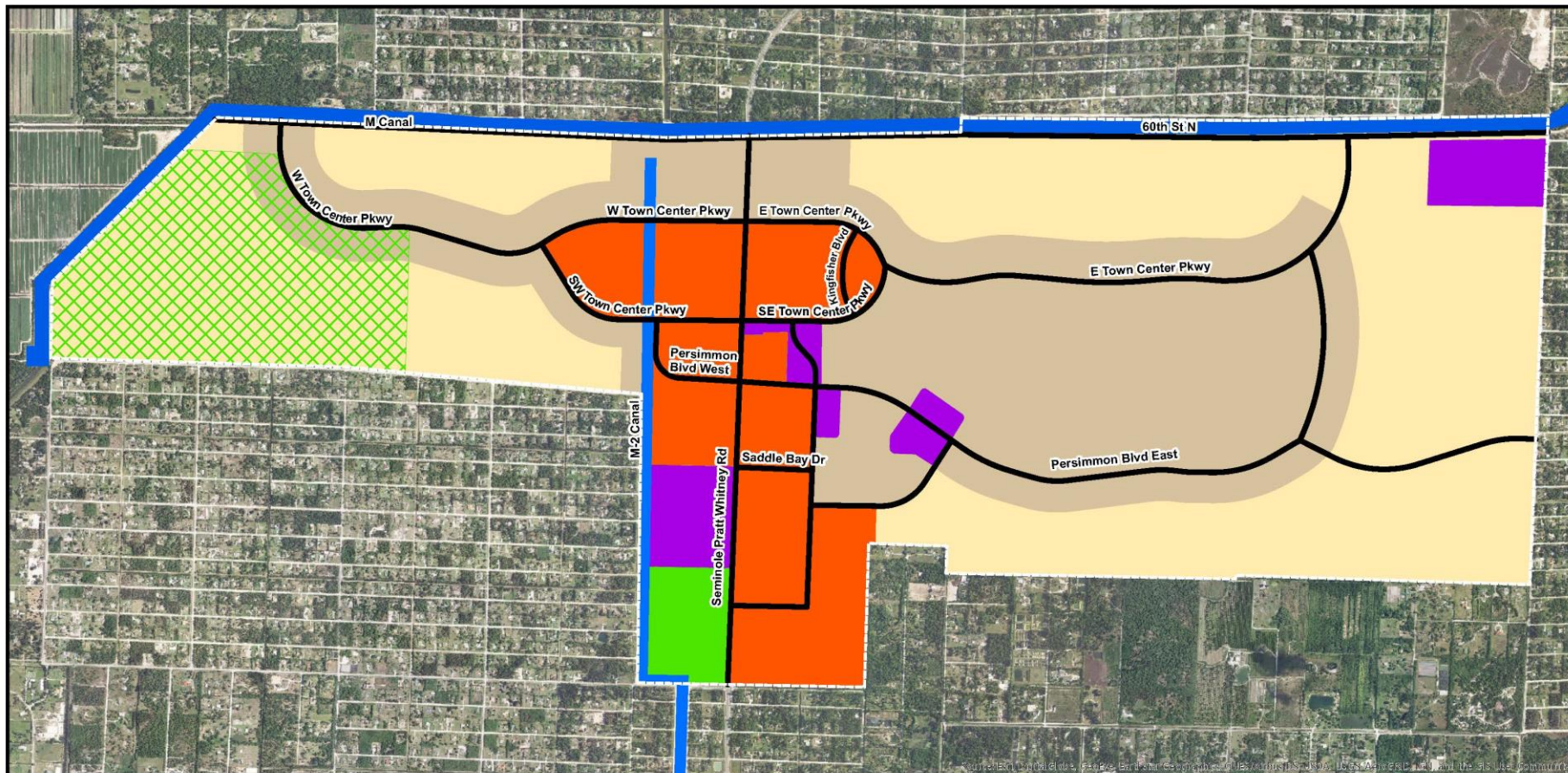
EXAMPLE OF DISTANCE MEASURE












500ft distance measurement between two businesses

EXCEPTIONS TO THE SEPERATION REQUIREMENT

- ▶ Downtown Mixed Use
- ▶ Cocktail Lounge/Bar in Restaurants
- ▶ Beer and Wine for Off Premise Consumption
- ▶ Package Store in Shopping Center
- ▶ Nightclubs in Hotels and Apartment Hotels



FUTURE LAND USE		OTHER		<p>City of Westlake Comprehensive Plan</p> <p>Revision Date: March 12, 2018</p>
 Residential 1	 Civic	 Roads	 City Boundary	
 Residential 2	 Open Space & Recreation	 Major Canal and ROW	<p>Note 1: The illustration of roads shows preliminary alignments.</p> <p>Note 2: The City maintains the GIS data used to create this map. Data available upon request.</p>	
 Downtown Mixed Use	 Solar Energy Overlay			



FLU Map 2.1: 2038 Future Land Use Map

PROHIBITIONS

- ▶ No Consumption in Parking Lots
- ▶ No Consumption in City Parks (Special Permit CM)
- ▶ No Consumption on Public Streets
- ▶ No Consumption in Vehicles

QUESTIONS?



CHAPTER 19 ALCOHOLIC BEVERAGES

19:1 Purpose and Intent:

The City Council for the City of Westlake finds, determines and declares that it is in the best interest of the health, safety and welfare of the City and its residents and visitors that it enact the following regulations governing the location of alcoholic beverage establishments within the City. The purpose of this chapter is to provide uniform operational regulations for all establishment in the City dealing directly or indirectly with the sale or consumption of alcoholic beverages.

19:2 Definitions

For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Alcoholic beverage means any beverage containing one-half of one percent or more of alcohol by volume, as determined in accordance with F.S. § 561.01(4).

Alcoholic beverages shall have the meaning ascribed in, F.S. § 561.01, as it may be amended from time to time.

Beer or malt beverage shall have the meaning ascribed in F.S. § 563.01, as it may be amended from time to time.

Beverage law means F.S. chs. 561, 562, 563, 564, 565, 567, and 568.

Commercial establishment parking lot means any area appurtenant to commercial establishments used by the public for parking thereto.

Consumption off the premises only means deemed to permit only the sale of alcoholic beverages in their original sealed containers.

Container means any can, bottle, carton, or other vessel of alcoholic beverage.

Distributor means all persons selling the beverages herein referred to at wholesale in the manner prescribed by the Florida Beverage Law, F.S. ch. 561 et seq.

Intoxicating beverage and **intoxicating liquor** shall have the meaning ascribed in F.S. § 561.01, as it may from time to time be amended.

Liquor or distilled spirits includes all spirituous beverages created by distillation and by mixture of distilled beverages by what is commonly termed blending, shall have the meaning ascribed in F.S. 561.01, as it may be amended from time to time.

Manufacturer means all persons who make alcoholic beverages, except those who make beer or wine for personal or family consumption pursuant to F.S. § 562.165.

Motor vehicle means any land vehicle which is not powered by muscular power.

Night club means a restaurant, dining room, or other establishment where intoxicating liquor is sold, given away, or consumed on the premises, and where floor shows or other forms of entertainment, subject to the federal tax thereon, are provided for guests at any time between the hours of midnight and 7:00 a.m.

Premises or place of business means a room or group of rooms within a building connected by doorways not less than three and one-half feet in width and six feet eight inches in height; provided that the rooms shall be contiguous and have common walls.

Public or semipublic area open for vehicular travel means all public roads, streets, sidewalks, highways, lanes, parkways, parks, ball fields, City Hall, libraries, alleys, parking lots, and parking areas on which the public is expressly or implicitly invited to travel by motor vehicle or which is otherwise open for vehicular travel. It shall not include areas such as golf courses, go-cart tracks, motocross tracks, and similar areas, or private driveways and property serving a single dwelling unit.

Sale or sell means any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage by a licensed club, licensed under the Beverage Law.

Vendor means all persons selling the beverages herein referred to at retail in the city in any quantity.

Wine shall have the meaning ascribed in F.S., § 564.01, as it may be amended from time to time.

19.3 Classification of Vendors:

For purposes of regulating the retail and wholesale sale and distribution of alcoholic beverages within the city, as specified in this Chapter, vendors are hereby classified as follows:

- (1) Package store. A package store is a retail vendor of alcoholic beverages sold in sealed containers for consumption off premises only.
- (2) Retail store. A retail store is a retail vendor of alcoholic beverages for consumption off the premises, which primarily offers for sale products others than alcoholic beverages. Retail stores include, without limitation, grocery stores, specialty stores, convenience stores, and gas stations/filling stations.
- (3) Consumption-on-premise vendors. A consumption-on-premise vendor is a retail vendor of alcoholic beverages, with the corresponding state licensure, for consumption on premises.
- (4) Restaurant. Restaurant is a business with full kitchen facilities, which primarily serves full meals and alcoholic beverages (through a corresponding state license) for consumption on premises;
- (5) Alcoholic beverage establishment. Alcoholic beverage establishment is a business primarily devoted to serving alcoholic beverages for consumption on premises, including, without limitation, bars, pubs, tasting rooms, wine cafes and cigar bars.
- (6) Entertainment establishment. Entertainment establishment is a business primarily devoted to serving alcoholic beverages and in which the service of

food and/or entertainment is secondary to the consumption of alcoholic beverages. Entertainment establishments include, without limitation, dance halls, night clubs, adult entertainment venues, and any commercial establishment determined to meet the following factors:

- (1) If the establishment regularly charges a cover charge, door charge, required contribution, or one-time membership fee which is paid at the door or has a minimum drink requirement;
 - (2) If none of the factors listed in subsection (1) above are present, then if four of the following conditions exist, then the establishment is an "entertainment establishment":
 - a. The establishment has a dance floor or other open area used by patrons for dancing or for viewing of entertainment (such dance floor or open space may be established by the removal or rearrangement of furniture or tables);
 - b. The hours of operations during which the use is open to the public include time between 11:00 a.m. and 2:00 a.m.; The maximum capacity for the establishment as set by the building and fire officials through fire, building, structure, and other relevant regulatory considerations is 150 or more persons. [The fact that the facility may restrict its capacity to some number shall not prevent the building official from applying Code provisions that determine a different and increased capacity. The building and fire officials may use various codes for this purpose (i.e., fire code provisions)];
 - c. Alcohol is sold and consumed on the premises of the establishment at any time;
 - d. Advertisements for the establishment describe specific entertainment events or engagements (e.g. "House Party Saturday Night"; "DJ Saturday night"; "Live Music tonight"); or
 - e. The establishment features a platform or musical staging area used in connection with performances or entertainment. The presence of karaoke machines shall not be deemed entertainment for the purpose of this subsection. The presence of live entertainment provided by one person, not utilizing pre-recorded music, incidental to a restaurant or bar shall not be deemed entertainment for the purpose of this subsection.
 - (3) Business identified as entertainment venues, though they might meet factors in subsection (2) herein, shall not be deemed entertainment establishments.
- (7) **Entertainment venues.** Entertainment venues are business or other locations primarily devoted to an entertainment purpose or use in which the serving of food and alcoholic beverages is secondary to the entertainment

- purpose or use. Entertainment venues including, without limitation, art galleries, theaters, state-chartered not-for-profit theaters with live performances, movie theaters, museums, banquet halls, bowling allies, billiard halls and other amusement facilities as determined by the planning and zoning director or his or her designee.
- (8) **Manufacturer of alcoholic beverages.** A manufacturer of alcoholic beverages is a business engaged in the production of alcoholic beverages, including, without limitation, the fermentation of cider, beer, or other malted beverages, and/or wine, the distilling of spirits and/or liquors, or the blending of alcoholic beverages to make a derivative product, for the purpose of sale through an alcoholic beverage distributor or at retail, as regulated by state statute. A manufacturer of alcoholic beverages may sell alcoholic beverages in open containers for consumption on premises and in sealed containers for consumption off premises. Manufacturers of alcoholic beverages include, without limitation, breweries, distilleries, brewpubs, and/or similar uses as determined by the planning and zoning director or his or her designee.
- (9) **Private club.** A private club is a charter or incorporated club or lodge, organized for lawful purposes and not for the purpose of evading beverage laws, vending alcoholic beverages and intoxicating liquors at retail to members and their guests only for consumption on the premises.
- (10) **Alcoholic beverage distributor.** An alcoholic beverage distributor is a distributor and vendor, at wholesale only, of alcoholic beverages in sealed containers.
- (11) **Hotels and motels.** Hotels and motels are businesses that provide temporary lodging on daily or short term basis and may sell alcoholic beverages to guests as part of food and beverage offerings. This food and beverage offerings, including alcoholic beverages, may be offered independent of any restaurant, alcoholic beverage establishment, and/or **entertainment** venues that may be located within the hotel or motel or on the same premises as the hotel or motel.

19:4 Location of Establishment:

A. Distance Limitations: No premises shall be used for the sale of any alcoholic beverages, as defined herein, to be consumed on or off the premises where the structure or place of business intended for such use is located within 1,000 feet from another place of business for which there is already issued a license for the retail sale of door to door alcoholic beverages for consumption on or off the premises; such distance to be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the existing business for which there is already a

license for the retail sale of alcoholic beverages for consumption on or off the premises.

B. Measurements: The 500 feet distance requirement shall be measured by following a straight line from the nearest portion of the structure of the place of business, to an existing place of business having a legally established alcoholic beverage use.

C. Sketch indicating location: For the purpose of establishing the distance between alcoholic beverage uses, and between such uses and churches, public parks or public schools, the applicant for such use shall furnish a certified sketch of survey from a registered engineer or surveyor. Such sketch shall indicate the distance between the proposed place of business and any existing alcoholic beverage establishment and any religious facility, public park or school within 1,000 feet. In case of dispute, the measurement scaled by the City Manager or the City Manager's designee shall govern.

19.5 Exceptions from Distance Requirements:

- A. Downtown Mixed Use:** Cocktail lounges, bars and restaurants located in the mixed used downtown district which comply with the requirements of such districts and serve cooked, full course meals, daily prepared on the premises, or such other cocktail lounges, bars or restaurant where alcoholic beverages are sold only to persons seated at tables.
- (1) Limited musical entertainment is permitted in restaurants having a seating capacity of not less than 50 people at tables.
 - (2) Such entertainment shall be strictly incidental to the restaurant use.
 - (3) Outdoor entertainment and speakers is strictly prohibited.
 - (4) Music that is plainly audible and/or creates a vibration at a distance of more than 100 feet from the premises shall constitute prima facie evidence of a violation of this chapter.
 - (5) No entertainment activity shall violate the City's noise ordinance.
 - (6) All entertainment activity shall cease at 2:00am.
- B. Cocktail, Lounge, Bars and Restaurants:** Restaurants which serve alcohol for on premise consumption only, utilizing the cocktail lounge/bar as an accessory use and which meet the following criteria:
- (1) The restaurant shall occupy 4,000 square feet of gross floor space.
 - (2) The restaurant shall have accommodations for service of 200 or more patrons at tables.
 - (3) The restaurant shall prepare and serve fully cooked meals daily.
 - (4) The restaurant shall contain full kitchen facilities with commercial grade burners, ovens, range hoods and refrigeration units of such size and quantity to accommodate the occupancy content of the restaurant.

- (5) The restaurant shall be prohibited from advertising itself as a bar, cocktail lounge/bar, saloon, nightclub or similar type of establishment.
- (6) The restaurant shall not have a separate entrance for patrons to access the cocktail lounge/bar.
- (7) The cocktail lounge/bar shall be no larger than 15% of the gross square footage of the restaurant.

C. Beer and Wine for Off Premise Consumption: The sale of beer and wine as a grocery item for consumption off the premises, from grocery stores, convenience stores and the meat markets within the hours of operation for those facilities.

D. Package Store in Shopping Center: Only one package store shall be permitted per shopping center. Package stores shall not exceed twenty-five thousand square feet.

E. Nightclubs in Hotels and Apartment Hotels: The hotel or apartment hotel and nightclub must be located under the same roof. The hotel or apartment hotel must have at least 150 guest rooms or apartment units under the same roof. They music, dancing or disc jockey must be approved by the Council.

19.6 Licensing Requirements:

- (A) Any person or entity engaging in any business selling beer, wine or alcoholic beverages shall obtain a certificate of use for the premises and shall be subject to the business tax licensure requirements of the City, and all regulations and laws of the State of Florida as applicable to the particular business.
- (B) All prerequisites for the use of the premises for the sale of alcoholic beverage must be complied with by the applicant.
- (C) Certificate of Use must be established on the premises within thirty (30) days of the date of the issuance of a certificate of use, otherwise said certificate of use shall be null and void.

19.7 Hours of Sale

Generally.

(1) No intoxicating liquors or intoxicating beverages, including all malt beverages and wine, consumed, or served or permitted to be served, or consumed, in any place located within the city holding a license under the laws of the state and the city, authorizing same, between the hours of 2:00 a.m. and 7:00 a.m.

(2) For New Year's Eve, December 31, the prohibited hours of sale shall be 5:00 a.m. to 7:00 a.m. on the following day, January 1.

19.8 Limitation of Sales on Certain Premises, Places of Business

- (A) It shall be unlawful for any vendor to sell, offer for sale, or serve, or permit to be consumed, any alcoholic beverages upon any premises or in any place or places of business which do not meet the definition of and requirements for premises or place of business as provided for and defined in section 19.2.
- (B) **Distance Limitation Between Vendors, Places of Worship(Assembly?) and Schools**
 Between vendors. No license for the sale of alcoholic beverages at retail, including malt and wine beverages, for consumption on or off the premises, shall be issued where the place of business designated in the application therefor is located within 1,000 feet from another place of business for which there is already issued a license for the retail sale of alcoholic beverages for consumption on or off the premises; such distance to be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the existing business for which there is already a license for the retail sale of alcoholic beverages for consumption on or off the premises.
- (C) **Exception:** (1) Such distance limitation shall not apply to the following:
 (a) Vendors of alcoholic beverages, including malt and wine beverages, where the vendor is licensed by the city as a restaurant deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.
 (b) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is licensed by the city as a bona fide hotel or motel.
 (c) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is a veterans or fraternal organization of national scope or is a group of persons associated together as a chartered or incorporated club, including incorporated social clubs which have been in continuous active existence and operation for a period of not less than one year in the city.
- D. Between vendor and place of worship. No license for the retail sale of alcoholic beverages, including malt and wine beverages, shall be issued to a vendor whose place of business is located within 1,000 feet of an established place of worship. The distance shall be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the place of worship.
 (1) Such distance limitation shall not apply to the following:
 (a) Vendors of alcoholic beverages, including malt and wine beverages, where the vendor is licensed by the city as a restaurant deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

(b) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is licensed by the city as a bona fide hotel, motel, or motor court.

(c) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is a veterans or fraternal organization of national scope or is a group of persons associated together as a chartered or incorporated club, including incorporated social clubs which have been in continuous active existence and operation for a period of not less than one year in the city.

E. Between vendor and school. No license for the retail sale of alcoholic beverages, including malt and wine beverages, shall be issued to a vendor whose place of business is located within 1,000 feet of an established public or private elementary school, middle school, or secondary school. The distance shall be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the school grounds.

(2) Such distance limitation shall not apply to vendors of alcoholic beverages, including malt and wine beverages, where the vendor is licensed by the city as a restaurant deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

(F) This section shall not be construed or held to affect the rights of any existing established business or its successors or assigns with respect to the location of the businesses.

(G) Whenever a business has been lawfully established and thereafter a place of worship or school is established within a distance otherwise prohibited by this section, the establishment of the place of worship or school shall not be cause for the revocation of the occupational license or otherwise prevent the continuation of the business.

19.9 **Exceptions to Distance Limitations Between Vendors**

The distance requirements set forth in this section are primarily intended to promote the safety, health, morals, and general welfare of the citizens of the city. The city council is of the opinion that certain businesses licensed by the state by special license to sell alcoholic beverages at retail may warrant an exception to the distance requirements above provided; these businesses are:

(1) Vendors of alcoholic beverages, including wine and malt beverages, at retail for off-premises consumption only.

- (2) Vendors of alcoholic beverages, including wine and malt beverages, at retail for on-premises consumption only, where the sale thereof is the main function of the business.

19.10 The city council, and it alone, may upon written application for a miscellaneous petition by the vendors of alcoholic beverages, including malt and wine beverages, as defined in this section, by resolution, grant a variance to the distance requirements of the application shall be accompanied by appropriate survey material, maps, and site plan.

- (A) No variance to the distance requirements shall be made until after a public hearing thereon is held, and a notice of the public hearing shall be published in a newspaper of general circulation in the city on a date no less than 15 days prior to the date set for the hearing.

- (B) Further, no variance to the distance requirements shall be granted unless the city council finds the following requirements are met:

- (1) The established distance requirement of 1,000 feet from an established public or private elementary school, middle school, or secondary school is not violated. The distance shall be the airline measurement taken from the center of the main entrance of the school grounds.

- (2) In the opinion of the city council, the granting of the modification will not materially impair the safety, health, morals, or general welfare of the citizens of the city which this chapter is intended to promote.

19.11 Vendors of Malt and Wine Beverages for Consumption Off Premises Only
The limitations provided in 19.4 shall not apply to vendors of malt and wine beverages for consumption off premises only.

19.12 Drinking Intoxicating Liquors in Streets and Parks
(A) No person shall drink any spirituous, vinous, malt, or other intoxicating liquors in or upon any public street, avenue, alley, park, or other public way or place in the city. However, the city manager may authorize the consumption of alcoholic beverages in a city park pursuant to the regulations set forth in Chapter 15 (Parks & Recreation Chapter), of this Code.

(B) The City Manager shall not grant an authorization if in his opinion the public safety and peace may become impaired.

19.13 Consumption, Possession of Alcoholic Beverages in Commercial Establishment Parking Lots or Motor Vehicles

Findings and declarations.

(1) The uncontrolled consumption of alcoholic beverages in and around commercial establishment parking lots contributes to lewd behavior, verbal harassment, intoxicated disorderly conduct, destruction of property, excessive noise, and litter.

(2) The uncontrolled consumption of alcoholic beverages in and around commercial establishment parking lots has led to an increase in the number of violent crimes committed on and near those commercial establishment parking lots.

(3) Individuals consuming alcoholic beverages in and around commercial establishment parking lots deter the public's use and enjoyment of these areas.

(4) No effective means exist to deter the violent, disorderly, destructive, or offensive conduct associated with the consumption of alcoholic beverages in and around uncontrolled commercial establishment parking lots other than to prohibit the consumption of alcohol in those areas.

(5) Consumption of alcoholic beverages or possession of open containers of alcoholic beverages while in or on motor vehicles leads to and encourages the operation and control of motor vehicles while impaired and distracting and disorderly conduct of passengers including, but not limited to, littering. The uncontrolled consumption of alcoholic beverages in and around commercial establishment parking lots and the consumption of alcohol in motor vehicles is detrimental to the health, safety, and general welfare of the public.

19.14

Prohibited acts. The following unlawful acts are prohibited:

(1) It shall be unlawful for any person to drink or consume any alcoholic beverage in or within 1,000 feet of a commercial establishment parking lot in the city, except in those areas in which such consumption is permitted pursuant to the beverage law; special or general act of the state legislature; the state administrative code; or city ordinance, resolution, or administrative approval. Nothing in this section shall prohibit consumption on private property within 1,000 feet of a commercial establishment parking lot. It shall be unlawful for any person to possess any alcoholic beverage in or within 1,000 feet of a commercial establishment parking lot in the city, except in those areas in which such possession is permitted pursuant to the beverage law; special or general act of the state legislature; the state administrative code; or city ordinance, resolution, or administrative approval unless the alcoholic beverage is in the original container with the seal unbroken.

- (2) It shall be unlawful for any person to possess any container of alcoholic beverage, except an original container with the seal unbroken, or to consume any alcoholic beverage, in or on a motor vehicle being operated on a public or semipublic area open for vehicular travel.
- (3) It shall be unlawful for any person, without the consent of the city manager or his/her designee, to drink alcoholic beverages in any public place in the city. It shall further be unlawful for any person to drink alcoholic beverages in or upon any automobile, truck, motorcycle or other vehicle, when such vehicle is parked upon any public place without the consent of the city manager or his designee. Such consent shall be given by the city manager or his designee upon a showing that there is compliance with the chapter pertaining to special events.
- (4) It shall be unlawful for any person to consume any alcoholic beverage on private premises without the consent of the owner, tenant, or other person lawfully in possession of such private premises. It shall further be unlawful for any person to drink alcoholic beverages in or upon any automobile, truck, motorcycle or other vehicle, when such vehicle is parked upon any private premises without the consent of the owner, tenant, or other person lawfully in possession of such private premises.

19.15**Exceptions. This section shall not apply to:**

- (1) Any person engaged in picking up empty beverage containers for the purpose of collecting the deposit or value of the bottle or can itself, nor to any person taking part in a litter control campaign.
- (2) The possession of any open container by any licensed distributor or licensed vendor of alcoholic beverages provided that such alcoholic beverage is being transported solely for commercial purposes.
- (3) The transportation of any open container of alcoholic beverage in or on any motor vehicle provided that such container is in a compartment of the vehicle not readily accessible to the driver or passengers, such as a locked (not merely latched) glove compartment, trunk, or other non-passenger or non-driver area of the motor vehicle.
- (4) The transportation of any open container or consumption of alcoholic beverage in or on any motor vehicle duly licensed and operated for hire to transport passengers, such as charter buses, regularly scheduled buses, taxicabs, and the separate passenger compartments of limousines; provided the operator thereof is not in immediate possession of, or engaged in the consumption of, any alcoholic beverage or open container of alcoholic beverage.
- (5) The operation, for a consideration, of any motor vehicle by an individual duly licensed and supplied by a chauffeur service, limousine service, taxicab company, or bus company provided the operator thereof is not in immediate possession of, or engaged in the

consumption of, any alcoholic beverage or open container of alcoholic beverage, and is operating the vehicle while under, and in the scope of, the employment of a chauffeur service, limousine service, taxicab company, or bus company. The operator shall have in his/her possession evidence of employment by a bona fide chauffeur service, limousine service, taxicab company, or bus company.

19.16

Application of zoning code

In all cases the location of any place of business for the sale of alcoholic beverages, including malt and wine beverages at retail, shall be in accordance with the permitted use provisions of the city zoning code.

Sixth Order of Business



CITY OF WESTLAKE

Building Department
 4001 Seminole Pratt Whitney Road
 Westlake, Florida 33470

Phone: (561) 530-5880 www.westlakegov.com

BUILDING DEPARTMENT 2018 REPORT

This past year was a truly incredible experience; Westlake is growing by leaps and bounds and is truly establishing itself as a forward-thinking City with its residents and community’s needs at the forefront of its growth .

Single Family Permits Issued in 2018	219
Single Family Permits Issued in 2017	48
Single Family Permits Issued 356.25% increase 2018 over 2017	
Single Family Certificates of Occupancy Issued 2018	165
Single Family Certificates of Occupancy Issued 2017	0
Amenity Parcel	12 Structures Permitted
Fire Station 22	Issued 12/6/2018
Wellington Free Standing Emergency Room	Issued 9/5/2018

Numerous ancillary permits have been issued as well: Bus shelters, Lift Stations, and Mail Kiosks to name a few.

2019 is shaping up to be just as exciting with the addition of mixed-use structures that will include:

- Gas station/car wash
- Multifamily townhomes
- Restaurants

As a department we are growing and fine tuning our internal processes, as well as our relationships with our partners from other departments.

Permitting software is in the programming stage.

I am humbled by the efforts and dedication of our team and the professionalism of our partners.

Respectfully submitted,

Joseph Berko



CITY OF WESTLAKE

Building Department
 4001 Seminole Pratt Whitney Road
 Westlake, Florida 33470

Phone: (561) 530-5880

www.westlakegov.com

BUILDING DEPARTMENT FLOW PROCESS REPORT SINGLE FAMILY RESIDENCE

Application review

- Permit Application Executed
- Survey
- Signed & Sealed Plans
- Energy Calculations
- Floor Plan
- Truss package
- Structural/Wind Zone Calculations
- Owner/Builder Affidavit if applicable
- Fees Paid
 - i. HAPPY Fee
 - ii. Application Fee

Compliance Plan Review

- Planning & Zoning-Approval letter required
- Engineering-Approval letter required
- Building-Approval-Plans are signed and sealed

Permit Issuance

- Contractor registration complete
- Balance Due fees paid

Required Documentation

- Notice of Commencement received prior to scheduling first inspection.
- Formboard survey; compaction report and termite contract docs required (after slab pour)
- Temp power inspection passed
 - FPL release document required (Plus fee if TUG)
 - FPL release submitted to FPL

Log/Permit Audit

- Verify all inspections completed successfully to date
- Notify contractor of any outstanding issues required for Certificate of Occupancy
- Solid Waste Authority fee details created typically minimum 3 weeks prior to Build final

Documents required prior to CO

- Blower Door test submitted for review and approval prior to Mechanical final
- Final survey-ENG review/approval
- Elevation certificate-ENG review/approval
- Drainage certificate- ENG review/approval
- Landscape Certificate of Compliance- ENG review/approval
- Insulation installation certificate submitted for review
- Termite completion certificate
- Approval letter received from Engineering
- Verify all fees have been paid to the City

Certificate of Occupancy Certificate

THE FLORIDA BUILDING CODE

The City of Westlake
Building Department



Building Codes in Florida: 1970s to Hurricane Andrew



In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for the public's health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, the state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they desired.

What is the Florida Building Code?

A brief history.

When Hurricane Andrew hit South Florida in 1992, it revealed the deficiencies of the state's existing building code compliance and enforcement processes. Andrew broke all records for insurance losses, and was the direct cause of Florida's worst insurance crisis in history. It became obvious that building codes and their administration and enforcement was a statewide issue with statewide implications. Poor compliance or enforcement in a single county could wreak havoc with homeowners, developers and commercial interests in every corner of the state.

Creation of a Statewide Florida Building Code

In 1996, the Florida Building Code Study Commission was appointed to review the system of local codes created by the 1974 law and to make recommendations for modernizing the entire system. During 16 months of study, what the Commission found was a complex and confusing patchwork system of codes and regulations, developed, amended, administered and enforced differently by more than 400 local jurisdictions and state agencies with building code responsibilities. One of the most pressing issues identified was compliance. Commission recommendations called for strengthened compliance through greater predictability and accountability in the building code system. The reforms proposed included a streamlined uniform family of codes, strengthened administration and enforcement of codes and enhanced compliance with codes through education, training and discipline.

The 1998 Legislature adopted the Study Commission's recommendations and amended Chapter 553, Florida Statutes, Building Construction Standards to create a single minimum standard building code that is enforced by local governments. As of March 1, 2002, the Florida Building Code, which is developed and maintained by the Florida Building Commission, supersedes all local building codes. The Florida Building Code is updated every three years and may be amended annually to incorporate interpretations and clarifications.

The Florida Building Code (FBC) is available for anyone to view in its entirety online through The Florida Building Commission & DBPR websites.



Scope and Intent of the Florida Building Code

Why do we need a Building Code?

The Florida Building Code draws upon national model building codes and national consensus standards which are amended where necessary for Florida's specific needs. The International Code Council (ICC) is an association that develops such model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." The ICC publishes I-Codes: a complete set of model comprehensive, coordinated building safety and fire prevention codes, for all aspects of construction, that have been developed by ICC members. All 50 states have adopted the I-Codes.

The Florida Building Code incorporates all building construction related regulations for public and private buildings in the State of Florida other than those specifically exempted by Section 553.73, F.S. It is harmonized with the Florida Fire Prevention Code, which is developed by the Department of Financial Services, Office of the State Fire Marshall, to establish unified and consistent standards.

In addition to providing standardization of the design, construction and compliance processes, the Code establishes regulations for the safety, health and general welfare of building occupants as well as for fire fighters and emergency responders during building emergencies. Structural strength, means of egress, stability, sanitation, adequate light and ventilation and energy conservation are addressed. As a performance-based code, builders have flexibility in the means and materials they utilize to meet various compliance standards.

Who enforces the FBC & what role does a Building Department play in it's implementation?

FL Statute 553.38 Application and scope.—The department shall enforce every provision of the Florida Building Code adopted pursuant hereto, except that local land use and zoning requirements, fire zones, building setback requirements, side and rear yard requirements, site development requirements, property line requirements, subdivision control, and onsite installation requirements, as well as the review and regulation of architectural and aesthetic requirements, are specifically and entirely reserved to local authorities. Such local requirements and rules which may be enacted by local authorities must be reasonable and uniformly applied and enforced without any distinction as to whether a building is a conventionally constructed or manufactured building. A local government shall require permit fees only for those inspections actually performed by the local government for the installation of a factory-built structure. Such fees shall be equal to the amount charged for similar inspections on conventionally built housing

What the Florida Building Code does not do.

The Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements, and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code.

Additionally, a local code enforcement agency may not administer or enforce the Florida Building Code to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

Chapter 1 FBC Scope & Administration and what it means to a local municipality.

Chapter 1 of the Florida Building Code is the only chapter that can be modified to meet the needs of the local community in which it is being enforced. The reason for this caveat is to ensure that the code is benefitting the local jurisdiction to its fullest capacity while also addressing the specific needs of its constituents. The State of Florida has wide varying needs, based on location and certain environmental factors. Examples of this would be, one's proximity to water, & the coastline which affects wind speeds and climate related energy requirements.

Please refer to the provided documents regarding the Building Departments historical data & permitting information.

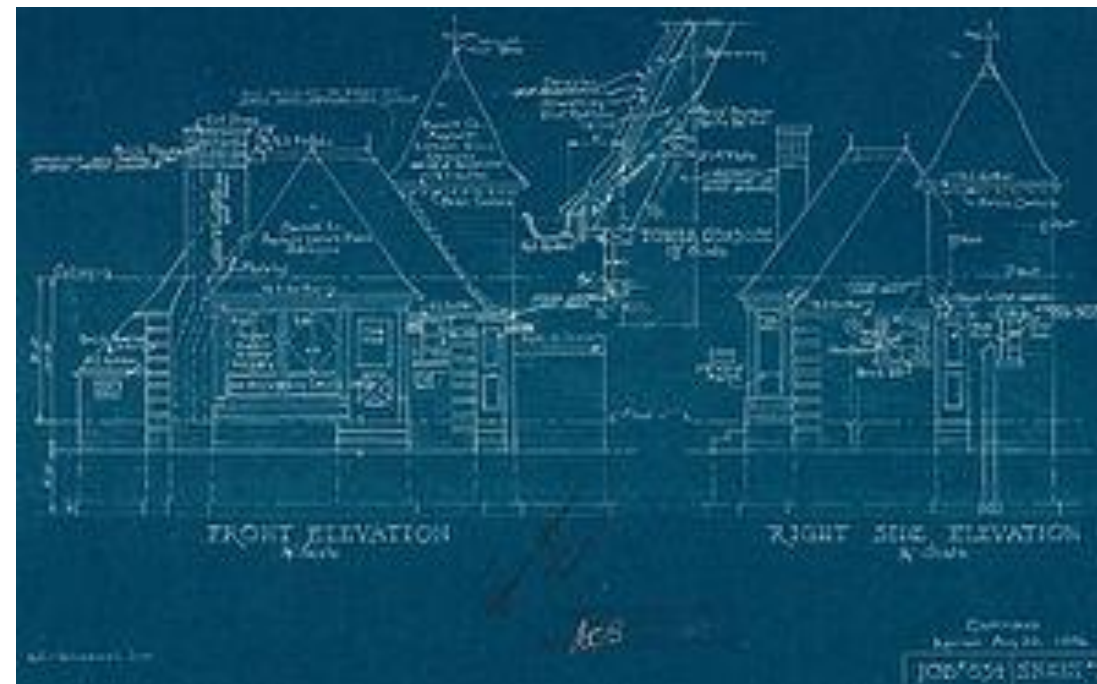
What makes a successful Building Department?

Transparency

A continued pledge to education, enhanced services & community driven department platforms

Commitment to Customer Service

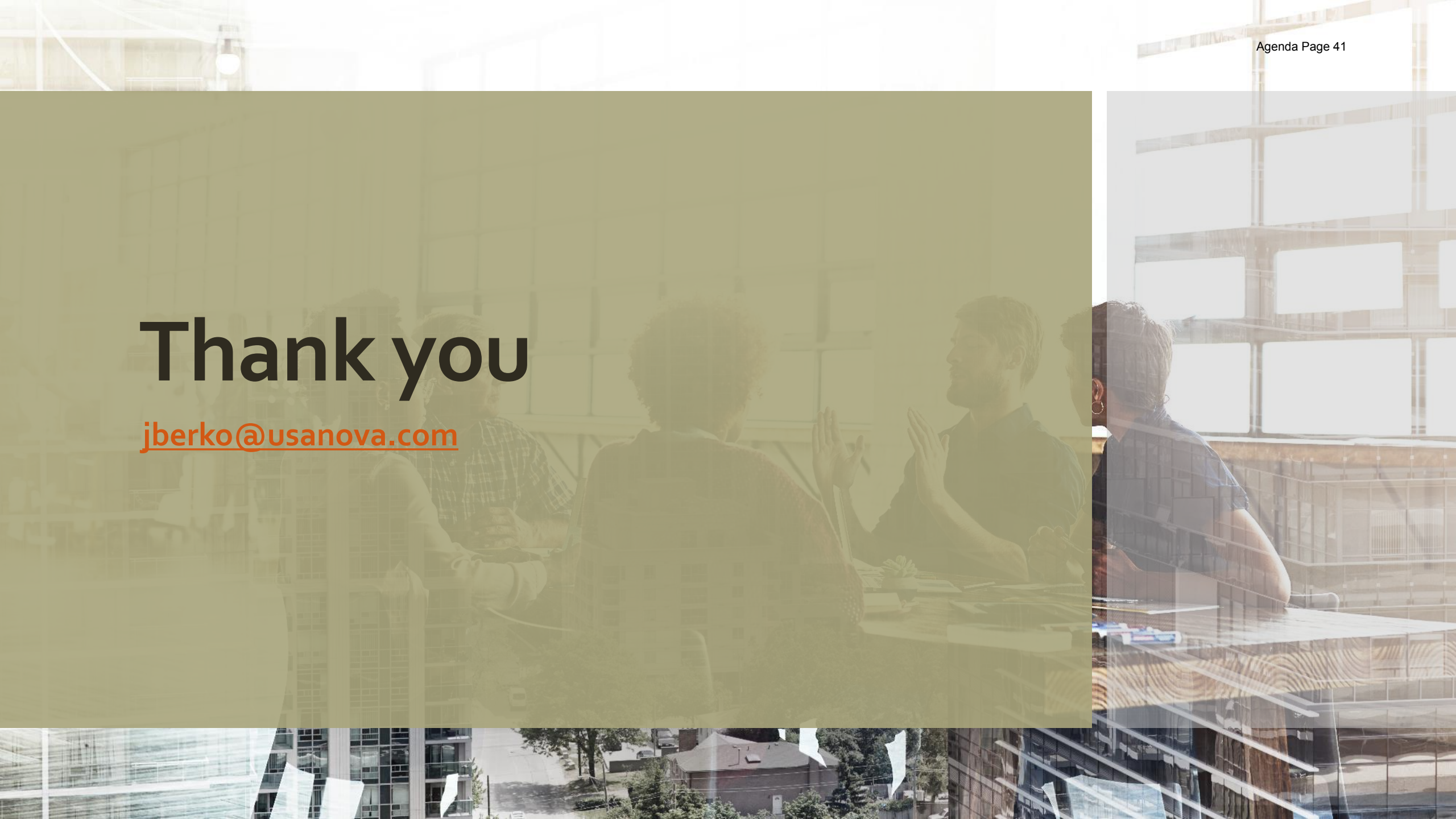
Diligent enforcement & interpretation of the code



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Thank you

jberko@usanova.com



Seventh Order of Business

CODE COMPLIANCE CHAPTER 9

Why do we need code compliance?

What purpose does code compliance serves?

Code Compliance's Purpose

- ▶ Safety and Well-being of the Public
- ▶ Maintain Property Values
- ▶ Maintain Aesthetics of the Community
- ▶ Keep aging building home and properties from becoming an eyesore
- ▶ Prevention of Blight

What issues does code compliance address?

- High Grass & Weeds
- Debris Around Structures
- Structures left in Disrepair
- Property Maintenance Standards
- Commercial Property Maintenance
- Foreclosures
- Improper Signage
- Other Code Violations

Property Maintenance Standards



Property Maintenance Standards



Abandoned Vehicles/Inoperable Vehicles High Grass and Debris



Improper Storage Pool Safety



CODE VIOLATIONS

(Martin County, Palm Beach Gardens)



Code Compliance Officer

- ▶ Effective code enforcement seeks voluntary compliance
- ▶ Proactive Approach through Education
- ▶ Avoid punitive methods of enforcement
- ▶ Ensure public health and safety
- ▶ Work with city departments, fire, police, building department, planning & zoning and legal
- ▶ Enhance the quality of life, health & safety of the residents

Special Magistrate Proceedings

When proactive code compliance doesn't prevail

- ▶ Florida Statutes Chapter 162 allows Special Magistrate
- ▶ Non-Exclusive Remedy to affect Compliance
- ▶ Hold Hearings; Impose Fines; Assess Liens; Other Non-Criminal Penalties
- ▶ Adopt Rules for Hearings
- ▶ Subpoena Alleged Violators
- ▶ Issue Orders to bring the violation into Compliance

NOTICE AND OPPORTUNITY TO BE HEARD

Pre-Enforcement Notice

- Code Compliance Officer Initiates Code Compliance Proceeding
- Notify the Violator
- Give Reasonable time to Remedy Code Violation
- Notify Special Magistrate when Owner fails to bring property into Compliance

Specific Notice Requirements

- Certified Mail Return Receipt Requested
- Notice to Registered Agent if a Corporation
- Posting the Property
- Hand Delivery by Sheriff
- Leaving Notice at Residence
- Leaving Notice with Manager (Non-Residential Property)
- Publication
- Affidavit of Posting/Notice

COMPLIANCE SETTLEMENT AGREEMENT

- Opportunity to enter into a Stipulated Settlement Agreement (9.5f)
 - Compliance Date
 - Amount of Fine if Non-Compliance
 - Filed in Court Record
 - Maximum Fine \$250 per Day
 - Maximum Fine \$500 per Day Repeat Offender
- Duration of Lien = 20 years
- Appeals Process within 30 days of Issuance of Order
- Lien Modification Process

Fines & Penalties

- ▶ Citation for Civil Penalties
- ▶ Injunctive Relief
- ▶ Civil Penalties
- ▶ Any other process permitted by law or equity
- ▶ Nuisance Abatement
- ▶ Revocation of Permits
- ▶ Revocation of Certificate of Occupancy
- ▶ Revocation of License

CITATIONS

- ▶ Violations of a duly enacted code or ordinance that the Palm Beach County Court will hear the charge at a specified date and time
- ▶ Specific Information must be contained in the Citation
- ▶ Citation is filed in the County Court
- ▶ Opportunity to be Heard in Court
- ▶ Fine Amounts from \$100-\$500

Property Maintenance Provisions

(Chapter 22)

- ▶ Purpose: establish minimum standards for the maintenance, upkeep and appearance of improved, unimproved property, residential property and non-residential property
- ▶ Protect the health, property, safety and general welfare of the general public or their occupants
- ▶ Mainly Building Safety Provisions from the building code, inspection by the building official and/or code compliance officer

PROPERTY MAINTENANCE AREAS OF CONCERN

- ▶ Litter
- ▶ Vacant Lot Maintenance
- ▶ Residential and Commercial Property Maintenance
- ▶ General Maintenance
- ▶ Vacant Buildings
- ▶ Unsightly Conditions (22.09)
- ▶ Demolition of Commercial and Residential Buildings
- ▶ Construction Site Management
- ▶ Pollution Control
- ▶ Noise/Nuisance Abatement
- ▶ Abandoned Property

PROPERTY MAINTENANCE STANDARDS COMMERCIAL PROPERTIES

LANDSCAPE

SIGNS

IRRIGATION

UPKEEP

TRASH / DEBRIS

GUTTERS

LIGHTENING

UNAUTHORIZED USE



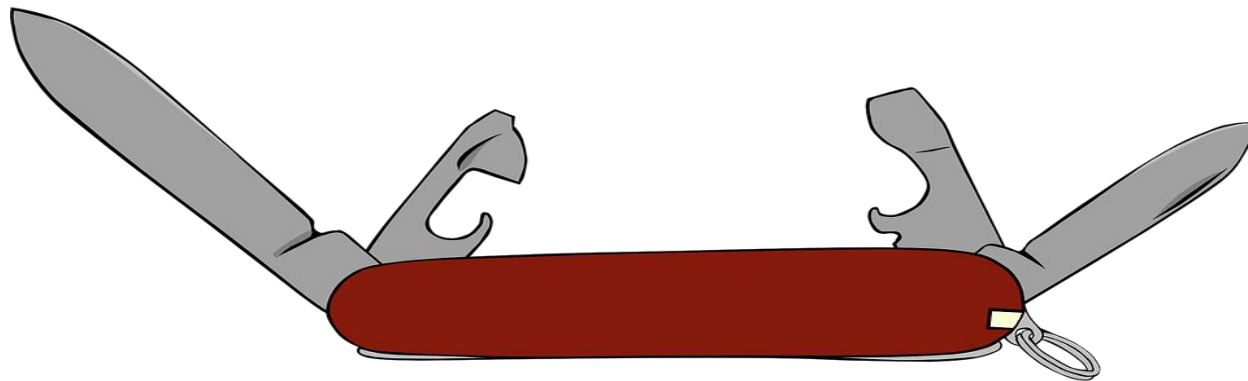
COMMERCIAL CODE VIOLATIONS



Closing Thoughts

Don't Get Tangled into Neighborhood Disputes

Code Compliance can be a *tool* and it can be a *weapon*





FLORIDA BUILDING CODE – BUILDING VOLUME CHAPTER 1, ADMINISTRATION

CITY OF WESTLAKE AMENDMENTS TO THE FLORIDA BUILDING CODE, 6th EDITION (2017)

EFFECTIVE JANUARY 1, 2018



**City of Westlake
Building Department
4001 Seminole Pratt Whitney Road
Westlake, Florida 33470
(561) 530-5880
www.westlakegov.com**

**CHAPTER 1
ADMINISTRATION**

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Chapter 1

Scope and Administration

PART 1—SCOPE AND APPLICATION

SECTION 101 GENERAL

101.1 Title. These regulations shall be known as the Florida Building Code, hereinafter referred to as “this code.”

101.2 Scope. The provisions of this code shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height, shall comply with the Florida Building Code, Residential.

2. Code Requirements that address snow loads and earthquake protection are pervasive; they are left in place but shall not be utilized or enforced because Florida has no snow load or earthquake threat.

101.2.1 (reserved)

101.2.2 Florida Building Code, Residential Construction standards or practices which are not covered by the Florida Building Code, Residential Volume shall be in accordance with the provisions of the Florida Building Code, Building.

101.3 Intent. The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters, code officials, and emergency responders during emergency operations.

101.3.1 Quality control. Quality control of materials and workmanship is not within the purview of this code, except as it relates to the purposes stated herein.

101.3.2 Warranty and Liability. The permitting, plan review or inspection of any building, system or plan by this jurisdiction, under the requirements of this code, shall not be construed in any court as a warranty of the physical condition of such building, system or plan or their adequacy. This jurisdiction shall not be liable in tort for damages or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any failure of any component of such, which may occur subsequent to such inspection or permitting. Further,

no Building Division employee shall be liable in tort for damage from such conditions, in accordance with Section 768.28 Florida Statutes, as may be amended or replaced.

101.4 Referenced codes. The other codes listed in Sections 101.4.1 through 101.4.11 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

101.4.1 Gas. The provisions of the Florida Building Code, Fuel Gas shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

101.4.2 Mechanical. The provisions of the Florida Building Code, Mechanical shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

101.4.3 Plumbing. The provisions of the Florida Building Code, Plumbing shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

101.4.4 Property maintenance. The provision of Chapter 14, Article I of the Palm Beach County Code of Ordinances governs the maintenance of existing properties in Palm Beach County except as otherwise regulated by this code.

101.4.5 Fire prevention. For provisions related to fire prevention, refer to the Florida Fire Prevention Code. The Florida Fire Prevention Code shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression, automatic sprinkler systems and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

101.4.6 Energy. The provisions of the Florida Building Code, Energy Conservation shall apply to all matters governing the design and construction of buildings for energy efficiency.

101.4.7 Existing buildings. The provisions of the Florida Existing Building Code shall apply to matters governing the repair, alteration, change of occupancy, addition to and relocation of existing buildings.

101.4.8 Accessibility. For provisions related to accessibility, refer to the Florida Building Code, Accessibility.

101.4.9 Manufactured buildings. For additional administrative and special code requirements, see Section 458, Florida Building Code. Building, and Rule 61-41 Florida Administrative Code.

101.4.10 Electrical. The provisions of Chapter 27 of the Florida Building Code, Building Volume, and Part VIII – Electrical, of the Florida Building Code Residential Volume, 6th Edition (2017) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

101.4.11 Article 18 Flood Damage Prevention. Palm Beach County Unified Land Development Code (ULDC) shall be considered part of the requirements of this code relative to flood control. Conflicting requirements between the Florida Building Code and Article 18 of the ULDC shall be resolved in favor of the requirement that offers the greatest degree of flood damage prevention or alternatives that would provide an equivalent degree of flood damage prevention and an equivalent method of construction.

101.5 Building Official. Whenever, the Building Official is mentioned in this code, it is also intended to mean the Building Official's designee, wherever applicable.

101.6 Department. Whenever department is mentioned in this code, it is also intended to mean Building Division, where applicable.

SECTION 102 APPLICABILITY

102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

102.1.1 The Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair or demolition of public or private buildings, structures or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code. Additionally, a local code enforcement agency may not administer or enforce the Florida Building Code, Building to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

102.2 Building. The provisions of the Florida Building Code shall apply to the construction, erection, alteration, modification, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every public and private building, structure or facility or floating residential structure, or any appurtenances connected or attached to such buildings, structures or facilities. Additions, alterations, repairs and changes of use or occupancy group in all buildings and structures shall comply with the provisions provided in the Florida Building Code, Existing Building. The following buildings, structures and facilities, except for those located in a Special Flood Hazard Area are exempt from the Florida Building Code as provided

by law, and any further exemptions shall be as determined by the legislature and provided by law:

- (a)** Building and structures specifically regulated and preempted by the federal government.
- (b)** Railroads and ancillary facilities associated with the railroad.
- (c)** Nonresidential farm buildings on farms.
- (d)** Temporary buildings or sheds used exclusively for construction purposes.
- (e)** Mobile or modular structures used as temporary offices, except that the provisions of Part II (Sections 553.501-553.513, Florida Statutes) relating to accessibility by persons with disabilities shall apply to such mobile or modular structures.
- (f)** Those structures or facilities of electric utilities, as defined in Section 366.02, Florida Statutes, which are directly involved in the generation, transmission, or distribution of electricity.
- (g)** Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.
- (h)** Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this 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.
- (i)** Family mausoleums not exceeding 250 square feet (23 m²) 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.
- (j)** Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (k)** A building or structure having less than 1,000 square feet (93 m²) which is constructed and owned by a natural person for hunting and which is repaired or reconstructed to the same dimension and condition as existed on January 1, 2011, if the building or structure:
 1. Is not rented or leased or used as a principal residence;
 2. Is not located within the 100-year floodplain according to the Federal Emergency Management Agency’s current Flood Insurance Rate Map; and
 3. Is not connected to an off-site electric power or water supply.
- (l)** Service providers of water, sewer, storm, gas, cable, telephone, or other similar utility systems are exempt to the point of service connection for the building or structure.

Additional telecommunication exemptions may be found in Section 489.503(14), Florida Statutes.

However, these structures may be subject to local zoning and/or land development regulations.

102.2.1 In addition to the requirements of Section 553.79 and 553.80, Florida Statutes, facilities subject to the provisions of Chapter 395, Florida Statutes, and Part II of Chapter 400, Florida Statutes, shall have facility plans reviewed and construction surveyed by the state agency authorized to do so under the requirements of Chapter 395, Florida Statutes, and Part II of Chapter 400, Florida Statutes, and the certification requirements of the federal government.

102.2.2 Residential buildings or structures moved into or within a county or municipality shall not be required to be brought into compliance with the state minimum building code in force at the time the building or structure is moved, provided:

1. The building or structure is structurally sound and in occupiable condition for its intended use;
2. The occupancy use classification for the building or structure is not changed as a result of the move;
3. The building is not substantially remodeled;
4. Current fire code requirements for ingress and egress are met;
5. Electrical, gas and plumbing systems meet the codes in force at the time of construction and are operational and safe for reconnection; and
6. Foundation plans are sealed by a professional engineer or architect licensed to practice in this state, if required by the Florida Building Code, Building for all residential buildings or structures of the same occupancy class.
7. The requirements of Florida Building Code, Existing Building Volume, are also satisfied.

102.2.3 The Building Official shall apply the same standard to a moved residential building or structure as that applied to the remodeling of any comparable residential building or structure to determine whether the moved structure is substantially remodeled. The cost of the foundation on which the moved building or structure is placed shall not be included in the cost of remodeling for purposes of determining whether a moved building or structure has been substantially remodeled.

102.2.4 This section does not apply to the jurisdiction and authority of the Department of Agriculture and Consumer Services to inspect amusement rides or the Department of Financial Services to inspect state-owned buildings and boilers.

102.2.5 Each enforcement district shall be governed by a board, the composition of which shall be determined by the affected localities.

1. At its own option, each enforcement district or local enforcement agency may adopt rules granting to the owner of a single-family residence one or more exemptions from the Florida Building Code relating to:

(a) Addition, alteration, or repairs performed by the property owner upon his or her own property, provided any addition or alteration shall not exceed 1,000 square feet (93 m²) or the square footage of the primary structure, whichever is less.

(b) Addition, alteration, or repairs by a non-owner within a specific cost limitation set by rule, provided the total cost shall not exceed \$5,000 within any 12-month period.

(c) Building and inspection fees.

2. The exemptions under subparagraph 1 do not apply to single-family residences that are located in mapped flood hazard areas, as defined in the code, unless the enforcement district or local enforcement agency has determined that the work, which is otherwise exempt, does not constitute a substantial improvement, including the repair of substantial damage, of such single-family residences.

3. Each code exemption, as defined in sub-subparagraphs 1a, 1b, and 1c shall be certified to the local board 10 days prior to implementation and shall only be effective in the territorial jurisdiction of the enforcement district or local enforcement agency implementing it.

4. Each enforcement district or local enforcement agency may establish an alternative permitting program for replacing nonstructural components of building systems in a residential dwelling unit. A licensed contractor performing such work for the resident shall also be exempt from individual permits and inspections if either the owner or the licensed contractor obtains a valid Annual Permit per Section 105.1.1 of this code and all such work is reported as required in Section 105.1.2 of this code for compliance evaluation. No added capacity, system expansion or new building work of any type shall be excluded from individual permit and inspection by this provision.

102.2.6 This section does not apply to traditional swings and other standard playground equipment accessory to a one- or two-family dwelling, as determined by the Building Official. Exempt structures covered under this section may still be subject to zoning permits.

Exception: Electrical service to such playground equipment shall be in accordance with Chapter 27 of this code or Part VIII, Electrical, of the Florida Building Code Residential Volume, 6th Edition (2017), as applicable.

102.3 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

102.4 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.4.1 and 102.4.2 of this code.

102.4.1 Conflicts. Where conflicts occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

102.4.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code or the Florida Codes listed in Section 101.4, the provisions of this code or the Florida Codes listed in Section 101.4, as applicable, shall take precedence over the provisions in the referenced code or standard.

102.5 Partial invalidity. In the event that any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions of this code.

102.6 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this section.

102.6.1 Buildings not previously occupied. A building or portion of a building that has not been previously occupied or used for its intended purpose in accordance with the laws in existence at the time of its completion shall comply with the provisions of the Florida Building Code or Florida Residential Code, as applicable, for new construction or with any current permit for such occupancy.

102.6.2 Buildings previously occupied. The legal occupancy of any building existing on the date of adoption of this code shall be permitted to continue without change, except as otherwise specifically provided in this code, the Florida Building Code, Existing Building Volume; Florida Fire Prevention Code; the Palm Beach County Property Maintenance Code; the codes referenced in Section 101.4 of this code; or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public.

102.7 Relocation of manufactured buildings.

1. Relocation of an existing manufactured building does not constitute an alteration.
2. A relocated building shall comply with wind speed requirements of the new location, using the appropriate wind speed map. If the existing building was manufactured in compliance with the Standard Building Code (prior to March 1, 2002), the wind speed map of the Standard Building Code shall be applicable. If the existing building was manufactured in compliance with the Florida Building Code (after March 1, 2002), the wind speed map of the Florida Building Code shall be applicable.
3. A relocated building shall comply with the flood hazard area requirements of the new location, if applicable.

102.8 Existing mechanical equipment. An agency or local government may not require that existing mechanical equipment located on or above the surface of a roof be installed in

compliance with the requirements of the Florida Building Code except during reroofing when the equipment is being replaced or moved during reroofing and is not in compliance with the provisions of the Florida Building Code relating to roof-mounted mechanical units.

PART 2—ADMINISTRATION AND ENFORCEMENT

SECTION 103 BUILDING DIVISION

103.1 Creation of enforcement agency. The Building Division is hereby created and the official in charge thereof shall be known as the Building Official. All code officials employed by the division shall be certified in accordance with Chapter 468, Florida Statutes.

103.2 Appointment. The Building Official shall be appointed by the appointing authority of the jurisdiction.

103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the Building Official shall have the authority to appoint a deputy Building Official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the Building Official.

103.4 Restrictions on employees. An employee connected with the division shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, structure, service, system, or in the making of plans or of specifications thereof, unless he/she is the owner of such. An employee shall not engage in any other work which is inconsistent with his/her duties, or conflicts with the interests of the division, or which violates Florida Statutes Section 112.313(7)(a) or the Palm Beach County Code of Ethics.

SECTION 104 DUTIES AND POWERS OF THE BUILDING OFFICIAL

104.1 General. The Building Official is hereby authorized and directed to enforce the provisions of this code. The Building Official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

104.2 Applications and permits. The Building Official shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of buildings and structures, and service systems, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

104.2.1 Determination of substantially improved or substantially damaged existing buildings and structures in flood hazard areas. For applications for reconstruction, rehabilitation, repair, alteration, addition or other improvement of existing buildings or structures located in flood hazard areas, the Building Official shall determine if the proposed work constitutes substantial improvement or repair of substantial damage. Where the Building Official determines that the proposed work constitutes substantial improvement or

repair of substantial damage, and where required by this code, the Building Official shall require the building to meet the requirements of Sections 1612 or R322 of this code, and **ULDC Article 18, Flood Damage Prevention.**

104.3 Notices and orders. The Building Official shall issue all necessary notices or orders to ensure compliance with this code.

104.4 Inspections. The Building Official shall make all of the required inspections, or the Building Official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

104.5 Identification. The Building Official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

104.6 Right of entry.

104.6.1 Where it is necessary to make an inspection to enforce the provisions of this code, or where the Building Official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the Building Official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

104.6.2 When the Building Official obtains a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official for the purpose of inspection and examination pursuant to this code.

104.7 Department records. The Building Official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

104.8 Liability. The Building Official, any board member or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be civilly or criminally rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

104.8.1 Legal defense. Any suit or criminal complaint instituted against an officer, employee or board member because of an act performed by that officer, employee or board member in the lawful discharge of duties and under the provisions of this code shall be defended by legal representatives of the jurisdiction until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

104.9 Approved materials and equipment. Materials, equipment and devices approved by the Building Official shall be constructed and installed in accordance with such approval.

104.9.1 Used materials and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the Building Official.

104.10 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements.

The details of action granting modifications shall be recorded and entered in the files of the department.

104.10.1 Flood hazard areas. Modifications in flood hazard areas may only be granted by the Flood Damage Prevention Board, pursuant to Article 18 of the Palm Beach County Unified Land Development Code (ULDC).

104.11 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability, level of sanitation, and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternative. Where the alternative material, design or method of construction is not approved, the Building Official shall respond in writing, stating the reasons why the alternative was not approved.

104.11.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

104.11.2 Tests. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to require tests as evidence of compliance to be made at no

expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the Building Official for the period required for retention of public records.

104.12 Requirements not covered by this code. Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this or other technical codes, shall be determined by the Building Official.

SECTION 105 PERMITS

105.1 Required. Any contractor, owner or owner's authorized agent in accordance with Florida Statute Chapter 489 who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building, tenancy or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any impact-resistant coverings, electrical, gas, mechanical or plumbing, fire protection systems, accessible elements, flood resistant elements, site drainage elements, the installation of which is regulated by this code or Article 18 of the ULDC, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.

105.1.1 Annual facility permit. In lieu of an individual permit for each alteration to an existing electrical, gas, mechanical or plumbing or interior nonstructural office system(s), the Building Official is authorized to issue an annual permit for any occupancy to facilitate routine or emergency service, repair, refurbishing, minor renovations of service systems or manufacturing equipment installations/relocations. The Building Official shall be notified of major changes and shall retain the right to make inspections at the facility site as deemed necessary. An annual facility permit shall be assessed with an annual fee and shall be valid for one year from date of issuance. A separate permit shall be obtained for each facility and for each construction trade, as applicable. The permit application shall contain a general description of the parameters of work intended to be performed during the year.

105.1.2 Annual facility permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The Building Official shall have access to such records at all times or such records shall be filed with the Building Official as designated. The Building Official is authorized to revoke such permit, and deny future permits, if code violations are found to exist.

105.1.3 Food permit. In accordance with 500.12, Florida Statutes, a food permit from the Department of Agriculture and Consumer Services is required of any person who operates a food establishment or retail store.

105.1.4 Public swimming pool. The local enforcing agency may not issue a building permit to construct, develop, or modify a public swimming pool without proof of application, whether complete or incomplete, for an operating permit pursuant to Section 514.031, Florida Statutes. A certificate of completion or occupancy may not be issued until such operating permit is issued. The local enforcing agency shall conduct their review of the building permit

application upon filing and in accordance with Chapter 553, Florida Statutes. The local enforcing agency may confer with the Department of Health, if necessary, but may not delay the building permit application review while awaiting comment from the Department of Health.

105.2 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction, to include work in any special flood hazard area. Exemptions granted under this section do not relieve the owner or contractor from their duty to comply with applicable provisions of the Florida Building Code, and requirements of Article 18 of the ULDC. As determined by the Building Official, permits shall not be required for the following:

Building:

1. Building permits are not required for replacement or repair work having a fair market value of less than \$1,000.00 including overhead, profit, design fees, materials and labor, providing, however, that such work will not adversely affect the structural integrity, fire rating, exit access or egress requirements.
2. Cabinets and countertops with no reconfiguration for one- and two-family dwellings, painting, papering, carpeting, and similar finish work, with no electrical or plumbing work.
3. Temporary motion picture, television and theater sets and scenery.
4. Traditional swings and other standard playground equipment accessory to detached one and two-family dwellings, as determined by the Building Official, but they may be subject to Planning and Zoning permits.
5. Retractable awnings supported by an exterior wall that do not require additional support or electric in Groups R-3 and U occupancies, but such permits may be subject to Planning and Zoning permits.
6. Non-fixed and movable fixtures, cases, racks, and counters not over 5 feet 9 inches (1753 mm) in height.

Electrical:

Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles, or repair and replacement of like for like common household electrical fixtures, switches, and outlets on the load side of the electrical source.

Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions but do apply to equipment and wiring for a power supply and the installations of towers and antennas, except as exempted by Florida Statute Chapter 489.503(14).

Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot, or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Portable self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.
8. The installation, replacement, removal or metering of any electrical load management control device where installed by a utility service provider.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.
3. The replacement of common household plumbing fixtures to existing supply lines and outlets in one- and two-family dwellings. This does not include water heaters, bathtubs, and showers.

105.2.1 Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next business day to the Building Official. Notification shall be given to the Building Official,

including the work address, nature of emergency, and scope of work immediately, or by the next business day.

105.2.2. Minor repairs. Ordinary minor repairs may be made with the approval of the Building Official without a permit, provided the repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring systems or mechanical equipment or other work affecting public health or general safety, and such repairs shall not violate any of the provisions of the technical codes.

105.2.3 Public service agencies. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

105.3 Application for permit. To obtain a permit, the applicant shall first file an application in writing on a form furnished by the building department for that purpose.

Permit application forms shall be in the format prescribed by a local administrative board, if applicable, and must comply with the requirements of Section 713.135(5) and (6), Florida Statutes.

Each application shall be inscribed with the date of application, and the code in effect as of that date. For a building permit for which an application is submitted prior to the effective date of the Florida Building Code, the state minimum building code in effect in the permitting jurisdiction on the date of the application governs the permitted work for the life of the permit and any extension granted to the permit.

Effective October 1, 2017, a local enforcement agency shall post each type of building permit application on its website. Completed applications must be able to be submitted electronically to the appropriate building department. Accepted methods of electronic submission include, but are not limited to, e-mail submission of applications in portable document format (.pdf) or submission of applications through an electronic fill-in form available on the building department's website or through a third-party submission management software. Payments, attachments, or drawings required as part of the permit application may be submitted in person in a non-electronic format, at the discretion of the Building Official.

105.3.1 Action on application. Except for applications filed without the prerequisite fees, the Building Official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. No review will be performed prior to receipt of required submittal fees. If submittal fees are not paid within ten (10) days of receipt of an application, the application shall become null and void. Upon review, if the application or the construction documents do not conform to the requirements of pertinent laws, the Building Official shall reject such application in writing, stating the reasons therefore. If the Building Official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the Building Official

shall issue a permit therefore as soon as practicable. When authorized through contractual agreement with a school board, in acting on applications for permits, the Building Official shall give first priority to any applications for the construction of, or addition or renovation to, any school or educational facility.

105.3.1.1 If a state university, Florida college or public school district elects to use a local government's code enforcement offices, fees charged by counties and municipalities for enforcement of the Florida Building Code on buildings, structures, and facilities of state universities, state colleges, and public school districts shall not be more than the actual labor and administrative costs incurred for plans review and inspections to ensure compliance with the code.

105.3.1.2 No permit may be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit provides to the enforcing agency which issues the permit any of the following documents which apply to the construction for which the permit is to be issued and which shall be prepared by or under the direction of an engineer registered under Chapter 471, Florida Statutes:

1. Plumbing documents for any new building or addition which requires a plumbing system with more than 250 fixture units or which costs more than \$125,000.
2. Fire sprinkler documents for any new building or addition which includes a fire sprinkler system which contains 50 or more sprinkler heads. Personnel as authorized by chapter 633 Florida Statutes, may design a fire sprinkler system of 49 or fewer heads and may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation, addition or deletion of not more than 49 heads, notwithstanding the size of the existing fire sprinkler system.
3. Heating, ventilation, and air-conditioning documents for any new building or addition which requires more than a 15-ton-per-system capacity which is designed to accommodate 100 or more persons or for which the system costs more than \$125,000. This paragraph does not include any document for the replacement or repair of an existing system in which the work does not require altering a structural part of the building or for work on a residential one, two, three or four-family structure.

An air-conditioning system may be designed by an installing air-conditioning contractor certified under Chapter 489, Florida Statutes, to serve any building or addition which is designed to accommodate fewer than 100 persons and requires an air-conditioning system with a value of \$125,000 or less; and when a 15-ton-per system or less is designed for a singular space of a building and each 15-ton system or less has an independent duct system. Systems not complying with the above require design documents that are to be sealed by a professional engineer.

Example 1: When a space has two 10-ton systems with each having an independent duct system, the contractor may design these two systems since each unit (system) is less than 15 tons.

Example 2: Consider a small single-story office building which consists of six individual offices where each office has a single three-ton package air conditioning heat pump. The six heat pumps are connected to a single water-cooling tower. The cost of the entire heating, ventilation and air-conditioning work is \$47,000 and the office building accommodates fewer than 100 persons. Because the six mechanical units are connected to a common water tower this is considered to be an 18-ton system.

NOTE: It was further clarified by the Commission that the limiting criteria of 100 persons and \$125,000 apply to the building occupancy load and the cost for the total air-conditioning system of the building.

4. Any specialized mechanical, electrical, or plumbing document for any new building or addition which includes a medical gas, oxygen, steam, vacuum, toxic air filtration, halon, or fire detection and alarm system which costs more than \$5,000.
5. Electrical documents. See Florida Statutes 471.003(2)(h). Any electrical or plumbing or air-conditioning and refrigeration system meeting the following thresholds are required to be designed by a Florida Registered Engineer. The system requires an electrical system with a value of over \$125,000; and requires an aggregate service capacity of over 600 amperes (240 volts) on a residential electrical system or over 800 amperes (240 volts) on a commercial or industrial electrical system;

NOTE: It was further clarified by the Commission that the limiting factor of 240 volt or over is required to be designed by an Engineer.

Documents requiring an engineer seal by this part shall not be valid unless a professional engineer who possesses a valid certificate of registration has signed, dated, and stamped such document as provided in Section 471.025, Florida Statutes.

6. All public swimming pools and public bathing places defined by and regulated under Chapter 514, Florida Statutes

105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned becoming null and void if required application fees are not paid within 10 calendar days of filing, or six months of inactivity, abandonment, or failure to respond to requested corrections during the application process after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the Building Official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing prior to the abandonment date, with justifiable cause demonstrated. Abandoned applications shall be subject to destruction in accordance with state law. The fee for extension of a permit application shall be set forth by the administrative authority. There may be fees or requirements from other government agencies for permit application extensions.

105.3.3 An enforcing authority may not issue a building permit for any building construction, erection, alteration, modification, repair or addition unless the permit either includes on its face or there is attached to the permit the following statement: “NOTICE: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county, such as the requirement for Home or Property Owners Association approval, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies.”

105.3.4 A building permit for a single-family residential dwelling must be issued within 30 working days of application therefore unless unusual circumstances require a longer time for processing the application or unless the permit application fails to satisfy the Florida Building Code or the enforcing agency’s laws or ordinances.

105.3.5 Identification of minimum premium policy. Except as otherwise provided in Chapter 440, Florida Statutes, Workers’ Compensation, every employer shall, as a condition to receiving a building permit, show proof that it has secured compensation for its employees as provided in Section 440.10 and 440.38, Florida Statutes.

105.3.6 Asbestos removal contractor exemption. Refer to Section 105.9 of this code for additional requirements. A licensed asbestos removal contractor is not required when moving, removal or disposal of asbestos-containing materials on a residential building where the owner occupies the building, the building is not for sale or lease, and the work is performed according to the owner-builder limitations provided in this paragraph and Florida Statutes Chapter 489.103(7). To qualify for exemption under this paragraph, an owner must personally appear and sign the building permit application. The permitting agency shall provide the person with a disclosure statement in substantially the following form:

Disclosure Statement: State law requires asbestos abatement to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own asbestos abatement contractor even though you do not have a license. You must supervise the construction yourself. You may move, remove or dispose of asbestos-containing materials on a residential building where you occupy the building and the building is not for sale or lease, or the building is a farm outbuilding on your property. If you sell or lease such building within 1 year after the asbestos abatement is complete, the law will presume that you intended to sell or lease the property at the time the work was done, which is a violation of this exemption. You may not hire an unlicensed person as your contractor. Your work must be done according to all local, state and federal laws and regulations which apply to asbestos abatement projects. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances.

105.3.7 Applicable Code for Manufactured Buildings. Manufacturers should be permitted to complete all buildings designed and approved prior to the effective date of a new code edition, provided a clear signed contract is in place. The contract shall provide specific data mirroring that required by an application for permit, specifically, without limitation, date of execution, building owner or dealer, and anticipated date of completion. However, the construction activity must commence within 6 months of the contract’s

execution. The contract is subject to verification by the Department of Business and Professional Regulation.

105.3.8 Public right of way. A permit shall not be issued by the Building Official for the construction, alteration, or relocation of any building impacting any street, alley or public lane, unless the applicant has received a right of way permit from the authority having jurisdiction over the right of way.

105.4 Conditions of the permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other federal, state and local laws, ordinances, codes and regulations. Permits presuming to give authority to violate or cancel the provisions of this code or of any other federal, state and local laws, ordinances, codes and regulations shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Building Official from requiring the correction of errors in the construction documents and other data. The Building Official is also authorized to prevent occupancy or use of a structure that is in violation of this code or of any other federal, state and local laws, ordinances, codes and regulations.

105.4.1 Permit intent. A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter or set aside any of the provisions of the technical codes, nor shall issuance of a permit prevent the Building Official from thereafter requiring a correction of errors in plans, construction or violations of this code. 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.

105.4.1.1 If work has commenced and the permit is revoked, becomes null and void, or expires because of lack of progress or abandonment, a new permit covering the proposed construction shall be obtained before proceeding with the work.

105.4.1.2 If a new permit, or revalidation (renewal) of the original permit, is not obtained within six months from the date the initial permit became null and void, the Building Official is authorized to require that any work which has been commenced or completed be removed from the building site. Alternately, a new permit may be issued on application, providing the work in place and required to complete the structure meets all applicable regulations in effect at the time the initial permit became null and void and any regulations which may have become effective between the date of expiration and the date of issuance of the new permit.

105.4.1.3 Work shall be considered to be in active progress when the permit has received an approved inspection within six months. This provision shall not be applicable in case of civil commotion or strike or when the building work is halted due directly to judicial injunction, order or similar process, or due to action by an environmental or archeological agency having jurisdiction. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 3 months each. The extension shall be requested in writing and justifiable cause demonstrated, prior to expiration.

105.4.1.4 The fee for renewal, reissuance and extension of a permit shall be set forth by the administrative authority. There may be fees or requirements from other government agencies for permit extensions and renewals.

105.5 Expiration. Every permit issued shall become inactive or expired pursuant to Section 105.4.1 of this code and shall be renewed pursuant to Section 105.4.1.1 of this code before the work may resume. Permits that remain inactive or expired for more than six months shall lose all rights vested in the permit pursuant to Section 105.4.1.2 of this code. In order to complete the work authorized under a permit which has lost all vested rights, the permit holder and property owner shall be responsible to either remove the work from the site or obtain a new permit to complete all work in accordance with the current code requirements and approved permitted plans. Inspections performed and accepted prior to expiration may be accepted subject to the discretion of the Building Official.

105.5.1 The Building Official is authorized to reject new permit applications from a contractor who holds more than 5 inactive permits.

105.5.1.1 For the purposes of this subsection, a closed permit shall mean a permit for which all requirements for completion have been satisfied or a permit that has been administratively cancelled by the Building Official.

105.5.1.2 For the purposes of this subsection, an open permit shall mean a permit that has not satisfied all requirements for completion as defined in 105.5.1.1.

105.5.1.3 Contractors who hold more than 5 expired permits and are actively working to resolve them may obtain new permits subject to the approval of the Building Official.

105.5.2 The Building Official is authorized to administratively close expired or inactive trade permits more than 10 years after expiration when no safety hazard exists, and no code violations have been previously identified.

105.5.3 Closing out or resolving open or expired permits shall be the responsibility of the permit applicant and the property owner. Failure to close out or resolve open permits may result in a referral of the matter to the Palm Beach County Construction Industry Licensing Board (CILB) or Local Construction Regulation Board (LCRB), as applicable, and the Palm Beach County Code Enforcement Division.

105.6 Denial or revocation. Whenever a permit required under this section is denied or revoked because the plan, or the construction, erection, alteration, modification, repair, or demolition of a building, is found by the local enforcing agency to be not in compliance with the Florida Building Code, the local enforcing agency shall identify the specific plan or project features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the permit applicant. If the local building code administrator or inspector finds that the plans are not in compliance with the Florida Building Code, the local building code administrator or inspector shall identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the local enforcing agency. The local enforcing agency shall provide this information to the permit applicant.

105.6.1 Misrepresentation of application. The Building Official may revoke a permit or approval, issued under the provisions of this code, when there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

105.6.2 Violation of code provisions. The Building Official may require correction or revoke a permit upon determination by the Building Official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this code.

105.7 Placement of permit. The building permit or copy shall be kept on the site of the work until the completion of the project.

105.8 Notice of commencement. In accordance with Section 713.135, Florida Statutes, when any person applies for a building permit, the authority issuing such permit shall print on the face of each permit card in no less than 14-point, capitalized, boldfaced type:

“WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.”

105.9 Asbestos. The enforcing agency shall require each building permit for the demolition or renovation of an existing structure to contain an asbestos notification statement which indicates the owner’s or operator’s responsibility to comply with the provisions of Section 469.003, Florida Statutes, and to notify the Department of Environmental Protection of his or her intentions to remove asbestos, when applicable, in accordance with state and federal law. Refer to Section 105.3.6 “Asbestos Removal Contractor Exemption” of this code for additional requirements.

105.10 Certificate of protective treatment for prevention of termites. A weather-resistant job-site posting board shall be provided to receive duplicate treatment certificates as each required protective treatment is completed, providing a copy for the person the permit is issued to and another copy for the building permit files. The treatment certificate shall provide the product used, identity of the applicator, time and date of the treatment, site location, area treated, chemical used, percent concentration and number of gallons used, to establish a verifiable record of protective treatment. If the soil chemical barrier method for termite prevention is used, final exterior treatment shall be completed prior to final building approval. For a bait system, see Section 1816.1.7 of the Florida Building Code for contract document requirements.

105.11 Notice of termite protection. A permanent sign which identifies the termite treatment provider and need for reinspection and treatment contract renewal shall be provided. The sign shall be posted near the water heater or electric panel.

105.12 Work starting before permit issuance. Upon written request and approval of the Building Official, the scope of work delineated in the building permit application and plan may be started prior to the final approval and issuance of the permit, provided any work completed is entirely at risk of the permit applicant and the work does not proceed past the first required inspection. This provision only applies to the Florida Building Code, all other agency approvals necessary for construction must be secured prior to this provision being applied.

105.13 Phased permit approval. After submittal of the appropriate construction documents, the Building Official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's and owner's own risk with the building operation and without assurance that a permit for the entire structure will be granted. Corrections may be required to meet the requirements of the technical codes. This provision only applies to the Florida Building Code, all other agency approvals necessary for construction must be secured prior to this provision being applied.

105.14 Permit issued on basis of an affidavit. The Building Official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the technical codes. For buildings and structures, the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and, if accompanied by drawings, show the structural design and that the plans and design conform to the requirements of the technical codes as to strength, stresses, strains, loads and stability. Whenever a permit is issued in reliance upon an affidavit or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the Building Official, are hazardous or complex, the Building Official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations shall supervise such work. In addition, they shall be responsible for conformity to the permit, provide copies of inspection reports as inspections are performed, and upon completion make and file with the Building Official written affidavit that the work has been done in conformity to the reviewed plans and with the structural provisions of the technical codes. In the event such architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are reviewed by the Building Official. The Building Official shall ensure that any person conducting plans review is qualified as a plans examiner under Part XII of Chapter 468, Florida Statutes, and that any person conducting inspections is qualified as a building inspector under Part III of Chapter 468, Florida Statutes. Nothing hereof shall preclude plan review or inspections by the Building Official (See also Section 107.6 of this code.)

Exception: Permit issued on basis of an affidavit shall not extend to the flood load and flood resistance requirements of the Florida Building Code.

105.15 Opening protection. When any activity requiring a building permit, not including roof covering replacement or repair work associated with the prevention of degradation of the residence, that is applied for on or after July 1, 2008, and for which the estimated cost is \$50,000 or more for a site built single-family detached residential structure that is located in the wind borne debris region as defined in this Code and that has an insured value of \$750,000 or more, or, if the site built single-family detached residential structure is uninsured or for which documentation of insured value is not presented, has a just valuation for the structure for

purposes of ad valorem taxation of \$750,000 or more; opening protections as required within this Code or Florida Building Code, Residential for new construction shall be provided.

Exception: Single family residential structures permitted subject to the Florida Building Code are not required to comply with this section, unless constructed as a partially enclosed structure without opening protection.

105.16 Inspection of existing residential building not impacted by construction.

(a) A local enforcing agency, and any local building code administrator, inspector, or other official or entity, may not require as a condition of issuance of a one- or two-family residential building permit the inspection of any portion of a building, structure, or real property that is not directly impacted by the construction, erection, alteration, modification, repair, or demolition of the building, structure, or real property for which the permit is sought.

(b) This subsection does not apply to a building permit sought for:

1. A substantial improvement as defined in Section 161.54, Florida Statutes or as defined in the Florida Building Code.
2. A change of occupancy as defined in the Florida Building Code.
3. A conversion from residential to nonresidential or mixed use pursuant to Section 553.507(2)(a), Florida Statutes or as defined in the Florida Building Code.
4. A historic building as defined in the Florida Building Code.

(c) This subsection does not prohibit a local enforcing agency, or any local building code administrator, inspector, or other official or entity, from:

1. Citing any violation inadvertently observed in plain view during the ordinary course of an inspection conducted in accordance with the prohibition in paragraph (a).
2. Inspecting a physically nonadjacent portion of a building, structure, or real property that is directly impacted by the construction, erection, alteration, modification, repair, or demolition of the building, structure, or real property for which the permit is sought in accordance with the prohibition in paragraph (a).
3. Inspecting any portion of a building, structure, or real property for which the owner or other person having control of the building, structure, or real property has voluntarily consented to the inspection of that portion of the building, structure, or real property in accordance with the prohibition in paragraph (a).
4. Inspecting any portion of a building, structure, or real property pursuant to an inspection warrant issued in accordance with Sections 933.20-933.30, Florida Statutes.

105.17 Streamlined low-voltage alarm system installation permitting.

1. As used in this section, the term:
 - (a) "Contractor" means a person who is qualified to engage in the business of electrical or alarm system contracting pursuant to a certificate or registration issued by the Florida Department of Business and Professional Regulation under part II of Chapter 489, Florida Statutes or by the Palm Beach County Construction Industry Licensing Board under Chapter 67-1876, Laws of Florida.
 - (b) "Low-voltage alarm system project" means a project related to the installation, maintenance, inspection, replacement, or service of a new or existing alarm system, as defined in Section 489.505, Florida Statutes, that is hardwired and operating at low voltage, as defined in the National Electrical Code Standard 70, Current Edition, or a new or existing low-voltage electric fence, and ancillary components or equipment attached to such a system, or fence, including, but not limited to, home-automation equipment, thermostats, closed-circuit television systems, access controls, battery recharging devices and video cameras.
 - (c) "Low-voltage electric fence" means an alarm system, as defined in s. 489.505, that consists of a fence structure and an energizer powered by a commercial storage battery not exceeding 12 volts which produces an electric charge upon contact with the fence structure.
 - (d) "Wireless alarm system" means a burglar alarm system or smoke detector that is not hardwired.
2. Notwithstanding any provision of this Code, this section applies to all low-voltage alarm system projects for which a permit is required by a local enforcement agency. However, a permit is not required to install, maintain, inspect, replace, or service a wireless alarm system, including any ancillary components or equipment attached to the system.
3. A low-voltage electric fence must meet all of the following requirements to be permitted as a low-voltage alarm system project and no further permit shall be required for the low-voltage alarm system project other than as provided in this section:
 - (a) The electric charge produced by the fence upon contact must not exceed energizer characteristics set forth in paragraph 22.108 and depicted in Figure 102 of International Electrotechnical Commission Standard No. 60335-2-76, Current Edition.
 - (b) A nonelectric fence or wall must completely enclose the low-voltage electric fence. The low-voltage electric fence may be up to 2 feet higher than the perimeter nonelectric fence or wall.
 - (c) The low-voltage electric fence must be identified using warning signs attached to the fence at intervals of not more than 60 feet.
 - (d) The low-voltage electric fence shall not be installed in an area zoned exclusively for single-family or multi-family residential use.

- (e)** The low-voltage electric fence shall not enclose the portions of a property which are used for residential purposes.
- 4.** This section does not apply to the installation or replacement of a fire alarm, or access control system affecting required means of egress as required by Florida Building Code Chapter 10, if a plan review is required.
- 5.** A local enforcement agency shall make uniform basic permit labels available for purchase by a contractor to be used for the installation or replacement of a new or existing alarm system at a cost as indicated in Section 553.793, Florida Statutes. The local enforcement agency may not require the payment of any additional fees, charges, or expenses associated with the installation or replacement of a new or existing alarm.
 - (a)** A local enforcement agency may not require a contractor, as a condition of purchasing a label, to submit information other than identification information of the licensee and proof of registration or certification as a contractor.
 - (b)** A label is valid for 1 year after the date of purchase and may only be used within the jurisdiction of the local enforcement agency that issued the label. A contractor may purchase labels in bulk for one or more unspecified current or future projects.
- 6.** A contractor shall post an unused uniform basic permit label in a conspicuous place on the premises of the low-voltage alarm system project site before commencing work on the project.
- 7.** A contractor is not required to notify the local enforcement agency before commencing work on a low-voltage alarm system project. However, a contractor must submit a Uniform Notice of a Low-Voltage Alarm System Project as provided under subsection (7) to the local enforcement agency within 14 days after completing the project. A local enforcement agency may take disciplinary action against a contractor who fails to timely submit a Uniform Notice of a Low-Voltage Alarm System Project.
- 8.** The Uniform Notice of a Low-Voltage Alarm System Project may be submitted electronically or by facsimile if all submissions are signed by the owner, tenant, contractor, or authorized representative of such persons. The Uniform Notice of a Low-Voltage Alarm System Project shall be in the format prescribed by the local enforcement agency and must comply with the requirements of Section 553.793(7), Florida Statutes.
- 9.** A local enforcement agency may coordinate directly with the owner or customer to inspect a low-voltage alarm system to ensure compliance with applicable codes and standards. If a low-voltage alarm system project fails an inspection, the contractor must take corrective action as necessary to pass inspection.
- 10.** A municipality, county, district, or other entity of local government may not adopt or maintain in effect any ordinance or rule regarding a low-voltage alarm system project that is inconsistent with this section.

11. A uniform basic permit label shall not be required for the subsequent maintenance, inspection, or service of an alarm system that was permitted in accordance with this section.

The provisions of this act are not intended to impose new or additional licensure requirements on persons licensed in accordance with the applicable provisions of chapter 489, Florida Statutes.

SECTION 106 FLOOR AND ROOF DESIGN LOADS

106.1 Live loads posted. Where the live loads for which each floor or portion thereof of a commercial or industrial building is or has been designed to exceed 50 psf (2.40 kN/m²), such design live loads shall be conspicuously posted by the owner or the owner's authorized agent in that part of each story in which they apply, using durable signs. It shall be unlawful to remove or deface such notices. For residential construction where roof trusses have been designed for 30 psf for light attic storage, a durable sign shall be posted in the attic area at final building inspection.

106.2 Issuance of certificate of occupancy. A certificate of occupancy required by Section 111 of this code shall not be issued until the floor and attic load signs, required by Section 106.1 of this code, have been installed.

106.3 Restrictions on loading. It shall be unlawful to place, or cause or permit to be placed, on any floor or roof of a building, structure or portion thereof, a load greater than is permitted by this code.

SECTION 107 SUBMITTAL DOCUMENTS

107.1 General. Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted in two or more sets with each permit application. The construction documents shall be prepared by a registered design professional where required by Chapter 471, Florida Statutes & 61G15 Florida Administrative Code (FAC) or Chapter 481, Florida Statutes & 61G1 FAC. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional. Electronic media documents shall be submitted when required by the Building Official, in a format acceptable to the Building Official, and may require only one set of submittals.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

If the design professional is an architect, interior designer, or engineer legally registered under the laws of the State of Florida regulating the practice of architecture or interior design as provided for in Chapter 481, Florida Statutes, Part I, or landscape architecture as provided for in Chapter 481, Florida Statutes, Part II, or engineering as provided for in Chapter 471, Florida

Statutes, then he or she shall affix his or her official seal to said drawings, specifications and accompanying data, as required by Florida Statute.

107.2 Construction documents. Construction documents shall be in accordance with Sections 107.2.1 through 107.2.6 of this code.

107.2.1 Information on construction documents.

Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the Building Official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the Building Official. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the technical codes. Such information shall be specific, and the technical codes shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used as a substitute for specific information. All information, drawings, specifications and accompanying data shall bear the name and signature of the person responsible for the design. (See also Section 107.1 of this code.)

107.2.1.1 For roof assemblies required by this code, the construction documents shall illustrate, describe and delineate the type of roofing system, materials, fastening requirements, flashing requirements and wind resistance rating that are required to be installed. Product evaluation and installation shall indicate compliance with the wind criteria required for the specific site or a statement by an architect or engineer certifying suitability for the specific site must be submitted with the construction documents.

107.2.1.2 Additional data. The Building Official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the Building Official to be prepared by an architect or engineer shall be affixed with their official seal, signature and date as state law requires.

107.2.1.3 Quality of building plans. Building plans shall be drawn to a minimum 1/8-inch scale upon substantial paper, cloth or other acceptable medium. The Building Official may establish, through Department policy, other standards for plans and specifications, including electronic format, in order to provide conformity to its electronic permit review and record retention program. This policy may include such things as minimum size, shape, contrast, clarity, or other items related to records management. Electronic media must be compatible with the archive requirements.

107.2.2 Fire protection system shop drawings. Shop drawings for the fire protection system(s) shall be submitted to indicate conformance to this code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9 of the Florida Building Code.

107.2.3 Means of egress. The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress including

the exit, the exit access, and the path of the exit discharge to the public way in compliance with the provisions of this code. In other than occupancies in Groups R-2, R-3, and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

107.2.4 Exterior wall envelope. Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings.

The construction documents shall include manufacturer's installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, where applicable, as well as the test procedure used.

107.2.5 Site plan. The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines and between buildings, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The site plan shall include accessible parking and accessible routes as required by the FBC Accessibility when applicable. The Building Official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

107.2.5.1 Design flood elevations. Where design flood elevations are not specified, they shall be established in accordance with Section 1612.3.1 of this code.

107.2.5.2 For the purpose of inspection and record retention, site plans for a building may be maintained in the form of an electronic copy at the worksite. These plans must be open to inspection by the Building Official or a duly authorized representative, as required by the Florida Building Code.

107.2.6 Structural information. The construction documents shall provide the information specified in Section 1603 of this code and include shoring details, where applicable, for new construction and alterations. Where construction includes excavation, shoring details shall demonstrate protection of the angle of repose for foundation systems of existing adjacent structures.

107.3 Examination of documents. The Building Official shall examine or cause to be examined the accompanying submittal documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

Exceptions:

1. Building plans approved pursuant to Section 553.77(5), Florida Statutes, and state-approved manufactured buildings are exempt from local codes enforcing agency plan reviews except for provisions of the code relating to erection, assembly or construction at the site. Erection, assembly (including utility crossover connections) and construction at the site are subject to local permitting and inspections. Photocopies of plans approved according to FAC 61-41.009, Florida Administrative Code, shall be sufficient for local permit application documents of record for the modular building portion of the permitted project.
2. Industrial construction on sites where design, construction and fire safety are supervised by appropriately licensed design and inspection professionals and which contain adequate in-house fire departments and rescue squads is exempt, subject to approval by the Building Official, from review of plans and inspections, providing the appropriate licensed design and inspection professionals certify that applicable codes and standards have been met and supply appropriate approved drawings to local building and fire-safety inspectors.

107.3.1 Approval of construction documents. When the Building Official issues a permit, the construction document shall be approved, in writing or by stamp, as “Reviewed for Code Compliance.” One set of construction documents so reviewed shall be retained by the Building Official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the Building Official or a duly authorized representative.

107.3.2 Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within six months after the effective date of this code and has not been abandoned.

107.3.3 Phased approval. (See also Section 105.13 of this code.) The Building Official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder’s and owner’s own risk with the building operation and without assurance that a permit for the entire structure will be granted. This provision only applies to the Florida Building Code; all other agency approvals necessary for construction must be secured prior to this provision being applied.

107.3.4 Design professional in responsible charge. Where it is required that documents be prepared by a registered design professional, the Building Official shall be authorized to require the owner or the owner’s authorized agent to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner or the owner’s authorized agent shall designate a substitute registered design professional in responsible

charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Official shall be notified in writing by the owner or the owner's authorized agent if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. Those products which are regulated by FAC Rule 61G20 shall be reviewed and approved in writing by the designer of record prior to submittal for jurisdictional approval.

107.3.4.1 Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the Building Official. The Building Official may specify the timing of deferred submittals.

Deferral of any submittal items shall have the prior approval of the Building Official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the Building Official.

Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the Building Official with a notation indicating that the deferred submittal documents have been reviewed and found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the deferred submittal documents have been approved by the Building Official.

107.3.4.2 Certifications by contractors authorized under the provisions of Section 489.115(4)(b)2, Florida Statutes, shall be considered equivalent to sealed plans and specifications by a person licensed under Chapter 471, Florida Statutes, or Chapter 481 Florida Statutes, by local enforcement agencies for plans review for permitting purposes relating to compliance with the wind-resistance provisions of the code or alternate methodologies approved by the Florida Building Commission for one- and two-family dwellings. Local enforcement agencies may rely upon such certification by contractors that the plans and specifications submitted conform to the requirements of the code for wind resistance. Upon good cause shown, local government code enforcement agencies may accept or reject plans sealed by persons licensed under Chapters 471, 481 or 489, Florida Statutes.

107.3.5 Minimum plan review criteria for buildings. The examination of the documents by the Building Official shall include the following minimum criteria and documents: a floor plan; site plan; foundation plan; floor/roof framing plan or truss layout; all fenestration penetrations; flashing; and rough opening dimensions; and all exterior elevations:

Commercial Buildings:

Building

1. Site requirements:

- Parking
- Fire access
- Vehicle loading
- Driving/turning radius
- Fire hydrant/water supply/post indicator valve (PIV)
- Set back/separation (assumed property lines)
- Location of specific tanks, water lines and sewer lines
- Flood hazard areas, flood zones, and design flood elevations

2. Occupancy group and special occupancy requirements shall be determined.
3. Minimum type of construction shall be determined (see Table 503).
4. Fire-resistant construction requirements shall include the following components:
 - Fire-resistant separations
 - Fire-resistant protection for type of construction
 - Protection of openings and penetrations of rated walls
 - Fire blocking and draft stopping and calculated fire resistance
5. Fire suppression systems shall include:
 - Early warning smoke evacuation systems
 - Schematic fire sprinklers
 - Standpipes
 - Pre-engineered systems
 - Riser diagram
6. Life safety systems shall be determined and shall include the following requirements:
 - Occupant load and egress capacities
 - Early warning
 - Smoke control
 - Stair pressurization
 - Systems schematic
 - Safeguards during construction, as applicable
7. Occupancy load/egress requirements shall include:
 - Occupancy load
 - Gross
 - Net
 - Means of egress
 - Exit access
 - Exit
 - Exit discharge
 - Stairs construction/geometry and protection
 - Doors
 - Emergency lighting and exit signs
 - Specific occupancy requirements
 - Construction requirements
 - Horizontal exits/exit passageways

8. Structural requirements shall include:

- Soil conditions/analysis
- Termite protection
- Design loads
- Wind requirements
- Building envelope (including Section 107.2.4 of this code)
- Impact resistant coverings or systems
- Structural calculations (if required)
- Foundation
- Flood requirements in accordance with Section 1612 of this code, including lowest floor elevations, enclosures, flood damage-resistant materials
- Wall systems
- Floor systems
- Roof systems
- Threshold inspection plan
- Stair systems

9. Materials shall be reviewed and shall at a minimum include the following:

- Wood
- Steel
- Aluminum
- Concrete
- Plastic
- Glass
- Masonry
- Gypsum board and plaster
- Insulating (mechanical)
- Roofing
- Insulation
- Building envelope portions of the Energy Code (including calculation and mandatory requirements)

10. Accessibility requirements shall include the following:

- Site requirements
- Accessible route
- Vertical accessibility
- Toilet and bathing facilities
- Drinking fountains
- Equipment
- Special occupancy requirements
- Fair housing requirements

11. Interior requirements shall include the following:

- Interior finishes (flame spread/smoke development)
- Light and ventilation
- Sanitation

12. Special systems:

- Elevators

Escalators
Lifts

13. Commercial Energy Code submittal

- 14. Swimming pools:**
Barrier requirements
Spas
Wading pools

15. Location and installation details. The specific location and installation details of each fire door, fire damper, ceiling damper and smoke damper shall be shown and properly identified on the building plans by the designer.

Electrical

1. Electrical:
 - Wiring
 - Services
 - Feeders and branch circuits
 - Overcurrent protection
 - Grounding
 - Wiring methods and materials
 - GFCIs
 - Electrical requirements of the Energy Code
2. Equipment
3. Special occupancies
4. Emergency systems
5. Communication systems
6. Low voltage
7. Load calculations
8. Design flood elevation

Plumbing

1. Minimum plumbing facilities
2. Fixture requirements
3. Water supply piping
4. Sanitary drainage

5. Water heaters
6. Vents
7. Roof drainage
8. Back flow prevention
9. Irrigation
10. Location of water supply line
11. Grease traps
12. Environmental requirements
13. Plumbing riser
14. Design flood elevation

Mechanical

1. Energy calculations
2. Exhaust systems:
 - Clothes dryer exhaust
 - Kitchen equipment exhaust
 - Specialty exhaust systems
3. Equipment
4. Equipment location
5. Make-up air
6. Roof-mounted equipment
7. Duct systems
8. Ventilation
9. Combustion air
10. Chimneys, fireplaces and vents
11. Appliances
12. Boilers

13. Refrigeration

14. Bathroom ventilation

15. Laboratory

16. Design flood elevation

Gas

1. Gas piping

2. Venting

3. Combustion air

4. Chimneys and vents

5. Appliances

6. Type of gas

7. Fireplaces

8. LP tank location

9. Riser diagram/shutoffs

10. Design flood elevation

Demolition

1. Asbestos removal

Residential (one- and two-family)

1. Site requirements:

Set back/separation (assumed property lines)

Location of septic tanks

2. Fire-resistant construction (if required)

3. Fire protection systems, when required

4. Smoke detector locations

5. Egress

Egress window size and location, stairs construction requirements

6. Structural requirements shall include:
 - Wall section from foundation through roof, including assembly and materials, connector tables, wind requirements, and structural calculations (if required)
 - Termite protection
 - Design loads
 - Wind requirements
 - Building envelope (including Section 107.2.4 of this code)
 - Structural calculations (if required)
 - Foundation
 - Wall systems
 - Floor systems
 - Roof systems
7. Flood hazard areas, flood zones, design flood elevations, lowest floor elevations, enclosures, equipment, and flood damage-resistant materials
8. Accessibility requirements: show/identify accessible bath
9. Impact resistant coverings or systems
10. Residential Energy Code submittal
11. Electrical:
 - Electric service riser with wire sizes, conduit detail and grounding detail
 - Complete load calculations, Panel schedules
12. Mechanical:
 - Equipment and location, Duct systems
13. Plumbing:
 - Plumbing riser
14. Gas:
 - Gas piping
 - Venting
 - Combustion air
 - Chimneys and vents
 - Appliances
 - Type of gas
 - Fireplaces
 - LP tank location
 - Riser diagram/shutoffs
15. Swimming Pools
 - Barrier requirements
 - Spas
 - Wading pools

Exemptions

Plans examination by the Building Official shall not be required for the following work:

1. Replacing existing equipment such as mechanical units, water heaters, etc.;
2. Reroofs (as determined by the Building Official);
3. Minor electrical, plumbing and mechanical repairs;
4. Annual maintenance permits;
5. Prototype plans:
Except for local site adaptations, siding, foundations and/or modifications.
Except for structures that require waiver; and
6. Manufactured buildings plan except for foundations and modifications of buildings on site and as listed below in manufactured buildings/housing.

Manufactured buildings/housing

1. Site requirements
Setback/separation (assumed property lines)
Location of septic tanks (if applicable)
2. Structural Wind zone
Anchoring
Blocking
3. Plumbing
List potable water source and meter size (if applicable)
4. Mechanical Exhaust systems
Clothes dryer exhaust
Kitchen equipment exhaust
5. Electrical exterior disconnect location

107.4 Amended construction documents. Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended/revised set of construction documents.

107.5 Retention of construction documents. One set of approved construction documents shall be retained by the Building Official for a period of not less than six months from date of completion of the permitted work, or as required by state or local laws.

107.6 Affidavits. The Building Official may accept a sworn affidavit from a registered architect or engineer stating that the plans submitted conform to the technical codes. For buildings and structures, the affidavit shall state that the plans conform to the laws as to egress, type of

construction and general arrangement and, if accompanied by drawings, show the structural design and that the plans and design conform to the requirements of the technical codes as to strength, stresses, strains, loads and stability. The Building Official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the Building Official copies of inspection reports as inspections are performed and upon completion of the structure, electrical, gas, mechanical or plumbing systems a certification that the structure, electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the technical codes. Where the Building Official relies upon such affidavit, the architect or engineer shall assume full responsibility for compliance with all provisions of the technical codes and other pertinent laws or ordinances. The Building Official shall ensure that any person conducting plans review is qualified as a plans examiner under Part XII of Chapter 468, Florida Statutes, and that any person conducting inspections is qualified as a building inspector under Part XII of Chapter 468, Florida Statutes. Nothing shall preclude plan review or inspections by the Building Official (See also Section 105.14 of this code.)

107.6.1 Building permits issued on the basis of an affidavit in special flood hazard areas. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Parts 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Sections 105.14 and 107.6 of this code, shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.

SECTION 108 TEMPORARY STRUCTURES AND USES

108.1 General. The Building Official is authorized to require a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service but shall not be permitted for more than six months. The Building Official is authorized to grant extensions for demonstrated cause.

108.2 Conformance. Temporary structures and uses shall comply with the requirements in Section 3103 of this code.

108.3 Temporary power. The Building Official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in NFPA 70 (National Electrical Code [NEC]).

108.4 Termination of approval. The Building Official is authorized to terminate a permit for a temporary structure or use and to order the temporary structure be removed or the use be discontinued.

SECTION 109 FEES

109.1 Payment of fees. An application shall not be valid and shall not be reviewed until the applicable fees have been paid. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

109.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

109.3 Building permit valuations. The applicant for a permit shall provide an estimated permit value at time of application. For permitting purposes, permit valuations shall include total replacement value of work, including materials and labor, for which the permit is being issued, such as structural, electrical, gas, mechanical, plumbing equipment, interior finish, related site work, architectural and design fees, marketing costs, overhead, and profit, excluding only land value. Valuation references may include the latest published data of national construction cost analysis services, such as Marshall-Swift, Means, etc., or as published by International Code Council. If, in the opinion of the Building Official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed quantity estimates, or bona fide signed contracts, acceptable to the Building Official. Final building permit valuation shall be set by the Building Official.

109.4 Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits or without prior approval from the Building Official as permitted in Section 105.2.2 or 105.12 of this code shall be subject to a penalty fee established by the Building Official that shall be in addition to the required permit fees or as provided by local ordinance. This provision shall not apply to emergency work when delay would clearly have placed life or property in imminent danger. But in all such cases the required permit(s) must be applied for within three (3) business days and any unreasonable delay in obtaining those permit(s) shall result in the charge of a penalty fee. The payment of a penalty fee shall not preclude or be deemed a substitute for prosecution for commencing work without first obtaining a permit. The Building Official may grant extensions of time or waive fees when justifiable cause has been demonstrated in writing.

109.5 Related fees. The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

109.6 Refunds. The Executive Building Official is authorized to establish a refund policy.

SECTION 110 INSPECTIONS

110.1 General. Construction or work for which a permit is required shall be subject to inspection by the Building Official and such construction or work shall remain accessible and exposed for inspection purposes until approved.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to

give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the owner or the owner's authorized agent to cause the work to remain accessible and exposed for inspection purposes. The Building Official shall be permitted to require a boundary line survey prepared by a qualified surveyor whenever the boundary lines cannot be readily determined in the field. Neither the Building Official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

110.1.1 Manufacturers and fabricators. When deemed necessary by the Building Official, he/she shall make, or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and of all violations of the technical codes.

110.1.2 Inspection service. The Building Official may make, or cause to be made, the inspections required by Section 110 of this code. He or she may accept reports of department inspectors, independent inspectors, or of recognized inspection services, provided that after investigation he/she is satisfied as to their licensure, qualifications and reliability. A certificate required by any provision of this code shall not be based on such reports unless the same are certified by the building code inspector or the architect or engineer performing building code inspections in a manner specified by the Building Official. The Building Official shall ensure that all persons making such inspections shall be certified in accordance to Chapter 468 Florida Statutes.

The Building Official may require the owner to employ an inspection service in the following instances:

1. For buildings or additions of Type I construction;
2. For all major structural alterations;
3. Where the concrete design is based on compressive strength in excess of 3000 pounds per square inch;
4. For pile driving;
5. For buildings with an area greater than 20,000 square feet;
6. For buildings more than two stories in height; or
7. For buildings and structures of unusual design or methods of construction.

Such inspectors shall be present when work is underway on the structural elements of the building to adequately attest to its compliance. Such inspectors shall be a registered architect or engineer. An employee of the architect or engineer licensed under Chapter 468, Part XII, Florida Statutes may perform the inspections under the direction of and with final certification from the architect or engineer. Such inspectors shall submit weekly progress reports including the daily inspections to the Building Official and including a code compliance opinion of the resident inspector.

At the completion of the construction work or project, the architect or engineer shall submit a certificate of compliance to the Building Official, stating that the work was done in compliance with this code and in accordance with the permitted drawing. Final inspection shall be made by the Building Official before a Certificate of Occupancy or Certificate of Completion is issued; and confirmation inspections may be made at any time to monitor activities and resident inspectors.

110.1.3 Affidavit for inspection. With specific prior approval of, and in a format acceptable to the Building Official, an affidavit for certification of inspection may be accepted from the permit qualifier; when accompanied by extensive photographic evidence of sufficient detail to demonstrate code compliance. The photographic evidence shall be comprehensive in the display of the installation and/or construction and job location identifiers. The affidavit and accompanying photographs shall be provided to the inspector onsite, at the next scheduled inspection. If the photographs are found to be insufficient by the Building Official to demonstrate compliance with this code and/or the permitted document, or clearly display location identifiers, or are missing, the inspector shall require the contractor to obtain the services of a registered Florida professional engineer to inspect and certify the installation and/or construction.

110.1.3.1 Exception: Affidavits may not be accepted for inspection of elements of construction which require inspection by the local jurisdiction under the requirements of Title 44, Code of Federal Regulations, Parts 59 and 60, and the local flood damage prevention ordinance.

110.2 Preliminary inspection. Subject to the limitations of Florida Statutes Chapter 553, before issuing a permit, the Building Official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

110.2.1 Existing building inspections. Before issuing a permit, the Building Official may examine or cause to be examined any building, electrical, gas, mechanical, or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install, or change the occupancy. The Building Official may inspect the buildings, structures, electrical, gas, mechanical and plumbing systems, from time to time, before, during and upon completion of the work for which a permit was issued. The Building Official shall make a record of every such examination and inspection and of all observed violations of the technical codes. Additional regulations in the Florida Building Code, Existing Building Volume, may apply.

110.3 Required inspections. The Building Official upon notification from the permit holder or his or her agent shall make the following inspections, or any other such inspection as deemed necessary and shall either release that portion of the construction or shall notify the permit holder or his or her agent of any violations which must be corrected in order to comply with the technical codes. The Building Official shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection. A complete survey, or special purpose survey may be required before an inspection is approved.

Building

1. Foundation inspection. To be made after trenches are excavated, any required reinforcing steel is in place, forms erected and shall at a minimum include the following building components:

- Stem-wall
- Monolithic slab-on-grade
- Piling/pile caps
- Footers/grade beams

1.1 Slab Inspection. Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

A foundation/Form board survey prepared and certified by a registered surveyor may be required, prior to approval of the slab inspection. The survey shall certify placement of the building on the site, illustrate all surrounding setback dimensions and shall be available at the job site for review by the building inspector. In lieu of providing a survey, the contractor may elect to uncover all property line markers and string-up all property lines in preparation for inspection.

1.2 In flood hazard areas, upon placement of the lowest floor, including basement, and prior to further vertical construction, the elevation certification, as required in Section 1612.5 of this code, shall be submitted to the Building Official.

2. Shell Inspections

2.1 Lintel/tie beams/columns/masonry units. To be made after masonry units, forms, reinforcing steel, shoring, conduit, piping accessories, and other ancillary equipment items are in place, but before any concrete is placed.

2.2 Sheathing inspection. To be made either as part of a dry-in inspection or done separately at the request of the contractor after all roof and wall sheathing and fasteners are complete and shall at a minimum include the following building components:

- Roof sheathing
- Wall sheathing
- Continuous air barrier
- Floor sheathing
- Sheathing fasteners
- Roof/wall dry-in.
- Gypsum board, as required
- Sheathing/cladding inspection

NOTE: Sheathing fasteners installed and found to be missing the structural member (shiners) shall be corrected prior to installation of the dry-in material.

2.3 Roofing inspection. Shall at a minimum be made in at least two inspections and include the following building components:

- Dry-in
- Insulation
- Roof coverings (including In Progress as necessary)
- Insulation on roof deck (according to submitted energy calculation)
- Flashing

2.3.1 Re-Roof sheathing inspection. An affidavit with a notarized signature of a state or locally licensed roofing contractor for the installation of additional sheathing fasteners as required by the Existing Building Code may be accepted at the discretion of the Building Official.

2.4. Framing inspection. To be made after the roof deck or sheathing, all framing, fire blocking and bracing is in place, all concealed wiring, all pipes, chimneys, ducts and vents are complete and are approved and shall at a minimum include the following building components:

- Window/door framing and installation
- Window U-factor/SHGC as indicated on approved calculations
- Vertical cells/columns complete, if applicable
- Lintel/tie beams complete, if applicable
- Framing/trusses/bracing/connectors (including truss layout and engineered drawings)
- Draft stopping/fire blocking
- Fire resistant assemblies, joints, and penetrations, as required
- Curtain wall/ bearing wall framing
- Accessibility.
- Verify rough opening dimensions are within tolerances.
- Window/door buck attachment

2.5 Insulation Inspection: To be made after the framing inspection is approved and the insulation is in place, according to approved energy calculation submittal. Includes wall and ceiling insulation, thermal and ignition barriers.

2.6 Lath and gypsum board inspection. Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished.

Exception: Gypsum board that is not part of a fire-resistance-rated assembly or a shear assembly in a single-family dwelling, unless otherwise determined by the Building Official.

3. Final inspection. To be made after the building is completed, all sub-trade inspections have passed, and the structure is ready for occupancy.

3.1. In flood hazard areas, as part of the final inspection, a final certification of the lowest floor elevation shall be submitted to the authority having jurisdiction.

Swimming Pools

1. First inspection to be made after excavation and installation of reinforcing steel, bonding and main drain and prior to placing of concrete shell.

2. Steel reinforcement inspection
3. Underground electric inspection.
4. Underground piping inspection including a pressure test.
5. Underground electric inspection under deck area (including the equipotential bonding)
6. Underground piping inspection under deck area.
7. Deck inspection: to be made prior to installation of the deck material (with forms, deck drains, and any reinforcement in place
8. Safety Inspection: Made prior to filling the pool with the bonding connections made, the proper drain covers installed and the final barriers installed.
9. Final pool piping.
10. Final Electrical inspection.
11. Final inspection to be made when the swimming pool is complete and all required enclosure requirements are in place.

In order to pass final inspection and receive a certificate of completion, a residential swimming pool must meet the requirements relating to pool safety features as described in Section 454.2.17 of this code

Demolition Inspections

1. First inspection (pre-demolition) to be made after all utility connections have been disconnected and secured in such manner that no unsafe or unsanitary conditions shall exist during or after demolition operations.
2. Final inspection (post-demolition) to be made after all demolition work is completed.

Manufactured Building Inspections

1. The building department shall inspect construction of foundations; connecting buildings to foundations; installation of parts identified on plans as site installed items, joining the modules, including utility crossovers; utility connections from the building to utility lines on site; and any other work done on site which requires compliance with the Florida Building Code. (See also Section 107.3.5 Manufactured/Modular Buildings of this code.) Additional inspections may be required for public educational facilities (see Section 453.27.20 of this code).

Impact Resistant Coverings

Where impact resistant coverings or impact resistant systems are installed, the Building Official shall perform inspections, at the request of the applicant, on all impact resistant coverings or impact resistant systems to determine the following:

The system indicated on the plans was installed.

The system is installed in accordance with the manufacturer's installation instructions and the product approval.

Electrical

1. Underground inspection. To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.
2. Rough-in inspection. To be made after the roof, framing, fire blocking and bracing is in place and prior to the installation of wall or ceiling membranes.
3. Power release inspection. To be made after the building electrical system is substantially complete, or completed in phases, with all circuitry installed and electrical fixtures and devices in place, or properly tagged and safed-off.
4. Final inspection. To be made after the building electrical system is complete, all required electrical fixtures are in place and properly connected, tested, and the structure is ready for occupancy.
5. Existing Swimming Pools. To be made after all repairs or alterations are complete, all required electrical equipment, GFCI protection, and equipotential bonding are in place on said alterations or repairs.

Plumbing

1. Underground inspection. To be made after trenches or ditches are excavated, piping installed, and before backfill is put in place.
2. Rough-in inspection. To be made after the roof, framing, fire blocking and bracing is in place and all soil, waste, vent, water, and other piping is complete, and prior to this installation of wall or ceiling membranes.
3. Final inspection. To be made after the building plumbing system is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

NOTE: See Section 312 of the Florida Building Code, Plumbing for required tests.

Mechanical

1. Underground inspection. To be made after trenches or ditches are excavated, underground duct and fuel piping installed, and before backfill is put in place.

2. Rough-in inspection. To be made after the roof, framing, fire blocking and bracing are in place and all ducting, and other concealed components are complete, and prior to the installation of wall or ceiling membranes.
3. Final inspection. To be made after the building mechanical system is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.

Gas

1. Underground piping and tanks. To be made after trenches or ditches are excavated, underground gas piping is installed, and before backfill is put in place.
2. Rough piping inspection. To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.
3. Final piping inspection. To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.
4. Final inspection. To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes, to ensure compliance with all the requirements of this code and to assure that the installation and construction of the gas system is in accordance with reviewed plans.

Site Debris

1. The contractor and/or owner of any active or inactive construction project shall be responsible for the cleanup and removal of all construction debris or any other miscellaneous discarded articles during the course of the construction project and prior to receiving final inspection approval. Construction job sites must be kept clean and in a safe condition at all times. (See also Section 110.9 of this code)
2. All debris shall be kept in such a manner as to prevent it from being spread by any means.

110.3.1 Footing and foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job. (See also Section 110.3 of this code)

110.3.2 Concrete slab and under-floor inspection. (See Section 110.3, Building 1.1 of this code.)

110.3.3 Lowest floor elevation. (See Section 110.3, Building 1.2 of this code.)

110.3.4 Frame inspection. (See Section 110.3, Shell 2.4 of this code.)

110.3.5 Lath, gypsum board and gypsum panel product inspection. (See Section 110.3, Shell 2.6 of this code.)

110.3.6 Fire- and smoke-resistant penetrations. Protection of joints and penetrations in fire-resistance rated assemblies, smoke barriers and smoke partition shall not be concealed from view until inspected and approved by the Building Official.

110.3.7 Energy efficiency inspections. Inspections shall be made to determine compliance with FBC, Energy Conservation and confirm with the approved energy code submittal (by appropriate trade) and corresponding mandatory requirements and shall include, but not be limited to, inspections for: corresponding envelope insulation R- and U-values, fenestration U-value and Solar Heat Gain Coefficient, duct system R-value, and HVAC, lighting, electrical and water-heating equipment efficiency.

110.3.8 Other inspections. In addition to the inspections specified in Sections 110.3 through 110.3.7 of this code, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the Building Division.

110.3.9 Special inspections. (Reserved).

110.3.10 Final inspection. The final inspection shall be made after all work required by the building permit is completed.

110.3.10.1 Flood hazard documentation. For properties located in a flood hazard area, all required documentation shall be submitted to the Building Official at the time of the final inspection.

110.3.10.2 Energy Code documentation. As required by Section C408.2.4.1 of the Energy Conservation Volume, confirmation that the preliminary commissioning report has been received by building owner shall be provided at the time of final mechanical inspection.

110.3.11 Termites. Building components and building surroundings required to be protected from termite damage in accordance with Section 1503.7, Section 2304.13 or Section 2304.11.6 of this code, specifically required to be inspected for termites in accordance with Section 2114 of this code, or required to have chemical soil treatment in accordance with Section 1816 of this code shall not be covered or concealed until the release from the Building Official has been received. (See also 105.10 and 105.11 of this code.)

110.3.12 Impact resistant coverings or systems. Where impact resistant coverings or systems are installed to meet requirements of this code, the Building Official shall schedule adequate inspections of impact resistant coverings or systems to determine the following:

1. The system indicated on the plans was installed.

2. The system is installed in accordance with the manufacturer's installation instructions and the product approval.

110.3.13 Reinforcing steel and structural frames. Reinforcing steel or structural frame work of any part of any building or structure shall not be covered or concealed without first obtaining a release from the Building Official. Certification that field welding and structural bolted connections meet design requirements shall be submitted to the Building Official, upon request.

110.4 Inspection agencies. The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

110.5 Inspection requests. It shall be the duty of the holder of the building permit or their duly authorized agent to notify the Building Official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

110.6 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

110.7 Shoring. For threshold buildings, shoring and associated formwork or falsework shall be designed and inspected by a Florida licensed professional engineer, prior to any required mandatory inspections by the threshold building inspector.

110.7.1 Other shoring. The Building Official may require engineered shoring drawings and procedures for reshoring for temporary support of vertical and horizontal loads and stabilization of foundation soils when applicable. Inspections are required to ensure the shoring is installed in accordance with the approved engineered shoring drawings. The Building Official may require the inspections to be made by qualified third parties when deemed necessary. (See also Section 110.1.2 Inspection Services of this code.)

110.8 Threshold building.

110.8.1 The enforcing agency shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to the enforcing agency prior to the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plans is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents. The special inspector may not serve as a surrogate in carrying out the responsibilities of the Building Official, the architect, or the engineer of record. The contractor's contractual or statutory obligations are not relieved by any action of the special inspector.

110.8.2 The special inspector shall determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height, occupancy, occupancy classification, or number-of-stories criteria which would result in classification as a threshold building under Section 553.71(7), Florida Statutes, may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code.

110.8.3 The fee owner of a threshold building shall select and pay all costs of employing a special inspector, but the special inspector shall be responsible to the enforcement agency. The inspector shall be a person certified, licensed or registered under Chapter 471, Florida Statutes, as an engineer or under Chapter 481, Florida Statutes, as an architect.

110.8.4 Each enforcement agency shall require that, on every threshold building:

110.8.4.1 The special inspector, upon completion of the building and prior to the issuance of a certificate of occupancy, file a signed and sealed statement with the enforcement agency in substantially the following form: "To the best of my knowledge and belief, the above described construction of all structural load-bearing components complies with the permitted documents, and the shoring and reshoring conforms to the shoring and reshoring plans submitted to the enforcement agency."

110.8.4.2 Any proposal to install an alternate structural product or system to which building codes apply be submitted to the enforcement agency for review for compliance with the codes and made part of the enforcement agency's recorded set of permit documents.

110.8.4.3 All shoring and reshoring procedures, plans and details be submitted to the enforcement agency for recordkeeping. Each shoring and reshoring installation shall be supervised, inspected and certified to be in compliance with the shoring documents by the contractor.

110.8.4.4 All plans for the building which are required to be signed and sealed by the architect or engineer of record contain a statement that, to the best of the architect's or engineer's knowledge, the plans and specifications comply with the applicable minimum building codes and the applicable fire-safety standards as determined by the local authority in accordance with this Section and Chapter 633, Florida Statutes.

110.8.5 No enforcing agency may issue a building permit for construction of any threshold building except to a licensed general contractor, as defined in Section 489.105(3)(a), Florida Statutes, or to a licensed building contractor, as defined in Section 489.105(3)(b), Florida Statutes, within the scope of her or his license. The named contractor to whom the building permit is issued shall have the responsibility for supervision, direction, management and control of the construction activities on the project for which the building permit was issued.

110.8.6 The building department may allow a special inspector to conduct the minimum structural inspection of threshold buildings required by this code, Section 553.73, Florida Statutes, without duplicative inspection by the building department. The Building Official is responsible for ensuring that any person conducting inspections is qualified as a building inspector under Part XII of Chapter 468, Florida Statutes, or certified as a special inspector under Chapter 471 or 481, Florida Statutes. Inspections of threshold buildings required by Section 553.79(5), Florida Statutes, are in addition to the minimum inspections required by Section 110.3 of this code.

110.9 Impact of construction. All construction activity regulated by this code shall be performed in a manner so as not to adversely impact the condition of adjacent property, unless such activity is permitted to affect said property pursuant to a consent granted by the applicable property owner, under terms or conditions agreeable to the applicable property owner. This includes, but is not limited to, the control of dust, noise, water or drainage runoffs, debris, and the storage of construction materials. New construction activity shall not adversely impact legal historic surface water drainage flows serving adjacent properties and may require special drainage design complying with engineering standards to preserve the positive drainage patterns of the affected sites. Accordingly, developers, contractors and owners of all new residential development, including additions, pools, patios, driveways, decks or similar items, on existing properties resulting in a significant decrease of permeable land area on any parcel or has altered the drainage flow on the developed property shall, as a permit condition, provide a professionally prepared drainage plan clearly indicating compliance with this paragraph. Upon completion of the improvement, a certification from a licensed professional, as appropriate under Florida law, shall be submitted to the inspector in order to receive approval of the final inspection.

SECTION 111 CERTIFICATE OF OCCUPANCY

111.1 Use and occupancy. A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the Building Official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other federal, state and local laws, ordinances, codes and regulations. Said certificate shall not be issued until all required electrical, gas, mechanical, plumbing and fire protection systems have been inspected for compliance with the technical codes and other applicable laws and ordinances and released by the Building Official.

Exception: Certificates of occupancy are not required for work exempt from permits under Section 105.2 of this code.

111.2 Certificate issued. After the Building Official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety or other agency whose approval is inherent in the building permitting process, the Building Official shall issue a certificate of occupancy that contains the following:

1. The building permit number;
2. The address of the structure;

3. The name and address of the owner or the owner's authorized agent;
4. A description of that portion of the structure for which the certificate is issued;
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified;
6. For buildings and structures in flood hazard areas, a statement that documentation of the as-built lowest floor elevation has been provided and is retained in the records of the Building Division;
7. The name of the Building Official;
8. The edition of the code under which the permit was issued;
9. The use and occupancy, in accordance with the provisions of Chapter 3 of this code;
10. The type of construction as defined in Chapter 6 of this code;
11. The design occupant load;
12. If an automatic sprinkler system is provided, whether the sprinkler system is required; and
13. Any special stipulations and conditions of the building permit.

111.3 Temporary occupancy. The Building Official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The Building Official shall set a time period during which the temporary certificate of occupancy is valid. A temporary/partial Certificate of Occupancy or Certificate of Completion may be issued for a portion or portions of a building that may safely be occupied prior to final completion of the building. The Building Official may require, once all life safety issues have been complied with, an applicant to provide adequate cash surety for unfinished work or revision of plans until a permanent Certificate of Occupancy or Certificate of Completion is granted. The purpose of the cash surety is to insure completion of work under the permit. Such cash surety shall be equal to one hundred ten percent (110%) of the estimated value of the remaining work, including labor and material, as determined by the design professional. The design professional shall submit a signed and sealed document attesting to the amount required to cover the cash surety. If work has not been completed and all finals requested within 90 days of issuance of the initial Temporary/Partial Certificate of Occupancy or Certificate of Completion, the Building Official retains the right to have the applicant surrender the cash surety. The Building Official then may use the surety to finish the remaining work. The surety shall be in the form of cash money, certified check, or cashier's check. The surety shall be returned upon approval of all final inspections and upon written request that has been approved by the Building Official. This provision is only for the Florida Building Code, all other Agency approvals necessary for construction must be secured prior to this provision being applied.

111.4 Revocation. The Building Official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

111.5 Certificate of Completion. Upon satisfactory completion of a building, structure, electrical, gas, mechanical or plumbing system, a Certificate of Completion may be issued. A Certificate of Completion is proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. This certificate does not grant authority to occupy a building, such as shell building, prior to the issuance of a Certificate of Occupancy.

111.6 Fixturing and Stocking. The Building Official is authorized to issue approval for fixturing, stocking, training, or decorating, when appropriate, to allow the builder to prepare the structure for permanent occupancy. The building may not be open to the general public or be used for the transaction of any commerce. Such approval must be conditioned upon the approval of the Fire Marshal, when applicable.

111.7 Digital Submittal Requirements for New Construction.

111.7.1 Building Footprints. The Building Official is authorized to require the submittal of digital shape (CAD) files, in a specific format, depicting a geo-referenced footprint with elevation for all new structures as a condition of the issuance of a Certificate of Occupancy.

111.7.2 Subdivision Topography. The Building Official is authorized to require the submittal of electronic topographical data and re-delineated 100-year floodplain boundaries for all new subdivisions or lots of record for the purposes of updating and maintaining the community's flood maps.

SECTION 112 SERVICE UTILITIES

112.1 Connection of service utilities. No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until released by the Building Official and a Certificate of Occupancy or Certificate of Completion is issued. The servicing utility company shall not connect the power supply until notified by the Building Official.

112.2 Temporary connection. The Building Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power for the purpose of testing building service systems or for use under a temporary or partial Certificate of Occupancy.

112.3 Authority to disconnect service utilities. The Building Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 101.4 of this code in case of emergency where necessary to eliminate an immediate hazard to life or property, unsafe

condition, or when such utility connection has been made without the approval required by Section 112.1 or 112.2 of this code. The Building Official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

SECTION 113 CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

113.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this code, or to consider variances of this code, there shall be a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

113.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction

113.4 Membership and Terms.

113.4.1 Membership. The Construction Board of Adjustment and Appeals shall consist of nine regular members plus two alternate members. Regular board members shall be composed of individuals with knowledge and experience in the technical codes to include, to the greatest extent possible, an architect, engineer, two Division I contractors (GC, BC, or RC), electrical contractor, HVAC contractor, plumbing contractor, a member at large from the public, and any other contractor licensed category. In addition to the regular members, there should be two alternate members, one member with the qualifications referenced above and one member at large from the public. A board member shall not act in a case in which he or she has a personal or financial interest.

113.4.2 Terms. The terms of office of the regular board members shall be for three (3) years and staggered so no more than one-third of the board is appointed or replaced in any 12month period. The two alternates shall serve three-year terms. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. No board member shall be appointed or re-appointed to this board for more than three (3) consecutive, three (3) year terms.

113.4.3 Quorum and voting. A simple majority of the board shall constitute a quorum. In varying any provision of this code, the affirmative votes of the majority present, but not less than three affirmative votes, shall be required. In modifying a decision of the Building Official, not less than four affirmative votes, but not less than a majority of the board, shall be required. In the event that regular members are unable to attend a meeting, the alternate members shall vote.

113.4.4 Secretary of board. The Building Official or his/her authorized representative shall act as secretary of the board and shall make a record of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member, and any failure of a member to vote.

113.4.5 Removal from office. Members shall be automatically removed for lack of attendance. Lack of attendance is defined as a failure to attend three (3) consecutive meetings or a failure to attend more than one-half of the meetings scheduled during a calendar year. Participation for less than three-fourths of a meeting shall be the same as a failure to attend a meeting. Members removed pursuant to this provision shall not continue to serve on the board and such removal shall create a vacancy.

113.5 Powers. The Construction Board of Adjustments and Appeals shall have the power, as further defined in 113.6 of this code, to hear appeals of decisions and interpretations of the Building Official and consider variances of the technical codes.

113.6 Appeals.

113.6.1 Decision of the Building Official. The owner of a building, structure or service system, or duly authorized agent, may appeal a decision of the Building Official to the Construction Board of Adjustment and Appeals whenever any one of the following conditions are claimed to exist:

1. The Building Official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
2. The provisions of this code do not apply to this specific case.
3. That an equally good or more desirable form of installation can be employed in any specific case, which the Building Official has rejected or refused.
4. The true intent and meaning of this code or any of the regulations hereunder have been misconstrued or incorrectly interpreted.

113.6.2 Variances. The Construction Board of Adjustments and Appeals, when upon written request, has been so appealed to and after a hearing, may vary the application of any provision of this code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:

1. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
2. That the special conditions and circumstances do not result from the action or inaction of the applicant.
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other buildings, structures or service system.

4. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.
5. That the grant of the variance will be in harmony with the general intent and purpose of this code and will not be detrimental to the public health, safety and general welfare.

113.6.2.1 Conditions of the variance. In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with this code. Violation of the conditions of a variance shall be deemed a violation of this code.

113.6.3 Notice of appeal. Notice of appeal shall be in writing and filed within 30 calendar days after the Building Official renders the decision. Appeals shall be in a form acceptable to the Building Official.

113.6.4 Unsafe or dangerous buildings or service systems. In the case of a building, structure or service system, which in the opinion of the Building Official, is unsafe, unsanitary or dangerous, the Building Official may, in the order, limit the time for such appeals to a shorter period.

113.7 Procedures of the board.

113.7.1 Rules and regulations. The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet on the second Thursday of each month, as needed, or at the call of the chairperson, subsequent to a request to call a meeting by the secretary. The board shall meet at the second regular meeting if a notice of appeal has been received fewer than 15 days before a regular meeting.

113.7.1.1 Rules of Evidence. Formal rules of evidence shall not apply, but fundamental due process should be observed and govern the proceedings. Upon determination by the chairperson, irrelevant, immaterial, or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonable, prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form. The Board may request certain evidence from the appellant to be provided by an architect or engineer registered in the State of Florida, in which case, said evidence shall be signed, sealed, and dated.

113.7.1.2 Testimony. Any member of the Board or the attorney representing the Board may inquire of, or question, any witness before the Board. Any member of the Board, the appellant or his/her attorney, and/or the Building Official shall be permitted to inquire of any witness before the Board. The Board may consider testimony presented by the Building Official, the appellant, or any other witness.

113.7.2 Decisions. The Construction Board of Adjustment and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies

a refusal, order, or disallowance of the Building Official or varies the application of any provision of this code, the Building Official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the Building Official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept in the office of the Building Official for two weeks after filing. Every decision of the board shall be final; subject however to such remedy as any aggrieved party might have at law or in equity.

113.8 Local Construction Regulation Board. The local government may also utilize this Board to convene as the Local Construction Regulation Board (LCRB), as provided in Florida Statute 489.113. The LCRB may deny, suspend, revoke or limit the authority of a certified contractor to obtain a building permit or permit with specific conditions, if the LCRB has found such contractor, through a public hearing, to be guilty of fraud or a willful building code violation within the county or municipality that the LCRB represents. The LCRB may also, deny, suspend, revoke or limit the authority of a certified contractor to obtain a building permit or permit with specific conditions, if it has proof through the public hearing process, that a contractor has been found guilty in another county or municipality within the past 12 months, of fraud or a willful building code violation and after providing notice of an opportunity to be heard to the contractor, finds that such fraud or violation would have been fraud or a violation if committed in the county or municipality that the LCRB represents. Notification of and information concerning such permit denial shall be submitted to the division within 15 days after the LCRB decides to deny the permit.

SECTION 114 VIOLATIONS

114.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure, system, site, or equipment regulated by this code, or any other laws, ordinances, rules, or regulations; or cause same to be done, in conflict with or in violation of any of the provisions of this code. Such violation shall be a misdemeanor. Each day or portion thereof shall be considered a separate offense.

114.2 Notice of violation. The Building Official is authorized to serve a notice of violation or stop work order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. (See also Section 115 of this code.)

114.3 Prosecution of violation. If the notice of violation is not complied with promptly, the Building Official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

114.3.1 Nothing in this section shall prevent the City of Westlake from imposing fines, liens, or seek injunctive relief, or exercising other enforcement powers as permitted by law.

114.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

114.4.1 Code enforcement and penalties of Chapter 162 Florida Statutes Part I shall be authorized if building work begins without payment of all required fees, and for the purposes of enforcing this code, code officials licensed under Florida Statute 468 Part XII are deemed "Code Inspectors," as defined in Florida Statute 162.04.

SECTION 115 STOP WORK ORDER

115.1 Authority. Whenever the Building Official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the Building Official is authorized to issue a stop work order.

115.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, the owner's authorized agent or the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work.

115.3 Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT

116.1 Unsafe buildings or systems. Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the Building Official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

116.1.1 When the Building Official determines a building, structure, electrical, gas, mechanical or plumbing system or portion thereof is unsafe, as set forth in this code the Building Official shall provide the record owner(s) of the real property upon which the unsafe building, structure, system is located, a written notice stating the defects thereof, by certified mail, return receipt requested. This notice shall require the owner within thirty (30) days either to complete specified repairs or improvements, or to demolish and remove the building, structure, electrical, gas, mechanical or plumbing system or portion thereof.

116.1.1.1 In addition to the written notice being sent by certified mail, return receipt requested to the record owner(s) of the real property upon which the unsafe building, structure, or system is located, the Building Official shall post a copy of the notice in a conspicuous place in the county courthouse, upon the building, structure or system, and a copy shall be recorded in the public records of Palm Beach County.

116.1.1.2 In addition, a copy of the notice, as outlined in this sub-section, shall be published simultaneously for two consecutive weekends in a newspaper of local circulation. Such notice shall be substantially in the following form:

**NOTICE OF INTENT
TO DEMOLISH OR SUBSTANTIALLY REPAIR AND INSPECT
(Insert Date of Notice)**

The owner or other interested parties for the structure located at (address), are hereby notified that the City of Westlake, Florida, will proceed to have the building, structure or system repaired, demolished or removed thirty (30) days after the date of this Notice, if said building, structure or system is not substantially repaired, demolished or removed by that date. All costs incurred by the City in connection with the repair, demolition or removal will be assessed against the property.

If, as a result of this Notice, the building, structure or system is substantially repaired, demolished, or removed by the owner, notice is hereby given that work to abate the unsafe condition requires building permits and inspections for code compliance, and all related fees are required to be paid prior to performing the work or receiving certification of code compliance.

To request an extension of time, the owner should contact (Contact Person and Phone Number) within ten (10) days of the date of this Notice. Said request for extension must be made in writing to the Building Official.

An affected owner or duly authorized agent has the right to appeal this action to the Construction Board of Adjustment and Appeals. An application of appeal should be filed in writing and hearing costs paid by the affected owner or duly authorized agent, at the office of the City of Westlake, within thirty (30) days of the date of this Notice. The fee to cover hearing costs shall be established by ordinance.

116.1.1.3 Evidence that an attempt has been made to hand deliver or mail the Notice, as provided herein, together with a copy of the recorded "Notice of Intent to Demolish or Substantially Repair and Inspect" at the Clerk of the Court Office, and proof of publication, shall be sufficient to show that the notice requirements of this section have been met, without regard to whether or not the owner actually received said notice.

116.1.2 If necessary, the notice shall also require the building, structure, electrical, gas, mechanical, plumbing systems or portion thereof to be vacated and/or disconnected, and not reoccupied and/or reconnected until the specified repairs and improvements are

completed, inspected and approved by the Building Official. The Building Official shall post at each entrance to the building a placard stating:

THIS BUILDING IS UNSAFE, AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL.

This placard shall remain posted until the required repairs are made, or demolition is completed. It shall be unlawful for any person, firm or corporation or its officers, agents, or other servants, to remove the posting without written permission of the Building Official, or for any person to enter the building, or use the building or system(s) except for the purpose of making the required repairs or of demolishing same.

116.1.3 If such owner, agent, or person in control shall fail, neglect, or refuse to comply with notice to repair, rehabilitate, or to demolish, and remove said building, structure, electrical, gas, mechanical or plumbing system or portion thereof, within thirty (30) days of notification by the City Building Official and pursuant to the procedures stated in this section, the City is authorized and empowered, and the Building Official shall take action to achieve enforcement of the code and/or abatement of the unsafe condition by substantial repair, demolition, or removal of the structure, electrical, gas, mechanical or plumbing system or portion thereof, or in a manner as dictated by the degree of threat posed by the unsafe condition. The cost of substantially repairing, demolition, removing, and/or otherwise abating the unsafe condition incurred by the City, including the actual work of substantially repairing, demolishing, removing, and/or otherwise abating the unsafe condition, title work costs and expenses, all administrative and legal expenses, publication costs, and other identifiable costs incurred by the City, shall be assessed against the property. All assessments shall be paid in full to the City no less than the close of City business on the twentieth (20) business day after the property owner has received notice of the assessment. Thereafter, the unpaid amount of the assessment will accrue interest at the rate of 12% per annum or at the maximum rate allowed by law, whichever is less.

116.1.4 The thirty (30) day time period contained in Section 116.1.1 of this code may be enlarged by the Building Official, in a decision which is rendered in writing, upon receipt of the owner's written request for an enlargement of time. In the written request, the owner must show cause as to why the enlargement of time should be granted. In the event that the Building Official denies the owner's request for an enlargement of time, said decision shall be rendered in writing, and delivered to the owner by certified mail, return receipt requested.

116.1.5 Determinations. Decisions of the Building Official required by this section shall be in writing. The date of the determination shall be the date it is reduced to writing and signed by the Building Official.

116.1.6 Relief from the Notice of Demolition. An affected owner or duly authorized agent has the right to appeal the notice of demolition to the Construction Board of Adjustment and Appeals. An application of appeal shall be filed in writing and hearing costs paid by the affected owner or duly authorized agent, at the office of the City of Westlake, within thirty (30) days of the date of delivery of the notice, as required in this section. If notice is not successfully delivered to the record owner, the application of appeal should be filed in writing and hearing costs paid by the affected owner within thirty (30) days following the second

consecutive week of publication of notice in a newspaper of local circulation. No action shall be taken by the City in connection with a building, structure, electrical, gas, mechanical or plumbing system or portion thereof which is the subject of any appeals procedure relating to demolition, except in cases of emergencies as described in Section 116.2.2 of this code. Every decision of the Construction Board of Adjustment and Appeals shall be final; subject however to such remedy as any aggrieved party might have at law. Such judicial relief shall be sought by the affected party or authorized agent by filing the appropriate petition in the court of jurisdiction within thirty (30) days of the execution of the board order to be appealed.

116.1.7 An affected owner or duly authorized agent has the right to appeal a decision of the Building Official to deny an extension of time, to the Construction Board of Adjustment and Appeals. An application of appeal should be filed in writing and hearing costs paid by the affected owner or duly authorized agent, at the office of the City of Westlake, within ten (10) days of the date that decision is reduced to writing. The fee to cover hearing costs shall be established by ordinance.

116.1.8 Notice of Assessment. Upon completion of the actions undertaken by the City, the Building Official shall notify in writing the owner that a special assessment has been imposed on the property. The notice shall be delivered by certified mail, return receipt requested. The notice of assessment shall set forth the following:

- (a) A description of the unsafe structure, a description of the actions taken by the City to substantially repair or demolish the building, structure, electrical, gas, mechanical or plumbing system or portion thereof, and the fact that the property has been assessed for the costs incurred by the City to substantially repair or demolish the building, structure, electrical, gas, mechanical or plumbing system or portion thereof.
- (b) The aggregate amount of such costs, and an itemized list of such costs.
- (c) The intent of the City of Westlake to record the assessment as a lien against the property, if not paid within twenty (20) business days.
- (d) The intent of the City of Westlake to charge interest at the rate of 12% per annum or at the maximum rate allowed by law, whichever is less, if the assessment is not paid within twenty (20) business days.
- (e) The intent of the City of Westlake to declare the assessment delinquent and to place the assessment on the tax roll as a non-ad valorem assessment if not paid by the following September 1.
- (f) The potential for the property to be subject to the sale of a tax certificate, bearing interest by law at a rate as high as 18% per annum, if the non-ad valorem assessment is not paid as part of the tax bill on the property.
- (g) The potential for the property to be sold and conveyed by tax deed if the tax certificate is not redeemed by payment of the non-ad valorem assessment in full, plus interest, as required by Florida law.

116.2 Alternative Enforcement proceedings; hearings.

116.2.1 Alternative violation proceedings and hearings for unsafe structures and equipment that do not pose an immediate threat to the public welfare may be conducted before the Special Magistrate in accordance with the provisions set forth in Florida Statute 162. The Building Official shall act in the role of code inspector as authorized in Section 114 of this code, to initiate enforcement proceedings, and notice shall be in accordance with the provisions of the Statute. The owner of property that is subject to an enforcement proceeding before the Special Magistrate is required to make disclosures as outlined in Florida Statute 162 before a transfer of property, and failure to make the required disclosures creates a presumption of fraud.

116.2.2 The decision of the Building Official shall be final in cases of emergency, which, in the opinion of the Building Official, involve imminent danger to human life or health, or the property of others. The Building Official shall promptly cause such building, structure, electrical, gas, mechanical or plumbing system or portion thereof to be made safe, secured, or cause its removal. For this purpose, the Building Official may at once enter such structure or land on which it stands, or abutting land or structures, with such assistance and at such cost as the Building Official may deem necessary. The Building Official may order the vacating of adjacent structures and may require the protection of the public by appropriate fence or such other means as may be necessary, and for this purpose may close a public or private way. Taking such action does not create a continuing obligation on the part of the Building Official to continue with maintaining such building, structure, or system; or create liability for any damage to the property.

116.3 Administrative fines; costs to repair; liens. All costs incurred as a result of actions taken pursuant to Section 116.2 of this code are charged to the responsible party.

116.3.1 All costs associated with taking a case before the Special Master shall be recovered where the jurisdiction prevails, whenever one of the orders of the Special Magistrate has not been complied with by the time set for compliance, for each day thereafter during which each violation continues past the date set for compliance, the Special Magistrate may impose a fine. A certified copy of an order imposing a fine, or a fine plus repair, and the costs of prosecuting the case, may be recorded in the public records and shall thereafter constitute a lien against the land where the violation exists and upon any other real or personal property owned by the violator.

116.3.2 Costs associated with the abatement of the violation shall be charged to the owner of the premises involved. If charges are not paid within a ten (10) day period following the billing notification sent by certified mail, the owner of the premises will be charged in the following manner:

1. The Building Official shall assess the entire cost of such vacation, demolition, or removal against the real property upon which such cost was incurred, which assessment shall include but not be limited to all administrative costs, postal expenses, newspaper publication, and shall constitute a lien upon such property.
2. The Clerk of the Circuit Court shall file such lien in the County's Official Record Book showing the nature of such lien, the amount thereof and an accurate legal description of the property, including the street address, which lien shall be effective from the date of

filing and recite the names of all persons notified and interested persons. After three (3) months from the filing of any such lien which remains unpaid, the governing body may foreclose the lien in the same manner as mortgage liens are foreclosed. Such lien shall bear interest from date of abatement of nuisance at the rate of ten (10) percent per annum and shall be enforceable if unsatisfied as other liens may be enforced by the governing agency.

116.4 Appeals.

116.4.1 An aggrieved party, including the local governing body, may appeal a final administrative order of the Special Magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

SECTION 117 VARIANCES IN FLOOD HAZARD AREAS

117.1 Flood hazard areas. Pursuant to Section 553.73(5), Florida Statutes, the variance procedures adopted in Article 18 of the ULDC shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.

SECTION 118 (RESERVED)

SECTION 119 SEVERABILITY

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

Code Compliance

ARTICLE 1. GENERALLY

Section 9.1 Intent:

It is the intent of this chapter to promote, protect, and improve the health, safety, and welfare of the citizens of the city by providing an equitable, expeditious, efficient, and effective method of enforcing the codes of the city.

Section 9.2 Definitions

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandoned real property means any property that is vacant and is subject to a mortgage under a current notice of default and/or notice of mortgage's sale, pending tax assessor's lien sale and/or vacant properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and properties transferred under a deed in lieu of foreclosure sale.

Citation or Civil violation notice shall mean a notice of violation with a civil penalty and fine, as provided for in the code.

City Attorney means the attorney for the city.

City Council means the council of the city of Westlake.

Code Compliance Officer means any designated employee or agent of the City whose duty it is to enforce codes and ordinances enacted by the City Council and to provide evidence of code ordinance violations to special magistrates, including, but not limited to code inspectors, code compliance specialists, law enforcement officers and animal control officers.

Continuing Violation shall mean a violation which remains uncorrected beyond the time period for correction contained in either the code compliance reminder, citation, the order of special magistrate, order of the hearing office.

Local Property Management Company means a property manager, property maintenance company or similar entity responsible for the maintenance and security of registrable real property within fifty (50) driving miles of the city limits. Upon review of the credentials of the city, or its designee, may allow a non-local manager to be listed.

Notice of Violation means any written notice to a violator in accordance with the provisions of the Code of Ordinance and F.S. Chapter 162.

Repeat Violation means a violation of a provision of a code or ordinance by a person or entity who has been previously found, by the special magistrate, hearing officer, through quasi-judicial or judicial process, to have violated or who has admitted violating the same provision within five years prior to the violation, notwithstanding the violations occur at different locations. For purposes of the Code of Ordinances, a repeat violation shall be deemed to be a violation which reoccurs only after correction of the previous violation. A violation which remains uncorrected beyond the time prescribed for correction in the civil violation notice shall be treated as a continuing violation.

Special Magistrate means an attorney or retired judge, whose membership is in good standing with the Florida Bar, who is appointed by the City Council to preside over code compliance matters and who may be discharged by the City Council at its discretion, with or without cause.

Uncorrected violation means a violation which is determined by the special magistrate to be irreparable or irreversible in nature and which cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act rather than an ongoing condition or circumstance.

Vacant means any building/structure that is not legally occupied.

Violator shall be defined as any individual or legal entity that has committed or is alleged to have committed a code violation or is legally responsible for a code violation including, but not limited to, a property owner or his agent, tenant, entity on the premises or any combination thereof.

Section 9.3 Special Magistrate:

(a) Appointment. Pursuant to Chapter 162, Florida Statutes, the City Council may appoint one or more special magistrates who shall have the powers and authority to hold hearings and to impose fines and assess liens and other noncriminal penalties against violators of the city's codes and ordinances.

(b) Recommendation. The City Manager shall, upon the recommendation and advice of the City Attorney, bi-annually recruit qualified attorneys and retired judges to serve as special magistrate. Upon being provided two recommended attorneys and/or retired judges by the City Manager and the City Attorney, the City Council shall appoint, by resolution, at least one Special Magistrate and alternate special magistrate.

(c) Qualification. Applicants for the Special Magistrate position must:

(1) Be a resident of the State of Florida;

(2) Be a retired Florida Judge or be an attorney whose membership with the Florida Bar is in good standing and who has at least seven (7) years' experience; and

(3) Possess experience and expertise in at least one of the following disciplines and a working familiarity with the others: (i) land use matters; (ii) local government law; (iii) Americans with Disabilities and Fair Housing Act law; (iv) real estate law, and (v) administrative law.

(d) Term. Each Special Magistrate shall have a term of two years. Special Magistrates may be appointed for consecutive two year terms. Special Magistrates are subject to removal, with or without cause, from their positions at any time by the City Council in its sole discretion.

(e) Not City Employees. Special Magistrates should not be considered City Employees. However, subject to compliance with documentation required by the City Manager or his or her designee, a Special Magistrate may be compensated at a rate to be determined by the City Manager. Special magistrates shall serve in an ex officio capacity if the appointed Special Magistrate serves other local governments as a special magistrate. Such service to other local governments does not create duties inconsistent with serving as special magistrate to the City of West Lake.

(f) Jurisdiction. Special Magistrates shall have jurisdiction and authority to hear and decide cases involving alleged violations of:

(1) Any codes, ordinances, or resolutions of the city; or

(2) Any statute, code, or regulation incorporated into the city's code of ordinances by reference.

(g) Powers. The Special Magistrate shall have the power to:

(1) Adopt rules for the conduct of its hearings;

- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the Palm Beach County Sheriff's Office;
- (3) Subpoena evidence to its hearings;
- (4) Take testimony under oath;
- (5) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.
- (h) Non-exclusive. The authority granted herein is not exclusive and shall not prohibit the city from enforcing its codes by other legal means.

ARTICLE 2. CODE COMPLIANCE PROCEDURES

Section 9.4 Compliance Procedure:

- (a) It shall be the duty of the Code Compliance Officer to initiate code compliance proceedings. The Special Magistrate shall not have the power to initiate compliance proceedings.
- (b) Except as provided in subsection (d), if a violation of any code is found, the Code Compliance Officer shall notify the violator and give a reasonable time to correct the violation.
- (c) The determination of a reasonable time shall be based upon considerations of fairness, practicality, ease of correction, ability to correct, severity of the violation, nature, extent and probability of danger or damage to the public, and other relevant factors relating to the reasonableness of the time period is necessary and reasonable.
- (d) Should the violation continue beyond the time specified for correction, the Code Compliance Officer shall notify the Special Magistrate and request a hearing. The Special Magistrate, through the clerical staff of the City Attorney's Office, shall schedule a hearing. The violator shall be noticed of such hearing in accordance with sections 9.11 and 9.12, below.
- (e) The applicable Code Compliance Officer and the violator must attempt to meet face-to-face at a pre-hearing meeting to resolve disputes. This meeting may take the form of an informal meeting or formal mediation. Prior to the hearing, the Code Compliance Officer must provide a written certification to the Special Magistrate that Code Compliance Officer has attempted to resolve the dispute in good faith but was unable to.
- (f) If the Code Compliance Officer has reason to believe a violation, or the condition causing the violation, presents a serious threat to the public health, safety, and welfare, or if the violation is irreparable or irreversible in nature, the Code Compliance Officer shall make a reasonable effort to notify the violator and may immediately notify the Special Magistrate and request a hearing on an expedited basis.
- (g) If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the Code Compliance Officer, the case may be presented to the Special Magistrate even if the violation has been corrected prior to the hearing, and the notice so state.
- (h) If a repeat violation is found, the Code Compliance Officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The Code Compliance Officer, upon notifying the violator of a repeat violation, shall notify the Special Magistrate and request a hearing. The Special Magistrate shall schedule a hearing and shall provide notice pursuant to sections 9.10 and 9.11, below. The case may be presented to the Special Magistrate even if the repeat violation has been corrected prior to the hearing, and the notice shall so state. If the repeat violation has been corrected, the Special Magistrate retains the right to schedule a hearing to determine costs and impose the

payment of reasonable fees upon the violator. The repeat violator may choose to waive his or her rights to this hearing and pay the costs and fees as determined by the Special Magistrate.

(i) If the owner of property, which is subject to a compliance proceeding before the Special Magistrate, transfers ownership of such property between the time the initial notice is served and the time of the hearing, such owner shall:

- (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
- (2) Deliver to the prospective transferee a copy of the pleadings, notices and other materials relating to the code compliance proceeding received by the transferor.
- (3) Disclose to the prospective transferee, in writing, that the new owner will be responsible for compliance with the applicable code and with orders issued in code compliance proceeding.
- (4) File a notice with the code compliance division of the transfer of the property, with the identity and address of the new owner and all copies of the disclosures made to the new owner, within five (5) days after the date of transfer.

A failure to make disclosures described in subsections (1),(2) and (3) before the transfer, creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

(j) Managers of rental properties may file with the City Manager's Office or designated office may prescribe a required format for the information so as to best accommodate the provision of courtesy notices. Whenever a notice of violation is provided to the owner of tenant of any property, the City Manager's Office or designated office shall attempt to mail a courtesy copy of the notice of violation, as well as any subsequent notice of hearing pertaining to the violation, to the name and address provided by the rental property manager. Failure to mail any courtesy copy shall not, however, affect the validity of any notice of violation, hearing or other procedure or proceeding.

Section 9.5 Conduct of Hearing

(a) Manner of calling hearing; open to the public. Upon request of the Code Compliance Officer, or at such other times as may be necessary, the Special Magistrate may call duly noticed hearings. The Special Magistrate shall attempt to convene no less frequently than once every month, but may convene more or less as often as the demand necessitates. All hearings and proceedings shall be open to the public. The City Council or City Manager shall provide clerical and administrative personnel as may be reasonably required by the Special Magistrate for the proper performance of his or her duties.

(b) Presenting cases. Each case before the Special Magistrate shall be presented by the City Attorney, his or her designee, or by the Code Compliance Officer.

(c) Testimony; rules of evidence. The Special Magistrate shall proceed to hear the cases on the agenda for that date. All testimony shall be under oath and shall be recorded. The Special Magistrate shall take testimony from the Code Compliance Officer and the alleged violator, if present. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern these proceedings.

(d) Rights of parties to hearing. Each party to the hearing shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses; impeach witnesses, and rebut evidence.

(e) Evidence. All evidence shall be admitted at Special Magistrate hearings if, in the opinion of the Special Magistrate, it is the type of evidence upon which reasonable and responsible persons would

normally rely in the conduct of business, regardless of the existence of any common-law or statutory rule which might make such evidence inadmissible over objections in civil actions. The Special Magistrate may exclude irrelevant or unduly repetitious evidence. Hearsay evidence may be accepted for the purpose of supplementing or explaining direct evidence, but such hearsay evidence shall not in and of itself be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.

(f) Stipulation. At any time prior to a case being heard by the Special Magistrate, an alleged violator may enter into a stipulation with the city agreeing to any matter, including but not limited to, the following:

(1) That the alleged violator has, in fact, committed a violation or that a violation has occurred on the property at issue.

(2) That the violation shall be corrected on or before a specific date, subject to approval by the Special Magistrate.

(3) That the alleged violator will be fined for each day past the date set for compliance.

(4) The stipulation shall be in writing and shall be signed by both the city and the alleged violator. The Special Magistrate shall issue an order reflecting the terms of the stipulation.

(g) Findings of fact; issuance of order. At the conclusion of the hearings, the Special Magistrate shall issue an order containing findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted herein. The order may include a notice that must be complied with by a specific date and that a fine may be imposed and that, under the conditions specified in Section 9.6, the cost of repairs and the cost of compliance may be included along with the fine if the order is not complied with by the specified date.

(h) Recordation. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by date specified in the order, the Special Magistrate shall issue an order acknowledging compliance that shall be recorded in the public records. A Special Magistrate hearing is not required to issue such an order acknowledging compliance.

Section 9.6 Fines; Cost Recovery; Liens and Collections; Lien Reductions

(a) Generally.

The Special Magistrate may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the Code Compliance Officer. In addition, if the violation is a violation described in Section 9.4(f), the Special Magistrate shall notify the City Council, which may make all reasonable repairs required to bring the property into compliance and charge the violator with the reasonable cost of the repairs and cost of compliance along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the city to make further repairs or to maintain the property and does not create any liability against the city for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this section, a hearing shall not be necessary for issuance of the order imposing the fine.

(b) Amount of Fines.

(1) A fine imposed pursuant to this section shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation, and, in addition, may include all costs of repairs incurred in accordance with this section. However, if the Special Magistrate finds the violation to be irreparable or irreversible in nature, the Special Magistrate may impose a fine not to exceed five thousand dollars (\$5,000.00) per violation.

(2) In determining the amount of the fine, if any, the Special Magistrate shall consider the following factors:

- a. The gravity of the violation;
- b. Any actions taken by the violator to correct the violation; and
- c. Any previous violations committed by the violator.

(3) The Special Magistrate may reduce a fine imposed pursuant to this section.

(c) Cost Recovery. If the city prevails in prosecuting a case before the Special Magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the Special Magistrate and such costs may be assessed against the violator and included in any authorized lien.

(d) Liens. A certified copy of an order imposing a fine or a fine plus repair and administrative costs shall be recorded in the public records of Palm Beach County and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator, and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. Such lien shall accrue interest at the rate determined by the Chief Financial Officer of the State of Florida, pursuant to Section 55.03, Florida Statutes. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three (3) months from the filing of any lien, which remains unpaid, the Special Magistrate may authorize the City Attorney to foreclose the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Article X, Section 4 of the State Constitution. A lien arising from a fine imposed pursuant to this section runs in favor of the city council and the city council may execute a release of any lien pursuant to this section.

(e) Lien Reductions. The Special Magistrate may modify or partially release liens according to the following application guidelines.

(1) Application for modification must be made by the violator or owner of the violating property.

(2) Payment in the amount of \$250.00 must be made with the application.

(3) The violation must be cured, and no other violation may be present.

(4) Partial release of lien against a non-offending property will be decided by the Special Magistrate upon application and in the event granted, shall include a provision that administrative and hard costs attributed to the offending property be paid by the applicant.

Section 9.7 Duration of Lien:

No lien provided under this article shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a

lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The City Council shall be entitled to collect all cost incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchaser for valuable consideration without notice unless a notice of lis pendens is recorded.

Section 9.8 Assignment of Liens:

The City Manager or the City Manager's designee shall have the authority to assign liens to a private third party for collection at its discretion, provided its contract with said third party provides the following:

- (1) The city shall retain the power to decide which liens to assign;
- (2) The city shall retain the power to decide what collection techniques are permissible and to prohibit use of any technique it finds objectionable;
- (3) The city shall retain the power to take back any assigned debt or lien; and
- (4) The city shall retain the power to terminate the contract for any or no reason.

Section 9.9 Appeals:

An aggrieved party, including the city, wishing to appeal any final administrative order of the Special Magistrate to the circuit court. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed. Upon filing of any appeal with the circuit court, the aggrieved party shall immediately file a copy of the Notice -of Appeal with the City Clerk.

Section 9.10 Service of Notices:

(a) All notices required by this article shall be provided as follows:

- (1) Certified mail, return receipt requested to the owner of the property in question at the address listed in the Palm Beach County's Property Appraiser's database. The City may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described herein.
- (2) Hand delivery by the sheriff or other law enforcement officer, Code Compliance Officer, or other person designated by the local governing body;
- (3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or
- (4) In the case of commercial premises, leaving the notice with the manager or other person in charge.

(b) In addition to providing notice as set forth in subsection (a), at the option of the City, notice may also be served by publication or posting, as follows:

(1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in Palm Beach County. Proof of publication shall be made by the publisher or Code Enforcement Officer so designated.

(2) In lieu of publication as described in paragraph (1), such notice may be posted at least ten days prior to the hearing or prior to the expiration of any deadline contained in the notice, in at least two locations,

one of which shall be the property upon which the violation is alleged to exist, and the other shall be at the Westlake City Hall for such notices. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(3) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a).

(c) Evidence that an attempt has been made to hand deliver or mail notice, as provided in subsection (a), or proof of publication or posting, as provided in subsection (b), shall be sufficient to show that the notice requirements of this part have been met, without regard as to whether or not the alleged violator actually received such notice.

Section 9.11 Notices of Hearing:

All Notices of Hearing before the Special Magistrate shall contain the following:

(a) The address or parcel control number of the property;

(b) The name of the Code Compliance Officer who initiated the request for the hearing;

(c) A factual description of the alleged violation of Code:

(d) The date of the alleged violation and the timeframe given to correct the violation;

(e) The section of Code allegedly violated;

(f) Information on where to receive a copy of the Official City File;

(g) The place, date and time of the hearing; and

(h) Notice that requests for continuances will not be considered if not received by the Special Magistrate at least five (5) business days prior to the hearing.

Section 9.12 Authority to Adopt Special Magistrate Rules and Regulations:

The City Council may adopt by resolution such Special Magistrate rules and regulations not inconsistent with Florida Statutes Chapter 162 which the City Council finds necessary to carry out the provisions of this section.

ARTICLE 3. ENFORCEMENT THROUGH CITATIONS

Section 9.13 Citations:

(a) A Code Compliance Officer is authorized to issue a citation to a person when, based upon personal investigation, the Code Compliance Officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the Palm Beach County Court will hear the charge at a specified date and time.

(b) Prior to issuing a citation, a Code Compliance Officer or other regulatory agencies, as may be appropriate, shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than thirty (30) days.

(c) If, upon personal investigation, a Code Compliance Officer finds that the person has not corrected the violation within the time period, a Code Compliance Officer may issue a citation to the person who has committed the violation.

(d) If a repeat violation is found or if the Code Compliance Officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, or that the violator is engaged in violation of an itinerant or transient nature within the

jurisdiction while moving from place to place, a Code Compliance Officer does not have to provide the person with a reasonable time period to correct the violation and may immediately issue a citation or notice to appear.

(e) A citation issued by a Code Compliance Officer shall be in a form prescribed by the City Council and shall contain:

- (1)** The date and time of issuance.
- (2)** The name and address of the person to whom the citation is issued.
- (3)** The date and time the civil infraction was committed.
- (4)** The facts constituting reasonable cause.
- (5)** The number or section of the code or ordinance violated.
- (6)** The name and authority of the Code Compliance Officer.
- (7)** The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- (8)** The applicable civil penalty if the person elects to contest the citation.
- (9)** The applicable civil penalty if the person elects not to contest the citation.
- (10)** A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(f) After issuing a citation to an alleged violator, a Code Compliance Officer shall deposit the original citation or notice to appear and one copy of the citation or notice to appear with the Palm Beach County Court.

(g) Any person who is issued a citation by a Code Compliance Officer may contest the citation by appearing in the Palm Beach County Court at the date and time specified in the citation and advising the court that they wish to contest the citation and request a hearing on the matter. A hearing shall then take place at a time set by the court to provide the city and the person, to whom the citation was issued, an opportunity to present evidence concerning the violation to the court.

Section 9.14 Penalties:

(a) A violation of a code or an ordinance enforced pursuant to such section is a civil infraction. The maximum civil penalty shall not exceed \$500.00.

The civil penalty provided for the disposition of a citation issued pursuant to this chapter shall be as follows:

Number of Violations Within Any 12 Month Period	Amount of Fine If Not Contested	Amount of Fine If Contested
First Offense	\$100	\$200
Second Offense	\$200	\$300
Third Offense	\$300	\$400

Any person who willfully refuses to sign and accept a citation or notice to appear issued by a Code Compliance Officer shall be guilty of a misdemeanor of the second degree, punishable as provided in section 775.083, Florida Statutes.

(b) The provisions of this section shall not apply to the enforcement pursuant to Sections 553.79 and 553.80, Florida Statutes, of the building codes adopted pursuant to Section 553.73, Florida Statutes, as

they apply to construction, provided that a building permit is either not required or has been issued by the city. For purposes of this chapter, building codes means only those codes adopted pursuant to Section 553.73, Florida Statutes.

(c) The provisions of this article are an additional and supplemental means of enforcing a code or ordinance. Nothing contained in this article shall prohibit the city or special magistrate from enforcing a code or ordinance by any other means. These enforcement methods may include, but are not limited to, the issuance of a notice of violation, a summons, or a notice to appear in court. A notice to appear means a written order issued by a Code Compliance Officer in lieu of physical arrest.

Section 9.15 Applicability:

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be an additional remedy available to the city above and beyond any other state, county or local provisions for same.

Section 9.16 Establishment of a Registry:

Pursuant to the provisions of this division, the city shall establish a registry cataloging each abandoned property within the city, containing the information required by this article.

Section 9.17 Registration of Defaulted Mortgage Real Property

(a) Any mortgagee who holds a mortgage on real property located within the city shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The mortgagee shall, within ten days of the inspection, register the property with the code compliance department, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.

(b) Registration pursuant to this section shall contain the name, direct mailing address, a direct contact name, telephone number, and e-mail address for the mortgagee, and the servicer, and the name and 24-hour contact phone number of the local property management company responsible for the security and maintenance of the property.

(c) Mortgagees who have existing registrable property on the effective date of this article have 30 calendar days from the effective date to register the property with the code compliance department, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is vacant or occupied.

(d) If the mortgage on a registrable property is sold or transferred, the new mortgagee is subject to all the terms of this article and within five days of the transfer register the property and pay a registration fee in accordance with this article. Any previous unpaid annual registration fees are the responsibility of the new mortgagee or trustee and are due and payable with their initial registration.

(e) If the mortgagee owner of a foreclosed real property sells or transfers the property to a non-arm's length related person or entity, the transferee, is subject to all the terms of this article and within five days of the transfer register the property and pay a registration fee in accordance with this article. Any previous unpaid annual registration fees are the responsibility of the new registrable property owner and are due and payable with their initial registration.

(f) As long as the property is registrable it shall be inspected by the mortgagee, or designee, monthly. If an inspection shows a change in the property's occupancy status the mortgagee shall, within ten days of that inspection, update the occupancy status of the property registration.

(g) A non-refundable annual registration fee established by resolution or ordinance by the city council, shall accompany each registration pursuant to this section.

(h) All registration fees must be paid directly from the mortgagee, trustee, servicer, or owner. Third party registration fees are not allowed without the consent of the city and/or its authorized designee.

(i) Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this section as long as they are registrable.

(j) Until the mortgage or lien on the property in question is satisfied, or legally discharged, the desire to no longer pursue foreclosure, the filing of a dismissal of lis pendens and/or summary of final judgment and/or certificate of title, voluntary or otherwise, does not exempt any mortgagee holding the defaulted mortgage, from all the requirements of this article as long as the borrower is in default.

(k) Any person or legal entity that has registered a property under this section must report any change of information contained in the registration within ten days of the change.

(l) Failure of the mortgagee to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement and any resulting monetary penalties.

(m) Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the city may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.

Section 9.18 Maintenance Requirements

Properties subject to this chapter shall be kept in accordance with chapter 22 and 23 of this code.

Section 9.19 Security Requirement

Section 9.20 Public Nuisance

All registrable property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the city.

Section 9.21 Inspection for Violations

Adherence to this article does not relieve any person, legal entity or agent from any other obligations set forth in any applicable code(s), which may apply to the property.

Section 9.22 Additional Authority

(a) If the code inspector has reason to believe that a property subject to the provisions of this article is posing a serious threat to the public health, safety and welfare, the code inspector may temporarily secure the property at the expense of the mortgagee and/or owner, and may bring the violations before the magistrate as soon as possible to address the conditions of the property.

(b) The code inspector or magistrate shall have the authority to require the mortgagee affected by this section, to implement additional maintenance and/or security measures including, but not limited to,

securing any and all doors, windows or other openings, employment of an on-site security guard or other measures as may be reasonably required to help prevent further decline of the property.

(c) If there is a finding that the condition of the property is posing a serious threat to the public health, safety and welfare, then the code enforcement board or special magistrate may direct the city to abate the violations and charge the mortgagee or trustee with the cost of the abatement.

(d) If the mortgagee does not reimburse the city for the cost of temporarily securing the property, or of any abatement directed by the code inspector or magistrate, within 30 days of the city sending the mortgagee or trustee the invoice then the city may lien the property with such cost, along with an administrative fee as determined in the city's fee ordinance to recover the administrative personnel services. In addition to filing a lien the city can pursue financial penalties against the mortgagee.

Section 9.23 Opposing, Obstructing Code Inspector Penalty

Whoever opposes obstructs or resists any code inspector or any person authorized by the enforcement office in the discharge of duties as provided in this chapter shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

Section 9.24 Immunity of Code Inspector

Any code inspector or any person authorized by the city to enforce the sections here within shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this article.

Section 9.25 Enforcement and Penalties

Enforcement. The requirements of this article may be enforced as follows: By citation for civil penalties pursuant to section of this Code.

(2) By an action for injunctive relief, civil penalties, or both, through a court of competent jurisdiction;

(3) By exercise of the city's nuisance abatement process;

(4) By revocation or temporary suspension of necessary permits and/or certificates or occupancy and/or licenses;

(5) By any other process permitted at law or equity; and

(6) Use of one enforcement process or theory does not preclude the city from seeking the same, different, or additional relief through other enforcement methods.

(b) Separate offenses. A violation of this article shall constitute a separate offense for each day it shall continue or recur. Each condition which exists in violation of this article is a separate violation.

(1) Each day a property remains unregistered when required to be registered by this article is a separate offense for each day it shall continue or recur.

(2) Each day a property is not inspected as required by this article is a separate offense.

(3) Each day a property is not secured as required by this article is a separate offense.

(4) Each day a condition violating the county's minimum housing codes or property maintenance codes exists on a property subject to registration under this article is a separate offense.

(b) Persons responsible for violations. The, owner, mortgagee, trustee or servicer as those terms are defined in this article, and their duly authorized officers, employees or agents employed in connection therewith who has assisted in the commission of the violation or failed to perform as required by the article shall be guilty of the violation.

Property Maintenance Chapter 22

Article III

Section 22.01 Purpose of article.

The purpose of this article is to establish minimum standards for the maintenance, upkeep and appearance of improved or unimproved premises; to minimize impacts of construction; and to provide a just, equitable and practicable method to preclude:

- (1) Residential and commercial buildings, structures and premises from causing and/or endangering the life, limb, health, property, safety or welfare of the general public or their occupants; or
- (2) Diminished property values; or
- (3) Detracting from the appropriate appearance of the residential area, by way of example:
 - a. Failure to remove abandoned property, litter or debris; or
 - b. Failure to cut and/or remove the accumulation of weeds, grass or uncultivated vegetation.

Section 22.02 General provisions.

(a) Maintenance. Equipment, systems, devices and safeguards required by this article or a prior code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. The requirements of this article are not intended to provide the basis for removal or abrogation of fire protection or safety systems and devices in existing structures. Except as otherwise specified herein, the owner shall be responsible for the maintenance of buildings, structures and premises.

(b) Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be performed in accordance with the procedures and provisions of the code adopted by section 16-112. Nothing in this article shall be construed to cancel, modify or set aside any provision of this section.

(c) Existing remedies. The provisions in this article shall not be construed to abolish or impair other remedies of any local, state or federal jurisdiction or its officers or agencies relating to the removal or demolition of any structure.

(d) Requirements not covered by this article. The building official shall determine requirements necessary for the strength, stability or proper operation and general conditions acceptable for an existing fixture, structure or equipment not specifically covered by this article.

(e) Deviation from article. Where practical difficulties are prohibitive in carrying out the provisions of this article, the building official has the authority to grant modifications for individual cases. The modification shall be in compliance with the intent and purpose of this article and shall not lessen health, life and fire safety requirements. The basis for granting modifications shall be recorded and entered in the department files.

(f) Compliance. It shall be the duty of each and every owner and operator of improved or unimproved property within the city to comply with the requirements set forth in this article. No permit or certificate of occupancy shall be issued unless there is compliance with all applicable sections of this article. No premises or building, or combination, shall be used in a manner inconsistent with or in conflict with the requirements of this article.

(g) Conflict with other codes. The provisions of this article shall apply to all buildings, structures or premises in existence or built within the city limits or annexed therein. Where the provisions of this

article impose a standard different than that set forth in any other ordinance of the city or under the laws of the state, the most restrictive standard shall prevail.

Section 22.03 Definitions.

The following definitions shall apply for purposes of this article:

Abandoned property means any wrecked, inoperative, derelict or partially dismantled property having little, if any, value other than nominal salvage value, which has been left unattended and unprotected from the elements, which shall include, but not be limited to, motor vehicles, trailers, boats, machinery, appliances such as refrigerators and washing machines, plumbing fixtures, furniture, and any other similar articles.

Approved means approved by the building official or the building official's designated representative.

Building means any structure, either temporary or permanent, having a roof, and used or built for shelter or enclosure of persons, animals, chattels or property of any kind.

Building code and technical codes means the Florida Building Code and the technical codes adopted pursuant to article III of this chapter.

Commercial business means any business or enterprise that offers for sale goods or services, or which in any manner conducts commerce.

Condemn means to judge unfit for occupancy.

Contractor means and includes owner, operator, owner-builder or licensed contractor.

Demolition means the deconstructing, destroying, raising, tearing down, or wrecking of any building, including its foundation. As used herein, the word "demolition" shall not apply to partial demolition associated with major or minor remodeling.

Deterioration means the condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, rusting, peeling paint or other evidence of physical decay, including the landscaping and the parking areas.

Enclosed container means, for purposes of this article, any physical structure which prevents materials from falling out, spilling, or coming out by other accidental means during storage or transport, and shall include, but not be limited to, garbage cans, boxes, truck bodies capable of being enclosed and any means sufficient to prevent the accidental scattering or leaking of said materials.

Exterior property means the open space on the premises outside of the building.

Fire hazard (see "nuisance") means any thing or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than reasonable, or which may unreasonably obstruct, delay or hinder or may unreasonably become the cause of an obstruction, a delay, a hazard or an unreasonable hindrance to the prevention, suppression or extinguishment of fire.

Food waste means the animal or vegetable waste resulting from the handling, preparation, cooking or consumption of food.

Imminent danger means a condition that could cause serious or life-threatening injury or death at any time.

Improved property means real property which contains buildings or other structural improvements.

Inert waste materials means brick, block, concrete, rock, stone, earth, and sand, free from contamination or other types of waste and capable of serving as fill material without harm to, or pollution of, ground or surface waters.

Infestation means to spread or foster in a troublesome manner.

Litter means any discarded, used, unconsumed substances or wastes. Litter shall include, but shall not be limited to, garbage, solid waste, trash, refuse, debris, paper products (including newspapers and magazines), glass, metal, plastic or other containers, cloth, wood and wood products, sweepings, liquids (other than uncontaminated water), sludge, grass clippings, tree limbs, trunks and roots, undergrowth and materials produced by clearing and grubbing and other horticulture wastes, motor vehicle parts and tires, furniture, oil or grease, hazardous wastes (including gasoline, paint thinners and other similar types), the carcass of a dead animal, any obnoxious or offensive matter of any kind, and any object or condition of any unsightly nature, which may have been discarded, abandoned or otherwise disposed of improperly.

Lot means a parcel of real property.

Nuisance means any one or combination of the following:

- (1) Any public nuisance known at common law or in equity jurisprudence, or as provided by the statutes of the state or the ordinances of the city;
- (2) Any condition, including an attractive nuisance, which may prove detrimental to human health or safety, whether in a building or on the premises;
- (3) Physical conditions dangerous to human life or detrimental to health of persons in, on or near the premises where the condition exists;
- (4) Unsanitary conditions or conditions that are dangerous to public health, well-being or the general welfare;
- (5) Fire hazards; and
- (6) Unsightly conditions.

Occupant means any individual living or sleeping in a building, or having possession of a space within a building.

Operator means any person who has charge, care or control of premises or a part thereof.

Owner means any person, agent, operator, business, firm or corporation having a legal or equitable interest in the fee title to the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, or the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Parking lot means any parcel of real property with an outdoor area or space, paved or unpaved, approved for motor vehicle parking or storage.

Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit" or "story" are stated in this article, they shall be construed as though they were followed by the words "or any part thereof."

Permit means approvals issued by building official, to include but not be limited to the construction site management plan approved by the building official.

Project site means the area within the property line where lot clearing and grading, stockpiling of soil, demolition, excavation, construction, reconstruction, renovation, remodeling, and minor remodeling may occur.

Residential means all single-family and multifamily buildings and structures.

Right-of-way means land to which the state, county or city holds fee simple title or an easement for transportation or utility use.

Rubbish means combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, and other combustible materials, paper, rags,

cartons, boxes, wood, rubber, tree branches, yard trimmings, tin cans, metals, mineral matter, and glass and other similar materials.

Stop work order means a notice signed by the building official or designee to cease work or other activity on any site for which a permit has been issued or is subject to issuance.

Storage of litter means interim containment of litter in a manner approved by the city council, after generation of such litter and prior to proper and final disposal.

Street means the paved or improved portion of the right-of-way which is intended for public use by vehicles, pedestrians, bicycles and others and which affords the principal means of access to abutting property.

Tenant means a person, corporation, partnership or group who has the occupation or temporary possession of a dwelling unit or commercial premises, but does not hold title to same.

Terms defined in other codes. Where terms are not defined in this article and are defined in the Florida Building Code and technical codes or in the land development code, such terms shall have the meanings ascribed to them as in those codes.

Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

Vacant lot means a parcel of real property which contains no buildings or structures of a temporary or permanent nature.

Vacant structure means a structure, accessory or principal, that is not occupied.

Weeds means all weeds, annual plants and uncultivated vegetation; however, this term shall not include trees, cultivated flowers, cultivated shrubs and gardens.

Section 22.04 Vacant lot maintenance.

(a) Vegetation. All vacant lots, including the area between the edge of pavement in the street and the lot line, shall be kept free from dry vegetation, accumulation of weeds, grass and uncultivated vegetation:

- (1) Which present a visual blight upon neighborhoods; or
- (2) Which may harbor insect or rodent infestations; or
- (3) Which may likely become a fire hazard; or
- (4) Which result in a condition which may threaten the health and safety or the economic welfare of abutting or adjacent property owners or occupants.

(b) General standards.

(1) All vacant lots shall be free from potential fire hazards, to include but not be limited to dead trees, loose branches and palm fronds.

(2) All vacant lots shall comply with the following requirements:

(a) They shall be covered in an amount of at least 90 percent, with grass or other living plant materials. All grasses or weeds, and uncultivated vegetation, shall not exceed eight inches in height, including the area between the edge of pavement in the street and the lot line, unless there is an active building permit for construction on the property and the required construction fence is in place.

(b) All debris, old pavement, shrubs and remains of previous improvements must be cleared from the site.

(c) Docks, driveways, accessways, access aisles, fences and walls in good repair and free from cracks, holes, and weeds are permitted to remain on the site.

- (d) They shall be graded to avoid excessive water retention, unsafe conditions or excessive drainage on to neighboring properties.
- (e) If a lot has become vacant due to demolition, the lot shall be brought into compliance within 60 days after demolition is completed.
- (3) Motor vehicles are prohibited from parking on or driving across any portion of a vacant lot, except for:
 - (a) Areas designated and approved by the building official; and
 - (b) Where the owner of the vacant lot has given written permission to the vehicle owner or operator.
- (4) Nuisances are prohibited on all lots to include by way of example but not limitation: abandoned or broken equipment, discarded furniture, household appliances, trash, litter, debris, packing boxes, lumber, construction material, solid waste, horticulture debris, salvage materials and machinery.

Section 22.05 Residential and commercial property maintenance.

- (a) All premises shall be maintained in compliance with the standards in this section.
- (b) Standards for improved property.
 - (1) Foundation. The building foundation system shall be adequately maintained and capable of supporting the load for which it was designed.
 - (a) Wood supports shall be sound and free from insect infestation and rot.
 - (b) Metal supports and connections shall be free from rust and the equivalent of new supports.
 - (c) Skirting shall be maintained free from broken or missing sections, pieces or cross members. Skirting shall be securely attached and sized from the ground to the lower outside perimeter of the structure.
 - (2) Exterior walls. Exterior walls of buildings shall be:
 - (a) Maintained free from holes, breaks, and loose or rotting materials; and
 - (b) Maintained, weatherproofed and surfaces properly coated as needed to prevent deterioration. Decorative features such as cornices, belt courses, corbels, trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage. Any graffiti shall be removed or repainted to match existing surfaces.
 - (3) Windows.
 - (a) Every window shall be maintained in sound working condition and good repair to be substantially weather-tight and rodent-proof.
 - (b) Openings originally designed as windows shall be maintained as windows, unless approved by the building official for enclosure. The enclosure of a window shall be by either bricking the opening, blocking the opening with concrete blocks and stuccoing the exterior, or boarding the opening. When boarding is used, it shall be of trim fit, sealed to prevent water intrusion, and painted or stained to conform with the other exterior portions of the building. The boarding shall remain in place and be properly maintained.
 - (4) Shutters. All shutters shall be maintained in good repair and securely attached to a structure. Peeling paint or preservatives is prohibited.
 - (5) Exterior doors. Every exterior door and hatchway or garage door shall be kept in sound working condition and good repair.
 - (6) Exterior doorframes and storefronts. Exterior doorframes and storefronts shall be maintained in good condition. All moldings shall be securely attached to the structure and maintained in good condition without splitting or deterioration.

- (7)** Exterior surface treatment. All exterior surfaces, including by way of example and not limitation, doors and window frames, cornices, porches, decks, trim, balconies, fences and docks, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective treatment. Peeling paint is prohibited and surfaces shall be repainted. All metal surfaces shall be coated to inhibit rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated.
- (8)** Structural supports. Every structural element of a dwelling shall be maintained in a structurally sound condition and shall not show evidence of deterioration that would make it incapable of carrying normal loads.
- (9)** Porches and balconies. All exterior porches, balconies, stairs and fire escapes shall include banisters or railings properly designed and maintained to minimize the hazard of falling and installed to withstand the loads prescribed by the Florida Building Code. All exterior porches, landings, balconies, stairs and fire escapes shall be kept structurally sound, in good repair and free from defects. Paint and other finishes shall be in good condition.
- (10)** Stairs. All stairs shall be maintained safe and free from tripping hazards. Treads shall be sound, without broken or chipped edges. Wooden stairs shall be free from decay or substantial wear that could cause a tripping hazard or have an unsightly appearance. Handrails and guardrails shall be maintained to withstand loads prescribed by the Florida Building Code.
- (11)** Roofs. Roofs shall be maintained in a structurally sound and safe manner. Roofs shall be repaired using like materials to existing materials.
- (12)** Gutters and downspouts. Gutters and downspouts shall be maintained in good repair and shall be neatly located and securely installed.
- (13)** Chimneys, flues, and vent attachments. Chimneys, flues, and vent attachments shall be maintained in a structurally sound manner, free from defects to capably perform the functions for which they were designed.
- (14)** Overhang extensions. All overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored to remain in sound condition. All exposed surfaces of metal or wood shall be protected from the elements, decay or rust.
- (15)** Insect screens. All windows and other outside openings required for ventilation of food preparation areas, food service areas, or any areas where products utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh (16 mesh per 25 mm). Every swinging door shall have a self-closing device in good working condition.
- (16)** Commercial parking areas/walkways. Holes, excavations, breaks, projections or obstructions on walks, driveways, parking lots and parking areas and other parts of commercial premises which are accessible to and used by persons on the premises are prohibited. Deficiencies shall be repaired, replaced or removed as appropriate. The building official shall set a time for performance for the owner to comply with this subsection. This subsection applies to occupied and unoccupied property. All surfaces, including those of parking lots, shall be maintained free of glass, loose shingles, loose wood, crumbling stone or brick, asphalt, concrete, stucco, loose or broken plastic or other similar hazardous conditions.
- (17)** Accessory structures. Garages, storage buildings and all other accessory structures shall be maintained and kept in good repair and sound structural condition.

(18) Swimming pools. All swimming pools, spas and architectural pools, ponds or bodies of water shall be properly maintained so as not to create a safety hazard or harbor insect infestation. Water shall not be allowed to stagnate or to become polluted. All pools shall be free from unsightly appearance.

(19) Rodent harborage. All structures and exterior premises shall be kept free from rodent harborage and infestation. Where rodents are found, the owner shall promptly exterminate rodents through a process which will not be injurious to human health.

(20) Grass, weeds and uncultivated vegetation. All grasses or weeds, and uncultivated vegetation, shall not exceed 8 inches in height on improved property, including the area between the edge of the pavement in the street and the lot line.

(21) Shrubbery, plants, and ground cover. All premises shall be maintained in a condition to prevent erosion of soil by:

(a) Landscaping with grass, trees, shrubs or other planted ground cover; or

(b) Such other suitable means as shall be approved by the building official.

(22) Trees. Trees shall be maintained or removed as follows:

(a) Hazardous trees. Dead, dying, damaged or diseased trees are prohibited. A finding by a registered forester or certified arborist employed by the city that a tree is in danger of falling upon an adjacent lot or street due to death, disease or damage, including damage caused by weather conditions, is prima facie evidence of a violation of this section.

(b) Prohibited conditions. The following conditions are prohibited:

1. Trees, plants, shrubs, vegetation, or parts thereof, which (i) overhang any sidewalk, street, alley or fire hydrant, and (ii) obstruct or impair the free and full use of the sidewalk, street, alley or fire hydrant by the public.

2. Grass, weeds, shrubs, bushes, trees or vegetation which constitute a fire hazard or a menace to public health, safety or welfare.

3. Removal of obstruction. The owner of any premises shall trim trees, plants, shrubs or vegetation, or any parts thereof as follows: (i) which overhang any sidewalk, alley or street as determined by the building official, and (ii) which interfere with the use of any sidewalk, alley, street, poles, wires, pipes, fixtures or any other part of any public utility situated in the right-of-way.

(23) Exterior lighting. All outdoor lighting shall be in compliance with the following:

(a) Nonvehicular light sources that shine into the eyes of drivers of vehicles or pedestrians which could impair safe traverse are prohibited.

(b) All lighting shall be shielded and aimed at the owner's premises or sidewalk and street abutting the premises.

(24) Fences and walls. Fences and walls shall be maintained in a safe and structurally sound condition, in good repair with the surface coated or painted. Fences shall be free from loose or rotting materials. Metal fencing shall be free from rust or deterioration.

(25) Floors, interior walls and ceilings. All floors, interior walls and ceilings of every structure shall be maintained in a structurally sound manner and in a condition consistent with its use.

(26) Miscellaneous elements. All existing miscellaneous elements on building walls, roofs and surrounding premises, to include by way of example empty electrical or other conduits, or unused sign brackets, shall be removed.

(27) Landscape maintenance. Where landscape plans have been specifically incorporated and approved in a development plan, the landscape areas shall be maintained in a manner equal to the original landscaping approval.

(c) Litter.

(1) Storage of litter.

(a) All commercial businesses shall store litter in containers to eliminate wind-driven debris. The number and size of receptacles for each commercial business shall be that number required to maintain a clean, neat, and sanitary premises. Spillage and overflow of litter around containers is a violation.

(b) Commercial businesses shall provide and maintain litter containers adequate to contain litter generated from such business at its loading and unloading zones.

(c) Commercial businesses open to the public shall provide and maintain containers adequate to contain litter generated from such business.

(d) Every person in possession or in control of any place, public or private, where litter is accumulated or generated shall provide and maintain adequate and suitable containers capable of holding such litter until proper final disposal is accomplished.

(2) Depositing litter. To throw, discard, place, drop, or deposit litter in any manner or amount in or upon any public property, private property, highway, street, right-of-way or body of water within the limits of the city, except in such containers specifically provided and designated for the disposal of litter, is a violation. Litter strewn by a pedestrian except at approved and permitted disposal sites is a violation. Litter ejected or discarded from a motor vehicle except at approved and permitted disposal sites is a violation.

(3) Accumulation of litter. Any accumulation of litter in or upon any property, vacant or improved, is deemed a nuisance and is prohibited. Failure to remove the accumulation by the property owner, tenant, occupant, agent, manager or other person who owns, maintains, or controls any premises or portion thereof, whether improved or unimproved, is a violation.

(d) Accessory structures. Garages, storage buildings and all other accessory structures shall be maintained in good repair and sound structural condition. Structures, attached or unattached to the principal structure, which are found by the building official to be structurally deficient, shall be repaired or demolished within the timeframe set by the building official. Maintenance of accessory structures shall comply with the following:

(1) The exterior of the building and premises to include but not limited to parking areas and landscaped areas shall be maintained in a sound, clean and neat condition.

(2) Signs shall be maintained in good condition. Where the sign structure remains, the sign faces are to be replaced with blank panels (permit required). The design and color is subject to approval by the building official.

(3) All advertising structures, awnings and accompanying supporting members shall be maintained in good repair and shall not constitute a nuisance or safety hazard. Advertising structures or awnings not properly maintained in accordance with this subsection shall be removed. Awnings or marquees made of cloth, plastic or a similar material shall not show evidence of tearing, ripping or holes. Upon removal of an advertising structure or awning, all supporting members shall be removed. Nothing in this subsection shall be construed to authorize any encroachments on streets, sidewalks or other parts of the public right-of-way.

(4) Where parking areas are to be barricaded to prohibit vehicular travel, it shall be accomplished by installation of parking bumpers pinned to the pavement.

Section 22.06 Responsibilities of owner and operator.

(a) It shall be the duty and responsibility of the operator and the owner to ensure compliance with the following:

(1) All parts of the premises under the control of the owner or operator shall be maintained in a safe and sanitary condition consistent with the business use.

(2) The owner or operator shall not perform any acts:

(a) Which render other parts of the premises unsafe or unsanitary; or

(b) Which obstruct any adjacent owner or operator from performing any duty required, or maintaining the premises in a safe and sanitary condition.

(3) Every owner or operator shall eliminate infestation of rodents or insects in and on the premises subject to the owner's or operator's control.

(4) Every owner or operator shall maintain all plumbing fixtures in a safe and sanitary condition.

(5) No litter shall be stored or accumulated on the premises unless placed in a container in compliance with solid waste regulations.

(6) Upon learning of a defect or inoperable status of any facility, utility or equipment required under this article which is the owner's responsibility, the operator shall provide written notice to the owner.

Section 22.07 General maintenance.

(a) Nuisances and hazards. Premises shall be maintained free of nuisances and any hazards to the safety of the occupants, customers or persons utilizing the premises or to pedestrians passing by.

(b) Walls exposed as a result of demolition. Where a wall of a building is exposed as a result of demolition, the owner of the building shall have the wall with its doors, windows, vents or other similar openings closed with material of the type composing the wall. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked, and weatherproofed, if necessary, based on construction material, to prevent deterioration of the wall.

(c) Storage of flammable or combustible materials. There shall be no storage or accumulation of flammable or combustible liquids or other materials on the premises unless approved for storage by the regulations or the codes referenced in section 24-81, and only in such quantities prescribed by the regulations.

(d) Abandoned curb cuts. Where curb cuts are abandoned due to new construction or change of access by the owner, the curb cut shall be closed and replaced by the owner with a standard sidewalk, curb and gutter design, to match original.

(e) Sidewalks or curbs damaged by delivery vehicles. Damage to public sidewalks or curb and gutter located in the public right-of-way shall be repaired or replaced by the owner at no expense to the city when such damage is caused by vehicles making deliveries to the commercial premises.

Section 22.08 Applicability of standards to vacant buildings; securing of vacant buildings.

The provisions of this article that apply to the exterior premises include vacant structures. Vacant structures are not required to comply with the interior requirements of this article. All vacant structures shall be secured to prevent the entry of unauthorized persons or the formation of nuisance conditions. Securing a vacant structure may include boarding of the building as determined by the building official. If required by the building official, windows and doors shall be boarded by the owner and the boarding shall be maintained to keep the building secured. The design and color of boarding is subject to approval by the building official and shall be designed so that the building does not appear to be abandoned.

Section 22.08 Unsightly conditions.

The following conditions are hereby deemed to be unsightly conditions and are prohibited. The following conditions are prohibited on any premises in the city:

- (1) Structures that are:
 - (a) Partially destroyed; or
 - (b) Left in a state of disrepair; or
 - (c) Left in a state of partial construction beyond the valid timeframe of the permit.
- (2) Abandoned or broken equipment; broken or discarded furniture and household appliances in visible yard areas.
- (3) Building exteriors in a condition of deterioration or disrepair such that the condition causes measurable diminution of surrounding property values.
- (4) Property exteriors with trash, litter, debris, packing boxes, lumber, construction material, solid waste, horticulture debris, salvage materials, appliances, machinery, equipment and any furniture, excluding furniture specifically designed for outdoor use. Failure to maintain the premises in a clean, safe and sanitary condition is a violation. The owner and operator shall keep that part of the exterior property subject to its control or occupancy in a clean and sanitary condition.
- (5) Clotheslines visible from the street.
- (6) Garbage and trash containers stored in a manner visible from the street.

Section 22.30 Demolition of commercial and residential buildings.

(a) A building in any zoning district may be demolished by the owner provided that the following requirements are met:

- (1) A demolition permit from the city manager shall be obtained.
- (2) All sewer, gas, water and similar taps or connections shall be properly closed and disconnected in compliance with the regulations of the appropriate utility.
- (3) All debris and litter from the building shall be removed from the site. This requirement is for the removal of all debris that is above the street level of the building.
- (4) The lot shall be graded to a smooth, even, finished grade, free from building materials, debris, holes and depressions. Where building debris such as foundations remain on the site below street level, the owner shall backfill the lot with 12 inches of clean fill, which shall be graded to a smooth, even, finished grade.
- (5) Where walls of adjacent buildings or a portion of existing buildings become exposed as a result of the demolition, all doors, windows, vents or other similar openings in the remaining walls shall be closed with material of the type composing the wall. No protrusions or loose material shall remain. The exposed wall shall be painted, stuccoed or bricked and weather-proofed to prevent deterioration of the wall and in a manner compatible with the remaining building.
- (b) Prior to issuance of a demolition permit for a building where commercial activity is a permitted use, a performance bond or equivalent security shall be filed with the city, payable to the city, in the amount defined in subsections (b)(1) and (2) of this section. The performance bond or equivalent security shall be in a form acceptable to the city's attorney and shall be in an amount which is 110 percent of the cost estimate. The performance bond or equivalent security amount shall be based upon a certification by the contractor of the following:

- (1) Total demolition: The amount to demolish the building, and remove all debris from the site, and disposal cost for the debris and grading the lot in compliance with the land development code; or
- (2) Partial demolition: The amount to demolish the building, and remove all debris from the site, and disposal cost for the debris, grading the lot and the cost of additional construction or reconstruction so the exterior of any partially demolished building or building abutting an adjacent building that results in repair or reconstruction is in compliance with subsection (a) above.
- (c) Where buildings in any zoning district are destroyed by fire, disaster or other acts of God, the requirements of this section shall apply.

Section 22.31 Construction site management

- (a) Construction site management plan required. No building permit shall be issued unless a construction site management plan has been submitted and approved by the building official. Persons who intend to make any of the following improvements: lot clearing, grading, stockpiling of soil, demolition, building construction or reconstruction, building alteration or addition, shall designate either a licensed contractor or owner-builder for the purposes of the construction site management requirements. These requirements set minimum standards for the operation of the project site to eliminate or minimize impacts to the site and to the neighborhood to include containment of sediment, surface water discharge, erosion of soil, vehicle parking and loading area, traffic control, fencing, placement of materials, safety, neatness and cleanliness.
- (b) Submittal requirements. The contractor shall submit a construction site management plan with a building permit application which includes the following submittal requirements unless waived by the building official:
 - (1) Location of proposed demolition.
 - (2) Grading and drainage surface water management plan for street and project site, including:
 - (a) Drainage plan during construction in compliance with subsection (d) of this section.
 - (b) Final grading and drainage plan upon completion of construction for the street and project site in compliance with section 16-114 and subsections (d)(4) and (5) of this section.
 - (3) Parking plan, including:
 - (a) Location of on-site and adjacent unpaved portion of the right-of-way parking and the maximum number of vehicles that will be parked along the unpaved portion of the right-of-way.
 - (b) Off-site parking plan in compliance with subsection (e)(4) of this section and the following:
 - 1. A single access with dimensions;
 - 2. Buffering for adjacent waterways and streets, as approved by the building official;
 - 3. A temporary fence location, height and type of fence with screening;
 - 4. Narrative describing restoration of the lot and hours of operation.
 - (c) Copy of city right-of-way permit for parking in right-of-way.
 - (4) Fencing plan, showing location, height and type of fence with screening or evidence that proposed construction does not warrant a construction fence in compliance with subsection (g)(6) of this section as determined by the building official.
 - (5) Location of construction trailers, loading/unloading area and material storage area.
 - (6) Location of chemical toilets.
 - (7) Location of dumpster.

(8) Traffic control plan, including access with dimensions, area to be stabilized and a written plan on staging of construction related traffic during final phase of project including adequate parking (both on and off-site) and plan for delivery of materials.

(9) Location of any trees located within the public right-of-way that will be removed. (Removal of trees owned by the city is prohibited unless written approval from the city manager is provided. See section 38-2(c).)

(10) Other activities, where special conditions are identified by the building official.

(11) Proof of notice to owners of property within 100 feet of the outer limits of the subject property, as listed in the property appraiser's records, at least 14 days prior to commencement of construction. The proof consists of a list of property owners and addresses and a receipt or other proof of mailing. Notice is to include:

(a) A phone number for the contractor where a representative of the qualifier is available whenever construction activities are taking place on site and prior to a storm event.

(b) The after-hours phone number for the city's building and zoning division.

(c) An approximate timetable for construction activities to include any demolition, excavation, or pile driving activities.

(d) An offer to have a licensed engineer or city-approved inspector conduct a pre-construction or pre-demolition site inspection of the adjacent properties prior to commencing any demolition, pile driving or similar activities and on-site seismic monitoring during demolition, pile driving or similar activities. At a minimum the inspection is to include a visual record of the neighboring properties, a copy of which shall be given to the neighboring property owner and made available to the city or county on request.

(c) Approval of plan; waivers. The building official shall review, approve or deny the construction site management plan. The building official is hereby authorized to grant waivers from submittal requirements and corresponding standards which shall be reflected on the construction site management plan:

(1) If the requirement is unrelated to proposed development;

(2) If the impact of the proposed development is negligible in that submittal requirement area; or

(3) If unusual site conditions do not allow full compliance with this section.

(d) Grading plan; grading and surface water management standards.

(1) Grading. The site shall be graded and maintained during construction:

(a) To prevent erosion of soil; and

(b) To control surface water discharge so that no water in excess of pre-construction discharge flows onto abutting property and subject to compliance with section 16-114; and

(c) To prevent accumulation of stagnant water for the duration of construction.

(2) Sediment fence. The contractor shall install a sediment fence to protect adjacent properties, including lakes, canals and all other waterways, from discharges of soil, sediment, or construction-related material from the site unless a waiver is obtained from the building official.

(3) Maintenance. The contractor shall inspect and maintain all erosion and sediment control practices until construction is complete and the construction site is stabilized. A fence installed to maintain sediment control shall remain in an upright condition until final electrical inspection.

(4) Final grading. Final grading of the site shall be in compliance with the construction site management plan. The design shall ensure that no surface water in excess of the pre-construction amount shall flow onto abutting or adjacent properties. The design shall also ensure that the discharge of surface waters shall be off-site into an approved stormwater system.

(5) Surface water. Surface waters, including dewatering, shall be directed into an on-site settling basin or otherwise filtered before discharge off-site. Off-site discharge shall be directed to an approved surface water management system during construction and upon final grading of the project site in compliance with section 16-114. The contractor shall be responsible for removal of any silt, debris, and dirt that accumulates within the city's stormwater management system, including swales, stormwater retention lakes, ponds, canals and waterways. Discharges of sediment into waters in the State of Florida is a violation of water quality and may result in enforcement action by the South Florida Water Management District, the state department of environmental protection or the city. Discharge of water from swimming pools under construction or completed into ponds, lakes, canals and waterways is prohibited.

(e) Parking during development of project.

(1) Parking on-site. The owner or contractor shall provide for parking on the project site to the greatest degree possible. Alternative parking sites may include the abutting paved portion of the right-of-way, adjacent vacant lot or offsite parking lots in the immediate area as approved in the construction site management plan.

(2) Access. Use of the public right-of-way for access to and from the project site as shown on the construction site management plan shall be strictly managed by the contractor. The contractor shall maintain the public street adjacent to the project site free of dirt, sand or any other debris resulting from construction activities. The public right-of-way adjacent to the project site shall be broom swept on a regular basis keeping it free of dirt, sand and other debris. Failure to remove said material on the day of occurrence is a violation.

(3) Temporary graveled or stabilized area for construction access and parking. The contractor shall provide a graveled or stabilized area as shown in the construction site management plan. The stabilized area shall be located at points where vehicles enter and exit the construction site and the parking location. When a right-of-way area is used for parking, the contractor shall provide a graveled or stabilized area on the right-of-way. Upon completion of the project, the contractor shall restore the right-of-way to its original condition or better. The purpose of the graveled or stabilized area at the entrance to the project site is to eliminate and reduce tracking or flow of sand, mud, concrete wash or other related material onto the right-of-way.

(4) Parking in the right-of-way. If the construction site requires the placement of equipment or materials on the paved portion of a right-of-way at any time during the construction, a city right-of-way permit is required.

(5) A construction site supervisor must be present whenever deliveries occur in the paved portion of the right-of-way to ensure that vehicles do not unreasonably obstruct vehicular traffic. Delivery of material that obstructs a roadway shall be limited to one vehicle at a time. The owner and contractor shall assume responsibility for any damage to the public right-of-way, sidewalk, roadway, and city trees and take steps to correct the damage immediately.

(6) Off-site parking. The building official may temporarily permit off-site parking on vacant lots other than the project site with the written permission of the owner of the lot where the vehicles are to be parked and in compliance with the following standards:

(a) Compliance with the construction site management plan.

(b) The lot shall be used for parking only.

(c) There shall be no storage of materials, trailers or construction equipment.

(d) There shall be no loading and unloading of materials or machinery.

(e) The lot shall remain free of debris or trash.

(f) A temporary six-foot chain link fence with a single color fabric, either black or green, or other screening materials as approved by the building official shall be located at the front, side, and rear lot line of the temporary parking area except where a lot line is located on the water. Where a lot line is along the water, the fence shall be placed no closer to the water than the yard setback line and shall not exceed three feet in height. The fence gate shall remain locked during non-working hours. The fencing shall remain on-site until the off-site parking is no longer needed to complete the project site and shall be removed prior to issuance of a certificate of occupancy for the project site.

(f) Material storage. Material associated with the project site, including equipment, shall be neatly stored on the site (within the fenced area when applicable). The storage of material shall not obstruct access to the structure under construction or create a public safety hazard. All loading or unloading of materials and/or equipment is limited to the construction site and right-of-way in compliance with section 36-93.

(g) Construction fencing. A project site which requires clearing, grading, stockpiling of materials, demolition, or construction shall have a construction fence.

(1) The fence shall be a six-foot chain link fence with a green or black fabric.

(2) The fence shall remain in place, upright and in good repair, throughout the period of construction activity and shall be removed when construction is completed.

(3) The fence shall be installed along the side and rear lot lines (and along one of the two front yards of corner lots).

(4) For properties located in the R1-15A or commercial zoning districts, the fence shall be installed along the front, side and rear lot lines.

(5) Fencing may be removed upon final grading and landscaping of the site or upon installation of an approved permanent fence or wall.

(6) Major remodeling. Major remodeling shall mean an increase in the building volume of 10,000 cubic feet or more, an increase in the building footprint of 1,000 square feet or more or new construction with a building footprint of 1,000 square feet or more. A construction fence is required for major remodeling as follows:

(a) A lot located in the R1-15A or commercial zoning districts shall contain a fence on the front, side and rear lot lines. Fencing may be removed upon final grading and landscaping or upon replacement with a permanent fence or wall;

(b) All other lots shall contain a fence on the side and rear lot lines. Fencing may be removed upon final grading and landscaping or upon replacement with a permanent fence or wall.

(7) Major alteration. Major alteration shall mean a change of 50 percent or more of the gross square footage of an existing structure for reconstruction, rehabilitation, removal of walls, or other improvement excluding replacement of the roof. A construction fence is required for major alteration as follows:

(a) A lot located in the R1-15A or commercial zoning districts shall contain a fence on the front, side, and rear lot lines. Fencing may be removed upon final electrical inspection.

(b) All other lots shall contain a fence on the side and rear lot lines. Fencing may be removed upon final grading and landscaping or upon replacement with a permanent fence or wall.

(8) Exception from six-foot height requirement.

(a) Where a construction fence is required and the property line is located on the water in any residential zoning district, that portion of the construction fence along the water may be reduced to three feet in height within the required yard along the waterfront.

(b) In a R1-15A zoning on a nongulf waterfront lot, the side and rear lot line fences shall be lowered to three feet for that portion which is the greater of:

1. 30 feet from the mean high water line; or
2. 30 feet from the platted waterfront building line

(9) Exception to installation of construction fence. Where a construction fence would be required for a residential lot pursuant to subsection (1)b., (2)b. or (3)b. above and the owner or contractor obtains a construction fence waiver from the owner of the property that abuts the project site, the building official may waive the requirement for all or a portion of the construction fence but retains the right to require a construction fence at any time. The three-foot sediment fence will still be required.

(10) Installation. Installation of a construction fence shall occur prior to any construction activity or material deliveries. The fence shall not be placed so as to create a public safety hazard. Where the project site is enclosed by a fence, the fence gate shall be locked during non-working hours.

(h) Signs. A 12-inch by 18-inch sign shall be posted by the contractor on the project site in the location approved on the construction site management plan which is readable from the street. The sign shall contain the street address of the property, phone number for the City of Naples and the name and phone number of the general contractor. The sign is exempt from section 50-39(b)(2). This sign shall be maintained in a readable condition until completion of construction.

(1) One sign no larger than 12 inches by 18 inches that provides the name, phone number, and address of the project architect or design firm. The sign shall be located on the project property and shall be removed upon completion of the project.

(2) A sign indicating the address of the property shall be placed on the front property line so as to be visible from the roadway prior to commencement of construction. The sign shall be no larger than 12 inches by 18 inches with at least six-inch lettering. For corner lots, a sign shall be placed at each front yard.

(i) Site cleanliness. The owner or contractor shall have the entire construction site clean and free of debris at all times. Clean for purposes of this section means, without limitation, removal and placement into a dumpster of scrap lumber, concrete remnants and roof tile from the project site. The project site shall be free of all loose debris such as cans, metal, plastic and paper.

(j) Temporary trailers. When a temporary construction trailer is proposed and a construction fence is required, it shall be located on the project site within the fence at the location shown on the construction site management plan. No other trailers shall be parked on the right-of-way during the time of day in which construction is not permitted, nor shall they be parked on the unpaved portion of a right-of-way so as to obstruct the line of sight at intersections.

(k) Chemical toilets. Chemical toilets shall be located inside the project fence and accessible for servicing. Where a fence is not required, the contractor shall locate the chemical toilet facing towards the rear of the project site and no further than 15 feet from the structure under construction except where another location has been authorized by the building official due to the size of the lot and ease of access to the chemical toilet.

(l) Landscaping. Damage to any landscaping on an abutting or adjacent property as a result of the construction shall be replaced and restored at the contractor's expense to its original condition. Failure to replace and repair is a violation.

(m) Dumpsters. Construction site dumpsters shall be located inside the fence. Where a fence is not required, it shall be located on the project site. The dumpster shall be emptied in a timely fashion so

there is no overflow of debris or litter. Prior to a certificate of occupancy being issued, the dumpster shall be removed from the site.

(n) Permitted days and hours for construction work. The erection (including excavation), demolition, alteration or repair of any building or delivery of materials other than at the following times is prohibited. Such work must be accomplished on Monday through Saturday. No work may be conducted on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day.

(1) In residential areas: 7:00 a.m. to 6:00 p.m.

(2) In nonresidential areas: 6:30 a.m. to 7:00 p.m.

(a) Special construction activities. Pile driving and steel erection activity shall be limited to Monday through Friday, excluding federal holidays, during the hours between 8:00 a.m. in the morning until 4:00 p.m. in the evening. Demolition activity shall be limited to Monday through Friday, excluding federal holidays, during scheduled work hours between 8:00 a.m. in the morning and 6:00 p.m. in the evening. Auger cast and hydraulic boring are excluded from this limitation.

(b) Permit for work during prohibited hours. Any person may apply to the building official for a permit to operate during the hours or days prohibited under this section. If the building official or his designee shall determine that substantial loss or substantial inconvenience would result to any party in interest, and that the public health and safety will not be impaired by such operation, a permit may be issued which would allow work to occur during hours or days otherwise prohibited by this subsection. Notice of permit approval shall be provided by the city to adjacent property owners. The permit shall not exceed three days in duration, but may be renewed from time to time for a like period so long as the circumstances described in this subsection exist.

(c) Emergency and special types of construction. Where ordinary and necessary trade or engineering practices or an emergency require the continuous operation of pumps, well points, dredges, draglines and other machinery of a like nature during the otherwise prohibited hours, a permit shall be required and such operation shall not constitute a violation of this subsection. It is not the intent of this subsection to require poor or wasteful engineering or building practices in order to comply herewith.

(o) Construction-related traffic control. A contractor, owner, vehicle operator or any person associated with the project site who impedes or obstructs the public right-of-way; or who parks, loads, unloads, or carries on any related activity on the public right-of-way shall also be in violation of this section unless such actions are consistent with an exception contained in section 36-93 of this Code. In addition to penalties contained in Article III of Chapter 36, and in section 1-15 of this Code, the construction is subject to a stop work order and the permit is subject to suspension or revocation.

(p) Requirements during weather emergency. It is the responsibility of the owner and contractor to have removed construction materials from the project site or secured construction materials at the project site at least 48 hours prior to the predicted landfall of a tropical storm or hurricane until the time set forth in subsection (7) below.

(1) Applicability. At least 48 hours prior to the predicted landfall of a tropical storm or hurricane for any portion of Collier County Florida, as determined by the National Weather Service, National Hurricane Center or appropriate weather agency or as provided in the city's emergency plan; or upon order of the building official in anticipation of a storm emergency; all construction materials, including roof tiles, on all project sites within the city shall be secured and stored onsite in a safe manner or removed so that no material can become a safety hazard with hurricane or tropical storm force winds.

(2) Notice. Media broadcasts or notices issued by the National Weather Service or National Hurricane Center of an approaching tropical storm or a hurricane is hereby deemed notice to the owner or

contractor. The owner and contractor are responsible for the project site by securing on-site or removing from the site any construction materials or debris to protect against the effect of hurricane or tropical storm force winds. By holding a building permit during hurricane season, the contractor shall monitor the National Weather Service and the National Hurricane Center for weather emergencies.

(3) Inspection. A pre-storm inspection shall be required for all active construction sites involving exterior work and/or exterior storage of materials. The owner and contractor shall be responsible for insuring that the construction site has passed inspection prior to the issuance of a tropical storm warning or hurricane warning. The owner or contractor shall be available by phone until the site has passed the pre-storm inspection. Failure to properly secure a job site and pass inspection will be considered a violation of this ordinance. The city may recover as costs of repairs or compliance, the costs associated with securing job sites that have not complied with this section in addition to any fines imposed by the code board. And such costs shall constitute a lien on the property.

(4) Materials stockpiled on site. Materials stockpiled on any construction site shall be handled as follows:

(a) Band construction materials together and fasten them to the structure in such a manner to prevent the material from becoming airborne during a tropical storm or hurricane; or

(b) Remove construction materials from the top of the structure and secure them to the ground; or

(c) Remove construction materials from the project site; or

(d) Store construction materials inside a structure if said structure is secure from tropical or hurricane force wind loads.

(5) The contents of construction site dumpsters must be removed or weighted and secured with rope, mesh or other durable, wind resistant material.

(6) Portable toilets shall be secured to the structure, dumpster or emptied and laid horizontal and secured to the ground.

(7) During the National Weather Service designated hurricane season, building or roofing materials shall not be loaded on a roof earlier than ten working days prior to the permanent installation of the materials.

(8) Material capable of becoming airborne. Construction materials, debris or any material capable of becoming airborne shall remain secured and stored on the project site or shall be removed from the project site until the National Weather Service, National Hurricane Center, or the city through local action has removed all persons of the city from those areas included in a tropical storm warning or hurricane warning. Contractors shall not resume construction on any construction site until the site is brought into compliance with the construction site management plan.

Section 22.32 Designation of administrator; inspections; right of entry.

(a) It shall be the duty and responsibility of the building official to enforce this article and to proceed against each and every person found in violation of the requirements of this article.

(b) All inspections, regulations and enforcement of violations of the provisions of this article, unless expressly stated to the contrary, shall be under the direction and supervision of the building official.

(c) Whenever necessary to make an inspection to enforce any of the provisions of this article, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, **gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the building official may enter** such building, structure or premises at all lawful times to inspect the same or to perform any duty

imposed upon the building official by this article. If such building or premises are occupied, the building official shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

(d) When the building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this article.

22.33 - Violations; penalty.

(a) Penalty. Any person, firm, owner, contractor or agent who violates or fails to comply with any provision of this article shall be subject to the enforcement procedures and penalties set forth in **article VII of chapter 2.**

(b) Stop work order; order to abate. Additionally, where a violation relates to any construction or condition for which a permit has been issued, or is subject to issuance, the violation may be enforced by the building official or designee through the issuance of a stop work order in accordance with the procedures set forth in the Florida Building Code; or an order to repair, restore or demolish the work, to vacate the premises, or otherwise to abate the violation enforceable.

(c) Nuisance. Any violation of this article is subject to abatement as a public nuisance.

(d) Article provisions. The provisions of this article are cumulative with and in addition to any other remedy provided by law.

22.34 - Pollution Control:

F.S. § 403.182 authorizes each municipality to administer and establish local pollution control programs in compliance with F.S. ch. 403, and provides among other things that the local pollution control programs must provide by ordinance requirements compatible with or stricter than those imposed by F.S. ch. 403, and the regulations issued thereunder.

(b) It is declared to be the public policy of the city and the purpose of this section to achieve and maintain the levels of air quality that will protect human health and safety, to the greatest degree practicable, prevent injury to plant and animal life, foster and protect the comfort and convenience of the people, promote the economic and social development of the community, and facilitate the enjoyment of the natural attributes of this community.

22.35 - Prohibited on Public Streets and Sidewalks:

It shall be unlawful for the owner or occupant of any building, structure, or premises in the city to cause, allow or permit any smoke, dust, steam, odors, fumes, liquids, or other obnoxious matter or things to emanate therefrom over and upon any public street or sidewalk in the city, unless the same shall be so deflected away from persons using the streets or sidewalks as not to annoy, vex, irk, or bother persons in the use thereof.

(a) Any vents, exhaust fans, pipes, flues, or other appurtenances or parts of any building or structure, including those heretofore or hereafter installed or constructed, shall not be used or permitted to

be used unless and until the same shall have been so remodeled, reconstructed, erected, or installed in a way that smoke, dust, steam, odors, fumes, fluids, or other obnoxious matters or things thereby discharged into the air and toward the ground shall be directed and deflected away from persons using the city's public streets and sidewalks in a manner as not to annoy, vex, irk, or bother.

22.36 Noise

22.37 Shouting and yelling.

From 9:00 p.m. on each day from Sunday through Thursday through 7:00 a.m. on the next day, from 12:00 a.m. on Friday through 7:00 a.m. on Saturday, and from 12:00 a.m. on Saturday through 12:00 noon on Sunday, no person on property within a residential district or a conservation district within the city shall yell, shout, or otherwise verbally create noise, either individually or in concert with other persons at the same time and place, that can be heard at a distance of more than thirty-five feet from the boundary line of such property.

22.38 - Loudspeakers, amplifiers, and sound trucks.

- (a) No person shall, either as principal, agent, or employee, play, use, or operate for any purpose whatsoever, on or upon the public streets, alleys, parks, or thoroughfares in the city, any device known as a sound truck, loudspeaker, or sound amplifier, or any other electronic or mechanical device with a loudspeaker or sound amplifier, or any other instrument known as a calliope, which is attached to or located upon any vehicle or other device, equipment, or mechanism capable of moving or being moved upon the streets or public places of the city and which emits noise intended to be heard by persons other than those occupying the vehicle or other device, equipment, or mechanism on which such loudspeaker, sound amplifier, or other instrument is attached or located.
- (b) An exception to the provisions of this section may be permitted for public or charitable purposes after written permission for same is granted by the city, provided that use shall not be permitted before 7:00 a.m. or after 7:00 p.m. and use shall not be permitted within 1/2 mile of any hospital nor within 1/2 mile of any school or church while it is in session.

22.39 Distribution restricted.

It shall be unlawful for any person to distribute or give out any handbills, tickets, samples, or merchandise or other kind of advertising matter, unless the person is a licensed billposting agency. However, this section shall not be construed to prevent persons from distributing advertisements of their own business through the United States mail.

22.40 Placement in automobiles, private yards, etc., prohibited.

It shall be unlawful for any person to give to another or attempt to give to another any handbill, ticket, sample, or other advertising matter upon any public street, alley, park, or other public way or place within the city, or to pass the same from private property to any person on any street, alley, park, or other public way or place, or to place the advertising matter in any automobile belonging to another within the corporate limits of the city, or to throw or leave the same in any private yard or upon private property so that the same may be blown or scattered upon private or public property.

(1) Litter Compliance Officers: Pursuant to the provisions of Section 403.413, Florida Statutes, the "Florida Litter Law," the code compliance officers are designated as litter compliance officers of the City, for the purposes of enforcing Section 403.413, Florida Statutes. Such designated code compliance officers are appointed as litter enforcement officers.

22.48 Nuisance Declared.

The allowing of an inoperable motor vehicle to remain on private property outside of a garage or carport for a continuous period of fifteen days or more shall be declared a public nuisance. The only exceptions shall be when such vehicle is located on the premises of a duly licensed garage or repair facility and/or a junk yard which is in conformance with the zoning regulations. Prima facie evidence of such public nuisance shall be lack of display of the state current license plate on the vehicle, lack of engine in vehicle or parts missing therefrom and conditions causing vehicle to be inoperable; such as, vehicle damaged or flat tire.

22.41 Property on Public Property

22.42 Duty of police; notification; prima facie evidence.

(a) When any personal property which is not covered by the procedure required in F.S. § 705.101 et seq. shall remain upon any public street or other public way, public park, or other public grounds of the city for a continuous period of 48 hours or more, that personal property shall be taken possession of by the Palm Beach County Sheriff (Code Compliance Department) officer, or their designee and stored at some convenient place. If the owner of the personal property is known, he shall at once be notified that the personal property is in the custody of the City and directed to repossess that personal property.

(b) The leaving of any personal property on any public street or other public way, park, or other public place within the city for a continuous period of 48 hours shall be prima facie evidence that the personal property has been abandoned.

22.43 - Sale of property; certificate of sale.

(a) If the residence or address of the owner or any person holding a lien upon the personal property coming under this division cannot be ascertained, or if the owner or person holding a lien upon the personal property fails to take possession of the personal property within ten days after the mailing of notice hereinbefore provided for, the personal property shall be sold at public outcry by the City Manager at some place within the city, but, prior to the sale, a notice of the sale shall be posted in three conspicuous places in the city at least ten days prior to the date of sale. The notice shall give the time and place of sale and describe the personal property to be sold. A copy of the notice shall be mailed to the owner and each person holding a lien on the personal property, if their address is known, at least ten days before the date of the sale. The city shall not guarantee title to the personal property or to deliver a title of ownership, but shall furnish the purchaser a certificate in substantially the following form.

Certificate No. _____

CERTIFICATE OF SALE
CITY OF WESTLAKE, FLORIDA

THIS IS TO CERTIFY that the following described personal property was abandoned in the City of Westlake, Florida, and was placed in the custody of the City Manager, where it was held for 20 days, after which time, it having been impossible to find the owner of the same, or found he failed to repossess same, this personal property was sold to the highest bidder after legal advertisement.

This Certificate of Sale is therefore issued to _____, residing at

DESCRIPTION OF PROPERTY _____

MAKE _____

YEAR _____

ENGINE NO. OR I.D. NO. _____

CHASSIS NO. _____

DATED AT WESTLAKE, FLORIDA, THIS _____ DAY OF _____, 20____

City Manager

(b) This form to be in duplicate, the original given to the purchaser and the duplicate bound in a book.

22.44 Repossession by owner.

The owner or any person having a lien upon the personal property may take possession of same at any time prior to the sale, provided for in _____ but that person shall reimburse the city for all reasonable expenses for storage, advertising, or other expense incurred in connection therewith.

22.45 Disposition of proceeds of sale.

(a) If any personal property shall be sold as above provided, the proceeds of the sale after paying all the costs actually expended for advertising or otherwise in the sale shall be deposited in the general fund of the city. In addition to the expense actually incurred, the city shall be allowed five percent on the gross receipts of the sale as compensation for caring for the property and making the sale, which amount shall also be paid into the general fund of the city.

(b) The proceeds of any sale paid into the general fund shall not be expended or disbursed for 90 days after the date of the sale, and at any time during that period the owner or any person having an interest in the personal property may, upon making proof of the ownership or interest, recover back from the fund the proceeds of the sale, less five percent as provided by subsection (a) of this section plus all the expenses of caring for the personal property, advertising, and making the sale.

22.46 - Penalty.

- (a) In accordance with section and F.S. § 162.09, the code enforcement board of the city is hereby granted jurisdiction for enforcement of section and shall have the power to impose a fine in the maximum sum of \$250.00 per day for a first violation and a maximum fine of \$400.00 per day for a repeat violation.
- (b) Whoever violates any provisions of this article for which another penalty is not already otherwise provided, shall be subject to the penalty provisions set forth in.

22.47 Penalty.

In accordance with section 2 186 et seq. and F.S. § 162.09, the code enforcement board of the city is hereby granted jurisdiction for enforcement of this article and shall have the power to impose a fine in the maximum sum of \$250.00 per day with each day the violation occurs constituting a separate offense on any person or corporation who violates the provisions of this article.